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Presidential Documents

Title 3—

The President

Presidential Determination No. 2017–04 of December 2, 2016

Presidential Determination Pursuant to Section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997

Memorandum for the Secretary of State

By the authority vested in me as President by the Constitution and the laws of the United States, including section 570(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997 (Public Law 104–208) (the ''Act''), I hereby determine and certify, pursuant to section 570(a) of the Act, that Burma has made measurable and substantial progress in improving human rights practices and implementing democratic government.

You are authorized and directed to provide this determination and the accompanying Memorandum of Justification to the Congress and to publish the determination in the *Federal Register.*

THE WHITE HOUSE,
Washington, December 2, 2016

[FR Doc. 2016–31189
Filed 12–22–16; 8:45 am]
Billing code 4710–10–P

Presidential Documents

Memorandum of December 5, 2016

Steps for Increased Legal and Policy Transparency Concerning the United States Use of Military Force and Related National Security Operations

Memorandum for the Heads of Executive Departments and Agencies

Since my earliest days in office, I have emphasized the importance of transparency and my commitment to making as much information as possible available to the Congress and the public about the United States use of military force and related national security operations. Doing so, I believe, not only supports the process of democratic decision making, but also demonstrates the legitimacy and strengthens the sustainability of our operations while promoting mutual understanding with our allies and partners.

The United States has used military force and conducted related national security operations within legal and policy frameworks that are designed to ensure that such operations are lawful and effective and that they serve our interests and values. Consistent with my commitment to transparency, my Administration has provided to the public an unprecedented amount of information regarding these frameworks through speeches, public statements, reports, and other materials. We have attempted to explain, consistent with our national security and the proper functioning of the executive branch, when and why the United States conducts such operations, the legal basis and policy parameters for such operations, and how such operations have unfolded, so that the American people can better understand them.

In addition to the efforts we have made to date, there is still more work that can be done to inform the public. Thus, consistent with my Administration's previous efforts, by this memorandum I am directing national security departments and agencies to take additional steps to share with the public further information relating to the legal and policy frameworks within which the United States uses military force and conducts related national security operations. Accordingly, I hereby direct as follows:

Section 1. *Report.* National security departments and agencies shall prepare for the President a formal report that describes key legal and policy frameworks that currently guide the United States use of military force and related national security operations, with a view toward the report being released to the public.

Sec. 2. *Keeping the Public Informed.* On no less than an annual basis, the National Security Council staff shall be asked to, as appropriate, coordinate a review and update of the report described in section 1 of this memorandum, provide any updated report to the President, and arrange for the report to be released to the public.

Sec. 3. *Definitions.* For the purposes of this memorandum:

''National security departments and agencies'' include the Departments of State, the Treasury, Defense, Justice, and Homeland Security, the Office of the Director of National Intelligence, the Central Intelligence Agency, and such other agencies as the President may designate.

''Related national security operations'' include operations deemed relevant and appropriate by national security departments and agencies for inclusion in the report described in section 1 of this memorandum, such as detention, transfer, and interrogation operations.

Sec. 4. *Publication.* The Secretary of State is hereby authorized and directed to publish this memorandum in the *Federal Register.*

THE WHITE HOUSE,
Washington, December 5, 2016

[FR Doc. 2016–31213
Filed 12–22–16; 8:45 am]
Billing code 4710–10–P

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OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2604

RIN 3209–AA39

Freedom of Information Act Regulation

AGENCY: Office of Government Ethics (OGE).

ACTION: Interim final rule.

SUMMARY: The U.S. Office of Government Ethics (OGE) is updating its Freedom of Information Act (FOIA) regulation to implement changes in accordance with the FOIA Improvement Act of 2016.

DATES: This interim final rule is effective December 23, 2016. Written comments are invited and must be received on or before January 23, 2017.

ADDRESSES: You may submit written comments to OGE on the interim final rule by any of the following methods:

- *Email: usoge@oge.gov.* Include the appropriate Regulation Identifier Number in the subject line of the message.
- *Fax:* (202) 482–9237.
- *Mail/Hand Delivery/Courier:* U.S. Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917, Attention: Jennifer Matis, Assistant Counsel.

Instructions: All submissions must include OGE's agency name and the appropriate Regulation Identifier Number (RIN) 3209–AA39 for this proposed rulemaking. OGE will post all comments on its Web site (*www.oge.gov*). All comments received will be posted without change; OGE generally does not edit a commenter's personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Jennifer Matis, Assistant Counsel, Office of Government Ethics, Suite 500, 1201 New York Avenue NW., Washington, DC 20005–3917; Telephone: 202–482–9216; TTY: 800–877–8339; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION:

I. Substantive Discussion

On June 30, 2016, the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (the Act) was enacted. The Act specifically requires all agencies to review and update their Freedom of Information Act (FOIA) regulations in accordance with its provisions. OGE is making changes to its regulations accordingly, including correcting citations, highlighting the electronic availability of records, implementing the ''rule of three'' for frequently requested records, notifying requesters of their right to seek assistance from the FOIA Public Liaison and the Office of Government Information Services, changing the time limit for appeals, implementing the foreseeable harm standard, describing limitations on assessing search fees if the response time is delayed, and adding new annual reporting requirements.

II. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553(b), I find that good cause exists for waiving the general notice of proposed rulemaking and public comment procedures as to these technical amendments. The notice and comment procedures are being waived because these amendments, which concern matters of agency organization, procedure and practice, are being adopted in accordance with mandates required by the FOIA Improvement Act of 2016, which requires that agencies amend their FOIA regulations not later than 180 days after the date of enactment. It is also in the public interest in order to provide notice to requestors of the additional time to file appeals.

Regulatory Flexibility Act

As the Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this interim final rule would not have a significant economic impact on a substantial number of small entities because it primarily affects individuals requesting records under the FOIA.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply because this regulation does not contain information collection requirements that require approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 5, subchapter II), this rule would not significantly or uniquely affect small governments and will not result in increased expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Executive Order 13563 and Executive Order 12866

Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select the regulatory approaches that maximize net benefits (including economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. In promulgating this rulemaking, OGE has adhered to the regulatory philosophy and the applicable principles of regulation set forth in Executive Orders 12866 and 13563. The rule has not been reviewed by the Office of Management and Budget because it is not a significant regulatory action for the purposes of Executive Order 12866.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects in 5 CFR Part 2604

Administrative practice and procedure, Archives and records, Confidential business information, Freedom of information, Reporting and recordkeeping requirements.

Approved: December 20, 2016.

Walter M. Shaub, Jr.,

Director, Office of Government Ethics.

For the reasons set out above, OGE amends 5 CFR part 2604 as follows:

PART 2604—FREEDOM OF INFORMATION ACT RULES AND SCHEDULE OF FEES FOR THE PRODUCTION OF PUBLIC FINANCIAL DISCLOSURE REPORTS

■ 1. The authority citation for part 2604 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 101–505; E.O. 12600, 52 FR 23781, 3 CFR, 1987 Comp., p. 235; E.O. 13392, 70 FR 75373, 3 CFR, 2005 Comp., p. 216.

■ 2. Amend § 2604.103 by revising the definition of ''Chief FOIA Officer'' to read as follows:

§ 2604.103 Definitions.

* * * * *

Chief FOIA Officer means the OGE official designated in 5 U.S.C. 552(j)(1) to provide oversight of all of OGE's FOIA program operations.

* * * * *

■ 3. Amend § 2604.201 by revising paragraphs (b) introductory text and (b)(4), removing paragraph (c), and redesignating paragraph (d) as paragraph (c) to read as follows:

§ 2604.201 Public reading room facility and Web site.

* * * * *

(b) *Records available.* The OGE Web site contains OGE records which are required by 5 U.S.C. 552(a)(2) to be made available for public inspection in an electronic format, including:

* * * * *

(4) Copies of records created by OGE that have been released to any person under subpart C of this part and that, because of the nature of their subject matter, OGE determines have become or are likely to become the subject of subsequent requests for substantially the same records or that have been requested three or more times; and

* * * * *

■ 4. Amend § 2604.202 by revising paragraph (a) to read as follows:

§ 2604.202 Index identifying information for the public.

(a) OGE will maintain and make available for public inspection in an electronic format a current index of the materials available on its Web site that are required to be indexed under 5 U.S.C. 552(a)(2).

* * * * *

■ 5. Amend § 2604.303 by revising paragraphs (a) and (b)(4), and adding paragraph (b)(5) to read as follows:

§ 2604.303 Form and content of responses.

(a) *Form of notice granting a request.* After the FOIA Officer has made a determination to grant a request in whole or in part, the requester will be notified in writing. The notice will describe the manner in which the record will be disclosed, whether by providing a copy of the record with the response or at a later date, or by making a copy of the record available to the requester for inspection at a reasonable time and place. The procedure for such an inspection may not unreasonably disrupt OGE operations. The response letter will inform the requester of the right of the requester to seek assistance from the FOIA Public Liaison. The response letter will also inform the requester in the response of any fees to be charged in accordance with the provisions of subpart E of this part.

(b) * * *

(4) A statement that the denial may be appealed under § 2604.304, and a description of the requirements of that section; and

(5) A statement of the right of the requester to seek dispute resolution services from the FOIA Public Liaison or the Office of Government Information Services (OGIS).

■ 6. Amend § 2604.304 by revising paragraph (b) to read as follows:

§ 2604.304 Appeal of denials.

* * * * *

(b) *Letter of appeal.* The appeal must be in writing and must be sent within 90 calendar days of receipt of the denial letter. An appeal should include a copy of the initial request, a copy of the letter denying the request in whole or in part, and a statement of the circumstances, reasons or arguments advanced in support of disclosure of the record.

* * * * *

■ 7. Amend § 2604.305 by revising paragraph (c) to read as follows:

§ 2604.305 Time limits.

* * * * *

(c) *Extension of time limits.* When additional time is required for one of the reasons stated in paragraph (d) of this section, OGE will, within the statutory 20-working day period, issue written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. If more than 10 additional working days are needed, the requester will be notified and provided an opportunity to limit the scope of the request or to arrange for an alternative time frame for processing the request or a modified request. To aid the requester, OGE will make available its FOIA Public Liaison to assist in the resolution of any disputes. Additionally, OGE will notify the requester of the right of the requester to seek dispute resolution services from OGIS.

* * * * *

■ 8. Amend § 2604.401 by revising paragraph (a) to read as follows:

§ 2604.401 Application of exemptions.

(a) *Foreseeable harm standard.* A requested record will not be withheld from inspection or copying unless it comes within one of the classes of records exempted by 5 U.S.C. 552 and OGE reasonably foresees that disclosure would harm an interest protected by an exemption described in 5 U.S.C. 552(b) or is prohibited by law. Nothing in this paragraph requires disclosure of information that is otherwise prohibited from disclosure by law, or otherwise exempted from disclosure under 5 U.S.C. 552(b)(3).

* * * * *

■ 9. Amend § 2604.503 by revising paragraph (d) to read as follows:

§ 2604.503 Limitations on charging fees.

* * * * *

(d) If OGE does not comply with one of the time limits under § 2604.305, it will not assess search fees (or in the case of a requester described under § 2604.502(c), duplication fees), except as provided in paragraphs (d)(1) through (d)(3) of this section.

(1) If OGE has determined that unusual circumstances apply, as defined in 5 U.S.C. 552(a)(6)(B), and OGE provided timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B), a failure to comply with the time limit is excused for an additional 10 days.

(2) If OGE has determined that unusual circumstances apply, as defined in 5 U.S.C. 552(a)(6)(B), and more than 5,000 pages are necessary to respond to the request, OGE may charge search fees (or in the case of requesters described under § 2604.502(c), duplication fees) if OGE has provided timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B) and OGE has discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5. U.S.C. 552(a)(6)(B)(ii).

(3) If a court has determined that exceptional circumstances exist, as

defined in 5 U.S.C. 552(a)(6)(B), a failure to comply with the time limits shall be excused for the length of time provided by the court order.

■ 10. Revise § 2604.601 to read as follows:

§ 2604.601 Electronic posting and submission of annual OGE FOIA report.

On or before February 1 of each year, OGE will submit to the Office of Information Policy at the United States Department of Justice and to the Director of OGIS an Annual FOIA Report. The report will include the information required by 5 U.S.C. 552(e). OGE will electronically post on its Web site the report and the raw statistical data used in each report, in accordance with 5 U.S.C. 552(e)(3).

[FR Doc. 2016–31004 Filed 12–22–16; 8:45 am]

BILLING CODE 6345–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2014–0092]

RIN 0579–AE17

Importation of Lemons From Northwest Argentina

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of lemons from northwest Argentina into the continental United States. As a condition of entry, lemons from northwest Argentina would have to be produced in accordance with a systems approach that includes requirements for importation in commercial consignments; registration and monitoring of places of production and packinghouses; pest-free places of production; grove sanitation, monitoring, and pest control practices; treatment with a surface disinfectant; lot identification; and inspection for quarantine pests by the Argentine national plant protection organization. Additionally, lemons from northwest Argentina will have to be harvested green and within a certain time period, or treated for Mediterranean fruit fly in accordance with an approved treatment schedule. Lemons from northwest Argentina will also be required to be accompanied by a phytosanitary certificate with an additional declaration stating that the lemons have been inspected and found to be free of quarantine pests and were produced in accordance with the requirements. This action allows for the importation of lemons from northwest Argentina into the United States while continuing to provide protection against the introduction of quarantine pests.

DATES: Effective January 23, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Juan A. (Tony) Román, Senior Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1236; (301) 851–2242.

SUPPLEMENTARY INFORMATION:

Background

The regulations in ''Subpart-Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–75, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests within the United States.

On May 10, 2016, we published in the **Federal Register** (81 FR 28758, Docket No. APHIS–2014–0092) a proposal [1] to amend the regulations to allow the importation of commercial consignments of fresh lemons from northwest Argentina into the continental United States, subject to a systems approach.

We solicited comments concerning our proposal for 60 days ending July 11, 2016. We extended the deadline for comments until August 10, 2016, in a document published in the **Federal Register** on July 11, 2016 (81 FR 44801, Docket No. APHIS–2014–0092). We received 414 comments by that date. They were from domestic and foreign citrus producers, State and national organizations representing citrus producers, State departments of agriculture, an organization of State plant pest regulatory agencies, Argentina's national plant protection organization, the Argentine embassy, lemon importers and wholesalers, longshoremen, U.S. ports of entry, Senators, Representatives, an Argentine organization devoted to citrus research, and private citizens. Forty-seven commenters supported the rule as proposed. Seventy-six commenters generally opposed the proposed rule but did not address any specific provisions. The remaining commenters raised a number of issues and concerns about the proposed rule. These comments are discussed below by topic.

[1] To view the proposed rule and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2014-0092.*

One commenter stated that the proposed rule failed to comply with the requirements of the National Environmental Policy Act (NEPA). Specifically, the commenter stated that the proposed rule is a major Federal action that significantly affects the human environment, as set forth in 40 CFR 1508.18 and 1508.27, respectively, and that the Animal and Plant Health Inspection Service (APHIS) should have prepared an environmental impact statement or environmental assessment (EA). The commenter further stated that none of the APHIS categorical exclusions set forth in 7 CFR 1b.3 apply, therefore at a minimum, APHIS is obligated to prepare an EA.

APHIS notes that the APHIS NEPA implementing regulations in 7 CFR part 372 specify that additional routine measures used by APHIS are categorically exempt from NEPA, in addition to those measures set forth in 7 CFR 1b.3. The measures in this rule that will occur within the United States fall within the scope of these additional routine measures. Accordingly, a categorical exclusion was prepared.

We do not agree that the rule meets Council on Environmental Quality requirements for a ''significant'' Federal action, and thus, by definition, cannot be a ''major'' Federal action (a type of significant action). The rule is not contextually significant from a policy standpoint because it does not substantially alter existing policy regarding market access requests, and has severity/intensity only if one concedes that the mitigations specified in the rule are ineffective in precluding the introduction of quarantine pests. We consider them effective, for reasons discussed below.

One commenter stated that APHIS must take all available measures to preclude introduction of invasive species into the United States.

APHIS agrees. Under the Plant Protection Act (7 U.S.C. 7701 *et seq.*), we are responsible for regulating exports, imports, and interstate commerce in agricultural products and other commodities that pose a risk of harboring plant pests or noxious weeds in ways that are based on sound science and that will reduce the risk of dissemination of plant pests or noxious weeds. For this reason we prepared a pest risk assessment (PRA) and assigned mitigations with a proven track record in the risk management document (RMD).

One commenter noted that APHIS has also recently published proposed rules to allow for the importation of citrus from South Africa (79 FR 51273, Docket No. APHIS–2014–0015) and Chile (81

FR 19063, Docket No. APHIS–2015–0051). The commenter stated that because both of those proposals deal with a disease or pest of concern which is also of concern in the Argentine proposal, APHIS should not finalize this rulemaking until we have responded to the comments on the other proposed rules.

We disagree with the commenter that the other rules must be finalized before we can proceed with this rule. APHIS considers each of its rulemakings as a distinct regulatory action. This is consistent both with the language of the Administrative Procedure Act (5 U.S.C. 551–559) and with case history regarding its implementation.

Site Visits

Many commenters stated that APHIS should conduct an additional site visit before the rule is implemented. Many of those commenters also stated that representatives of State governments and subject matter experts should be involved in the site visit.

APHIS conducted an additional site visit to review the details of the draft operational workplan in September of 2016. In addition to APHIS personnel, a representative from the California Department of Food and Agriculture and a former plant pathologist from the United States Department of Agriculture, Agricultural Research Service (ARS) participated in the site visit as observers. The site visit revealed nothing that would require a revision of the PRA.

Some commenters stated that the site visit should include a holistic review of Argentina's production system. Other commenters stated that Argentina's traceability system provides holistic records of their production system.

APHIS conducted a thorough review of Argentina's traceability system. We looked at the requirements for growers signing up, initial site visits of production sites, ongoing oversight during the growing season, field and packinghouse inspection, approval for movement and the final inspection for phytosanitary certificates. We also reviewed the computer system they use, how users are added, who controls movement and harvest approvals, and who issues phytosanitary certificates. Based on that review, we consider Argentina's traceability system to be robust, and we will use it for traceback as necessary. However, as specified in the proposed rule, we also consider it necessary to be able to identify lots of lemons through the export process, from the place of production to arrival at the port of entry. This establishes traceability beyond the scope of the Argentine domestic traceability system.

One commenter stated that Argentina's traceability system will not be able to trace detections of quarantine pests in U.S. orchards or urban areas back to places of production.

APHIS is confident that if the mitigations in the rule are adhered to, quarantine pests will not be introduced into United States orchards or urban areas.

One commenter stated that Argentina's traceability system has limited utility for citrus black spot (CBS), given its prolonged latency period.

As we explained in the PRA, fruit is not a pathway for CBS.

One commenter stated that the site visit should specifically focus on the infrastructure of the national plant protection organization (NPPO) of Argentina. Another commenter stated that the site visit should specifically focus on NPPO oversight of places of production.

The NPPO of Argentina is the Servicio Nacional de Sanidad y Calidad Agroalimentaria (SENASA). During the September 2016 site visit, we looked at SENASA's infrastructure and asked questions to address their capacity to provide oversight. We remain confident that SENASA will be able to adhere to the requirements of the systems approach.

Some commenters stated that the site visit should specifically focus on identifying pest populations in or near production sites.

During the site visit, we asked questions about pest populations, and we looked ourselves at fruit fly traps and at the citrus for signs of pests. We did not discover anything that requires revisions to the PRA.

One commenter stated that the site visit should specifically focus on organic production sites.

APHIS did specifically ask about organic production. Argentina may in the future ship organic fruit, but currently they do not. Current packinghouse practices include chemical treatments that are not organic, so any fruit that arrived from an organic production site would lose its organic status during packinghouse processing.

We will ask SENASA about organic production in northwest Argentina, as well as pest control guidelines they have developed for organic producers. We note that there are provisions in the systems approach that preclude the commingling of organic lemons and lemons for export to the United States later in the production chain.

One commenter stated that the site visit should be conducted during the summer months in Argentina.

The 2015 site visit occurred in June, during harvest season in Argentina. For this reason, APHIS considered a second site visit during the September/October timeframe to be sufficient.

One commenter stated that two additional site visits are needed. Specifically, the commenter stated that after the September site visit, a second fact-finding trip should be made to review the harvesting and packing operations in Argentina. The commenter stated that a trip at that time is needed since so many steps in the systems approach take place during the harvesting and packing operations.

APHIS disagrees. As we explained above, the 2015 site visit occurred in June, which is during the harvest season in Argentina. For this reason, we do not consider two additional site visits to be necessary.

Two commenters stated that industry stakeholders should be allowed to consult with trip members on their findings.

APHIS prepared a site visit report outlining the findings of the visit. The site visit report is available on the APHIS Web site at *https://www.aphis.usda.gov/aphis/ourfocus/planthealth/import-information/proposal-import-lemons-argentina.*

Many commenters expressed concern that the findings of the 2007 site visit are outdated.

The trip in 2007 was conducted by APHIS risk assessors to evaluate pest complexes in Argentina in order to prepare the PRA. Information from this trip served as a baseline primarily for the pest list in the PRA. The PRA, as other commenters noted, has been continually updated since this trip through means that APHIS routinely uses to update PRAs, such as literature review and ongoing consultation with the NPPO of Argentina. More specifically, the PRA was updated in 2014 after publication of new research results on seed transmission of citrus variegated chlorosis (CVC) in citrus. The PRA was also updated in 2014 in response to a new finding of citrus greening, also known as Huanglongbing (HLB), in Argentina. The PRA was reviewed by APHIS personnel at the same time to address comments from Argentina regarding the pest list. Furthermore, APHIS conducted a site visit just last year, in June of 2015, and the information gathered during that visit was used to update the PRA before the proposed rule was published.

Two commenters stated that the 2015 site visit was not a technical review of Argentina's program.

The commenters are mistaken. The 2015 site visit was a technical review of Argentina's program.

Three commenters stated that APHIS did not provide enough information to the public regarding the 2015 site visit to evaluate its adequacy. Two commenters stated that APHIS' slow response to a Freedom of Information Act (FOIA) request for documents regarding the 2015 site visit is an indication of the inadequacy of the trip.

APHIS has received the FOIA request and is in the process of responding to it. The time taken to respond to the FOIA request is consistent with normal timeframes for such requests and not a reflection of the adequacy of the trip.

One commenter stated that APHIS' willingness to conduct another site visit is an indication of the inadequacy of the 2015 site visit.

Usually, APHIS conducts one site visit as close to the implementation of a new systems approach as possible in order to aid in development of the operational workplan. It was therefore entirely in keeping with APHIS policy to conduct the September 2016 site visit prior to implementing this final rule, and is not indicative of flaws in the 2015 visit.

The 2015 site visit team included several APHIS risk managers who have extensive experience in evaluating foreign production systems to determine the ability of those systems to meet requisite mitigation measures.

Pest Risk Assessment

One commenter stated that updated information appears to have been incorporated into the PRA in a piecemeal fashion, without checking whether any conclusions or assumptions were affected.

APHIS notes that we have updated the PRA several times. Appendix 1 of the PRA summarizes updates to the draft PRA in response to public and peer review comments; Appendix 2 summarizes updates to the PRA made between 2008 and 2015 in response to new scientific information. Any time we incorporated new material into the PRA we reviewed the PRA to check the conclusions.

One commenter stated that information provided by SENASA is unreliable.

We disagree with the commenter. We have conducted two site visits during which we have verified the information provided by SENASA. They have also answered all the questions we have asked and provided all information we have requested.

Two commenters stated that stakeholder comments on the PRA appear to have been ignored.

APHIS posts PRAs and other documents for stakeholder review. As noted on the Web site on which the documents are posted, while stakeholder comments may result in changes to the PRA, as well as the RMD and the rule, it is not APHIS policy to compile or post responses to the comments received. This is because these documents are also made available for review and comment along with the rules and notices that propose to grant market access. Any comments that we receive on the documents during that comment period are addressed in a final regulatory action.

APHIS reviewed all of the comments that we received on the PRA and RMD. Certain comments, such as statements agreeing that *Brevipalpus chilensis* should be listed as a pest of lemons that is known to exist in Argentina, or that green lemons should not be required to be treated for Mediterranean fruit fly (Medfly), required no changes to the PRA or RMD because the commenters' requests were already reflected in the PRA or RMD. Other comments, such as a request to indicate whether the mites *B. californicus, B. obovatus,* and *B. phoenicis* (*Brevipalpus* spp.) were surface feeders, were incorporated into the PRA and RMD.

Other suggested revisions, such as revising the RMD to prohibit the importation of lemons with leaves attached, would have made the rule more stringent that our domestic requirements for the interstate movement of citrus fruit from areas quarantined for pests and diseases of citrus, and were not incorporated for that reason. Similarly, other revisions would have made the PRA or RMD inconsistent with how other APHIS documents discuss the same pest of concern or mitigation structure.

Finally, certain comments, such as that the NPPO of Argentina could not be trusted to abide by the systems approach, were reiterated during the comment period and dismissed for reasons discussed below under the heading ''Risk Management Document.''

One commenter stated that a footnote in the Executive Summary to the PRA seems to define the term ''commercially produced,'' but in fact only describes conditions of the fruit after harvest and processing. The commenter stated that the term ''commercially produced'' should be limited to conditions at places of production.

The term ''commercially produced'' is equivalent to ''commercial consignments.'' It includes all aspects of the production system: The manner in which the fruit was grown and harvested, the quality of the fruit, the manner in which it is packaged, the quantities packaged, and the requisite accompanying documentation.

One commenter stated that the PRA and proposed rule did not identify pests of concern for Argentine lemons.

The pest list in the PRA identifies pests of lemons that are known to exist in Argentina.

One commenter stated that four pathogens—*Elsinoë australis, Phyllosticta citricarpa, Xanthomonas citri* subsp. *citri* (Xcc), and citrus leprosis virus—can all infect fruit and stay viable while on the fruit, even though capacity for transmission from infected fruit may be low. The commenter stated that the answer to the question ''Can it follow the pathway?'' for all four pathogens should be changed to ''yes.''

APHIS notes that, while these could follow the pathway, the capacity for introduction or transmission of disease is so epidemiologically insignificant that further analysis was not warranted.

One commenter stated that citrus leprosis virus should have been selected for further analysis in the PRA as it is a quarantine pest likely to follow the pathway.

Citrus leprosis virus is not systemic and cannot be transmitted apart from viruliferous *Brevipalpus* spp. mites. It can follow the pathway only if it is vectored by the mites. For this reason we do not consider the virus to be a quarantine pest likely to follow the pathway.

One commenter stated that the citation in the PRA to the APHIS domestic fruit fly quarantine and regulations, which address Medfly was outdated and have been replaced with 7 CFR 301.32. The commenter noted that in the current regulations, only yellow lemons are regulated articles for Medfly.

The commenter is correct; the citations were outdated. However, this does not affect the conclusions of the PRA that green lemons are a poor host for Medfly.

Several commenters stated that the pest risk associated with importation of lemons is too high, and that the domestic citrus industry would suffer as a result of pest introductions.

If the mitigations in the rule are adhered to, this pest risk will be mitigated. Furthermore, some of these commenters appear to have overestimated the likelihood of introduction associated with certain of

the pests. For example, *Cryptoblabes gnidiella* and *Gymnandrosoma aurantianum* have never been intercepted in commercial shipments of citrus from South America. Both are associated with poorly managed or non-commercial citrus, like backyard fruit.

One commenter stated that *B. chilensis* should have been rated as high risk in the PRA.

APHIS notes that *B. chilensis* was in fact rated as high risk in the PRA.

One commenter stated that *Brevipalpus* spp. mites should all have been rated ''High Risk.'' The commenter cited a scientific article on *Brevipalpus* mites and the diseases they transmit [2] in support of this statement.

In that article, Childers and Rodrigues state that the only confirmed vector of citrus leprosis in the Western Hemisphere is *B. phoenicis.* The other mites are suspected to be vectors, but are not known vectors. Given that we consider *B. californicus, B. obovatus,* and *B. phoenicis* to be quarantine pests only insofar as they may vector citrus leprosis virus, and there is some uncertainty regarding the ability of *B. californicus* and *B. obovatus* to vector this disease, we consider a medium risk rating to be appropriate. It is also consistent with how we have rated these pests in other PRAs.

More importantly, a high risk rating would not have changed our mitigations for the pests. Under APHIS policy, both medium risk and high-risk pests are subject to pest-specific mitigations beyond port of entry inspection, and the mitigations we prescribed to address *Brevipalpus* spp. are based on the possibility that they may vector citrus leprosis virus, rather than the risk rating ascribed to the pests.

One commenter stated that the overall risk rating should have been higher.

As we explained above, a higher overall risk rating would not have changed the mitigation structure.

One commenter asked why, if ''not be detected at the port of entry'' did not impact risk ratings, port of entry inspection is a component of the systems approach.

''Not be detected at the port of entry'' was removed as a criterion in the PRA because APHIS does not have enough information about relative likelihood of detection at the port of entry to be able to weight this criterion relative to other elements. As a result, this criterion could not substantially impact the risk ratings.

This does not imply that port of entry inspections are an ineffective component of a systems approach. Port of entry inspections by U.S. Customs and Border Protection (CBP) are, in fact, capable of detecting quarantine pests and are a significant mitigation against pests entering the United States. For example, in December 2015, CBP detections of Medfly larvae on Spanish tomatoes and Moroccan citrus led us to suspend market access for those commodities, pending investigations.

One commenter asked why, if fruit is not an ''epidemiologically significant'' pathway for *E. australis, P. citricarpa,* and Xcc, the PRA says ''additional specified risk management options may be required.''

While we do not consider fruit to be an epidemiologically significant pathway for these pests, the pests are subject to domestic quarantines within the United States. For the sake of consistency with domestic regulations regarding the interstate movement of fruit from areas quarantined for CBS, sweet orange scab, and Xcc, we would require fruit to be washed, brushed, waxed, and surface disinfected. It is worth noting that such washing, brushing, waxing, and disinfecting are standard packinghouse procedures both domestically and internationally.

Likelihood and Consequences of Establishment

Several commenters stated that citrus-producing areas are particularly at risk for establishment of quarantine pests that could follow the pathway.

Incorporating information regarding likelihood of establishment would not have affected the pest risk ratings or the risk mitigation structure. As we explained above, both medium and high-risk pests are subject to pest-specific mitigations beyond standard port-of-entry inspection.

One commenter stated that the PRA does not acknowledge that backyard citrus in California is in proximity to ports of entry. Other commenters stated that the PRA does not recognize that most quarantine pest introductions first occur in urban areas, and are undetected. Three commenters stated that urban areas in Texas and California abut production areas and expressed concern that pests could become established in urban areas with backyard citrus and then spread into production areas.

As we noted above, incorporating this information into the PRA would not have affected either the pest risk ratings or the risk mitigation structure.

One commenter stated that Climate-Host interaction for *Brevipalpus* spp. should have been rated ''high.'' The commenter cited a 2012 reference in the Ninth Report of the International Committee of Taxonomy of Viruses [3] that said that citrus leprosis virus was transmitted to several other experimental hosts from other genera including *Phaseolus vulgaris* in support of this statement.

There is no mention in the report of whether the conditions under which transmission to *P. vulgaris* occurred could be reduplicated outside of laboratory conditions. The sentence the commenter is referring to is immediately preceded by a sentence referring to mechanically administering inoculum to induce symptoms in articles previously considered non-hosts. This, coupled with the use of ''experimental'' to describe inoculation of *P. vulgaris,* suggests the study was not intended to reduplicate actual ''field'' conditions.

In the PRA, we identified the dispersal potential of *B. chilensis* as ''medium'' and of *Brevipalpus* spp. as ''high.'' One commenter stated that the dispersal potential for both *B. chilensis* and *Brevipalpus* spp. should be high.

The commenter is correct that the dispersal potential for both *B. chilensis* and *Brevipalpus* spp. should be the same; however, we disagree that the rating for both should be high. Based on the work of Childers and Rodrigues, the dispersal potential for both should be medium. Both *B. chilensis* and *Brevipalpus* spp. are very unlikely to move from one orchard tree to another. They both tend to aggregate, they move downwind slowly, and they do not balloon—that is, they do not produce streamers of silk and travel with wind currents for longer distances.

One commenter stated that the environmental impact potential for *Brevipalpus* spp. is low, but the introduction of this pest infected with citrus leprosis virus would stimulate the use of chemical control. The commenter stated that the risk rating should therefore be changed to medium. The same commenter also stated that consequences of introduction for *Brevipalpus* spp. should have been considered high.

We consider the ratings given to *Brevipalpus* spp. to be accurate. Under standard commercial packinghouse procedures, the mites would be washed or brushed off, even in the absence of required mitigations. Furthermore, citrus leprosis virus is not a systemic

[2] Childers, C.C. and J.C.V. Rodrigues. 2011. An overview of *Brevipalpus* mites (Acari: Tenuipalpidae) and the plant viruses they transmit. *Zoosymposia* 6:180–192.

[3] ''Virus taxonomy: classification and nomenclature of viruses: Ninth Report of the International Committee on Taxonomy of Viruses.'' (2012) Ed: King, A.M.Q., Adams, M.J., Carstens, E.B. and Lefkowitz, E.J. San Diego: Elsevier Academic Press.

infection, and mites do not feed on harvested fruit unless doing so is absolutely necessary for survival.

Accordingly, for a non-viruliferous *Brevipalpus* mite in the United States to become a vector of citrus leprosis virus, the infected portions of the fruit would have to have abnormally high levels of inoculum, the mite would have to be on infested fruit, and the mite would have to specifically consume the infected portions of the fruit, climb up a tree, and infect the tree.

Since citrus leprosis virus inoculum is not shed to offspring, this would also have to occur during the infected mite's lifetime. We consider the probability of this occurring to be extremely remote.

One commenter stated that the likelihood of introduction for Medfly should have considered lemons a conditional host, rather than a conditional non-host.

The designation of lemons as a conditional non-host of Medfly was based on research published by ARS scientists [4] that examined the host status of immature lemons.

One commenter stated that the PRA did not consider introduction via smuggling or diversion. The commenter expressed concern that the fruit could be carried to a home while vectoring a pest or disease.

The PRA addressed the plant pest risk associated with the importation of commercially produced and commercially packed fresh lemon fruit from northwest Argentina into the United States. Fruit that is not commercially grown or packed are outside the scope of the risk assessment.

Risk Management Document

One commenter stated that the RMD requirements are inadequate to eliminate the risk of introduction of the quarantine pests identified in the PRA, but did not provide the basis for their concern.

Some commenters stated that the RMD and rule contain safeguards to address plant pest risk, and one commenter stated that similar systems approaches for citrus from other countries have proven effective. One commenter, however, stated that there are no similar systems approaches because no other growing area harbors this combination of pests and diseases of citrus, but is still asking to market fresh fruit.

APHIS notes that the PRA for citrus from Uruguay had a very similar quarantine pest list—they did not have *B. chilensis* or *Brevipalpus* spp., but had all other quarantine pests identified in the Argentine citrus PRA. Accordingly, many provisions of the Argentine lemons systems approach were modeled on the Uruguay citrus systems approach, which has been in place for 3½ years now without incident. Furthermore, the *Brevipalpus*-specific provisions are not new, and have been tested for several different commodities in other countries.

Five commenters expressed concern that Argentina cannot be trusted to abide by mitigations in the RMD and rule. Some of these commenters cited incidents that they believed showed Argentina handling sanitary or phytosanitary issues in deceptive ways. One commenter stated that, as a result of the history of SENASA, APHIS needs to exercise continual monitoring and oversight over the program.

Argentina is a World Trade Organization member country and signatory on the Agreement on the Application of Sanitary and Phytosanitary Measures (SPS agreement). As such, it has agreed to respect the phytosanitary measures the United States imposes on the importation of plants and plant products from Argentina when the United States demonstrates the need to impose these measures in order to protect plant health within the United States. The PRA that accompanied the proposed rule provided evidence of such a need. Argentina has demonstrated the ability to comply with U.S. regulations with respect to other export programs.

We disagree with several of the examples cited as recent prevarication by SENASA. APHIS became aware of the presence of *A. fraterculus* in blueberries in Argentina because of a scientific paper published by Argentina. The disagreement between APHIS and SENASA regarding the presence of *B. chilensis* in Argentina was based on differing opinions regarding whether the pest detected had been identified properly. As such, it indicated a difference of scientific opinion, rather than an act of deception.

That said, the 2015 site visit specifically evaluated SENASA's oversight of the Argentine production system for lemons to determine whether the provisions of the systems approach could be implemented and maintained.

Finally, as provided in paragraph (a) of the proposed rule, APHIS would be directly involved in monitoring and auditing implementation of the systems approach in Argentina. A determination that the systems approach had not been fully implemented or maintained would result in remedial actions, including possible suspension of the export program for Argentine lemons.

One commenter expressed concern that the United States Department of Agriculture (USDA) cannot be trusted to abide by mitigations in the RMD and rule. The commenter referred to a scandal at Hunts Point Terminal Produce Market in the Bronx, NY, as an example of USDA personnel accepting bribes and kickbacks. The commenter stated that even if such events are not commonplace, they still must be factored into the risk assessment.

The bribery and kickback scheme referenced by the commenter was revealed in 1999 after a 3-year investigation by the USDA Inspector General and involved Agriculture Marketing Service personnel, who have no role in the implementation of this rule.

One commenter asked why, if the mitigations in the RMD are effective, the PRA discusses likelihood and consequences of introduction.

The PRA follows our guidelines for PRAs. As such, it discusses the likelihood and consequences of quarantine pests that could follow the pathway on lemons from northwest Argentina to the United States, in the absence of any mitigations. This assessment is a necessary aspect of our evaluation of the risk rating for the pests.

The RMD lists the mitigations that will be applied to prevent pests from following the pathway and being introduced.

Three commenters stated that European Union (EU) detections of CBS on fruit from Argentina indicate the inability of Argentina to follow a systems approach.

We disagree with the EU regarding the transmissibility of CBS via commercially produced fruit. The point of these statements in the PRA and RMD was to point out that Argentina has been able to implement and abide by a systems approach for lemons that rests on SENASA having the wherewithal to meet phytosanitary requirements. We note that the RMD stated that Argentina proposed the EU systems approach to us in its entirety as a mitigation structure, and that we rejected adopting it outright. Furthermore, the systems approach for Argentine citrus to the EU is the same systems approach applicable to U.S. citrus to the EU, indicating they consider us equivalent in terms of ability to adhere to phytosanitary requirements.

[4] Spitler, G.H., J.W. Amstrong, and H.M. Couey. 1984. Mediterranean fruit fly (Diptera: Tephritidae) host status of commercial lemon. *Journal of Economic Entomology* 77(6):1441–1444.

It is also worth noting that the EU audit [5] attributed the detections to a lack of traceability of individual lots of fruit to the production units in places of production, to some packinghouses commingling lemons destined for export with other fruit, and to some producers not applying pest controls for CBS. These mitigations, which were added to the EU directive following the detections, are all aspects of our systems approach. Our systems approach is, in short, more stringent than the EU directive was prior to the CBS detections.

One commenter stated that there is no evidence the EU systems approach for lemons from Argentina is equivalent to the systems approach proposed by APHIS.

The two systems approaches are not equivalent, and we did not suggest they were. Rather, we made reference to the EU systems approach to illustrate that Argentina has the capacity to adhere to a stringent systems approach, so that it is plausible that they could adhere to our systems approach as well. We state in the RMD that Argentina proposed that we simply adopt the EU systems approach, and we rejected that proposal.

One commenter stated that, because of proximity of ports of entry to urban areas, and urban areas to citrus production in the United States, any lapses from systems approach will have dire consequences.

The commenter seems to be assuming that, if infested or infected fruit is shipped to the United States, it will not be detected at a port of entry inspection, and will necessarily result in the introduction of quarantine pests into the United States. This assumption is, in essence, that port of entry inspections are ineffective at detecting plant pests. We disagree with this assumption; port of entry inspections are an effective mitigation and have precluded two potential introductions of Medfly in the last year alone.

One commenter stated that there is no definition or list of criteria for pests of ''quarantine significance'' in either the PRA or RMD. The commenter asked what the criteria are for determining what pests are of quarantine significance.

The PRA, RMD, and rule use the terms ''quarantine significance'' and ''quarantine pest'' interchangeably. In § 319.56–2 of the regulations, we define a quarantine pest as ''[a] pest of potential economic significance to the area endangered by it and not yet present there, or present but not widely distributed there and being officially controlled.''

One commenter noted that the RMD says 9 pests of quarantine significance were identified, but the PRA lists 10. The commenter asked for an explanation of this apparent discrepancy.

The PRA acknowledges that CBS could follow the pathway, and is a quarantine pest, but then cites the 2010 PRA, which determined that, even in the absence of packinghouse procedures, fruit is an ''epidemiologically insignificant'' pathway for CBS, and the conditions that would allow for transmission from fruit are nearly impossible to occur, even in the absence of standard packinghouse procedures. The RMD looked at commercially produced fruit, that is, fruit subject to packinghouse procedures and standard industry practices. This led us to drop CBS from the list of quarantine pests.

One commenter noted that in section 1 of the RMD, guidelines for growers participating in the program are mentioned as needing to be followed. The commenter asked what these guidelines are.

In the RMD, we explain that these are pest control guidelines that a place of production may need to meet in order to qualify for registration with SENASA.

One commenter asked if the operational workplan will contain only SENASA's requirements.

Generally, the operational workplan pertains to APHIS, the NPPO of the exporting region, and growers, packinghouses, and persons commercially involved in chain of production. It contains details that are necessary for day-to-day operations needed to carry out provisions of the rule and RMD. This one will be no different.

One commenter asked what SENASA's requirements are under the operational workplan.

SENASA's requirements include everything specified within the RMD: Registration; regular inspections; pest control guidelines; and inspections to determine that treatment guidelines are being adhered to.

Additionally, Argentina has place of production requirements apart from APHIS' requirements that pertain to all citrus groves in the country. These include sanitary guidelines that are developed in consultation with Argentine subject matter experts and address regulated nonquarantine pest populations that could affect marketability of the citrus.

One commenter noted that the RMD specifies that SENASA must ensure that growers are following the ''export protocols.'' The commenter asked what those protocols are, and stated that they should be made available for public review and comment.

The protocols are conditions for export established by APHIS in the operational workplan. The RMD and the regulatory requirements derived from it include a general description of all the phytosanitary measures necessary to mitigate pest risk. The operational workplan specifies details that are necessary for day-to-day operations needed to carry out provisions of the rule and RMD. Operational workplans are available to the public upon request only after a rule has been finalized and the operational workplan has been signed by APHIS and the NPPO of the exporting country. With respect to consulting with stakeholders, APHIS typically conducts outreach and consultation during the risk assessment and management phases.

One commenter stated that section 16 of the RMD should specify that fruit fly detections must fall below a threshold before a registered place of production can resume shipping.

Immature lemons are a poor host of Medfly. Because of this, prevalence levels at a place of production are not germane to whether Medfly are more likely to follow the pathway on immature Argentine lemons, and it would be incommensurate with risk to cut off a place of production based on Medfly detections.

This policy is consistent with our existing importation requirements for lemons from other countries that have Medfly. We have no reason to believe these existing requirements have been ineffective.

One commenter stated that places of production should be suspended if *B. chilensis* is found on the lemons during NPPO inspections.

In the RMD, we said place of production ''may be suspended'' and are ''subject to suspension'' out of recognition that the investigation could determine that the fruit was clean when it left the orchard, and the pest was introduced later in the production chain.

Two commenters noted that the rule doesn't contain mitigations for CVC and its vectors. The commenters expressed concern that potential vectors could transmit CVC if they were allowed to hitchhike on exports.

Glassy-winged sharpshooters are the vector of concern for CVC. They are the subject of consistent surveys and are not in northwest Argentina. Were they to

[5] The audit is available online at *ec.europa.eu/food/audits-analysis/act_getPDF.cfm?PDF_ID=12522.*

spread into northwest Argentina, the sharpshooters would be removed by washing and brushing and standard packinghouse procedures. Additionally, as external feeders, they are easy to detect during phytosanitary inspections and/or port of entry inspections. Finally, CVC cannot follow the pathway of lemons in the absence of a vector.

One commenter noted that the RMD concludes that seeds are unable to transmit CVC directly. The commenter stated that this directly contradicts the regulations in 7 CFR 319.37–2, which consider CVC to be seed-transmitted.

A Federal Order published on May 19, 2016, relieved restrictions on citrus seed for CVC. The Federal Order is available on the APHIS Web site at *https://www.aphis.usda.gov/import_export/plants/plant_imports/federal_order/downloads/2016/2016-31.pdf.* A rule codifying this Federal Order is in development. The citrus seed pest list prepared in November 2015 is referenced in this Federal Order. The pest list contains our current thinking about the transmissibility of CVC and other citrus diseases via seed.

Four commenters expressed concern that the rule does not contain mitigations for HLB.

APHIS has examined whether fruit is a pathway for HLB, and determined that HLB is not transmitted via fruit. Therefore, mitigations for HLB are not necessary.

One commenter stated that APHIS should not trust SENASA on the scope of the HLB outbreak in Argentina.

Neither the severity of the HLB outbreak in Argentina, nor its distribution, affect whether HLB-specific mitigations need to be included in the rule. As we explained above, HLB is not transmitted via fruit.

The same commenter stated that APHIS should not trust SENASA on distribution of Asian citrus psyllid (ACP), a vector of HLB, in Argentina.

The distribution of ACP in Argentina is not necessary for us to evaluate the risk of it following the pathway via the importation of lemons. As documented in the PRA, standard packinghouse procedures will remove ACP from the fruit. Only commercially produced fruit, which is subject to such procedures and will therefore be free of ACP, can be exported to the United States.

One commenter stated that the PRA should include information about distribution of HLB in Argentina.

APHIS does not consider this information to be necessary, given that HLB is not transmitted via fruit.

One commenter expressed several concerns about CBS. The commenter stated that CBS is impossible to eradicate once introduced, that it can have a lengthy latency period, and that trees infected with CBS are unmarketable.

APHIS notes that we never questioned the quarantine significance of CBS, just its ability to become established via fruit.

One commenter stated that justifications in the PRA for why CBS will not follow the pathway are not accurate. The commenter stated that the PRA assumes farmers in Argentina all farm in the same intensive manner.

The commenter is mistaken. In the systems approach for Argentina lemons, we have incorporated the same mitigations for CBS for that we are using for Florida citrus. These mitigations are based on a separate scientific review, which can be viewed on the APHIS Web site at *https://www.aphis.usda.gov/plant_health/plant_pest_info/citrus/downloads/black_spot/cbs-risk-assessment.pdf.*

Several commenters stated that APHIS erred in determining that CBS cannot follow the pathway on fruit. Another commenter expressed concern that CBS could become established in Southern California if infected fruit arrived at and were distributed through the Port of Long Beach.

Both Paul et al.[6] and Magarey and Holtz [7] ran infection models which found California's climate, including that of Southern California, unsuitable for establishment of CBS. While isolated microclimates in Southern California could result in small pockets of CBS infection, the overall climatic conditions are unsuitable to establishment and spread.

One commenter stated that APHIS did not take into account either the reality of the residential yards in Southern California, or the numerous interceptions of Argentine citrus for CBS symptoms in shipments to the EU in the years since 2010.

These two facts do not affect the conclusion on the 2010 PRA that the establishment of the disease via the movement of fruit requires a combination of biological and climatic conditions that are unlikely to occur.

One commenter stated that the spread of CBS in Florida could be indicative of errors in the 2010 PRA.

The PRA found Florida's environment to be conducive to the spread of CBS, and examined only transmission via fruit. The spread of CBS within Florida could have occurred through a pathway other than fruit, and is not in itself indicative of errors in the 2010 PRA.

One commenter stated that the EU Food Safety Commission in 2014 issued a scientific opinion which deemed the risk of entry of the causal agent of CBS as moderately likely for citrus fruit without leaves.

APHIS notes that the proposed conditions for importation of lemons from northwest Argentina are the same as the conditions we apply to export citrus from the United States. We also note that the causal organism of CBS has two life cycle stages: A sexual stage represented by the ascospores of *Guignardia citricarpa* Kiely and an asexual stage represented by the pycnidiospores of *P. citricarpa* (McAlpine). These two stages are produced at different times, under different environmental conditions, at different locations on the plant and result in different epidemiological dynamics. The sexual stage of the disease may be found in plants and leaves; the asexual stage of the disease is found on fruit. The correlation between ascospore discharge and infection onset showed that pycnidiospores, the asexual stage, do not play a significant role in the disease cycle. For this reason fruit is not considered to be a pathway for CBS.

Several commenters asked how, if we do not know how CBS got into Florida, we know it cannot follow the pathway on fruit.

The PRA examined the biological and climatic conditions necessary for establishment of CBS through infected fruit, and determined that ''the establishment of the disease via this pathway [the movement of fruit] requires a combination of biological and climatic conditions that are unlikely to occur.'' It is important to acknowledge, as the EU scientific opinion did, that there are many possible pathways for the introduction of CBS, with some (such as smuggling of nursery stock) significantly more likely to result in establishment.

One commenter asked what circumstances would compel APHIS to require further mitigations for CBS in Argentina's packinghouses, and what mitigation steps it would be willing to institute in those circumstances.

We have considered the risk of CBS and how to mitigate it. Standard packinghouse procedures, including washing, brushing, disinfecting, treating, and waxing, address that risk

[6] Paul, I., van Jaarsveld, A.S., Korsten, L., & Hattingh, V. (2005). The potential global geographical distribution of citrus black spot caused by *Guignardia citricarpa* Kiely: likelihood of disease establishment in the European Union. *Crop Protection,* 24, 297–308.

[7] Magarey, R., Chanelli, S., & Holtz T. (2011). *Validation study and risk assessment: Guignardia citricarpa, (citrus black spot).* USDA–APHIS–PPQ–CPHST–PERAL/NCSU.

effectively. Under the circumstances, we do not believe further mitigations are needed.

One commenter stated that the rule should restrict exports to areas of northwest Argentina that are free of CBS.

For the reasons discussed above, we do not consider this necessary.

Comments on Specific Provisions of the Proposed Rule

One commenter asked why the Provinces of Catamarca and Jujuy were included in the rule when they are not major lemon-producing regions.

As we explained in the proposed rule, SENASA asked for market access for these provinces. We therefore included them in the PRA and found that lemons could be safely exported from these provinces subject to the conditions described in the proposed rule.

One commenter stated that *Brevipalpus* spp. should not be listed as quarantine pests, but that citrus leprosis virus should be listed as a quarantine pest.

Citrus leprosis virus is not systemic. It could not be introduced into the United States, unless vectored by *Brevipalpus* spp. mites. For this reason we consider the mites to be quarantine pests.

One commenter stated that the details of the operational workplan need to be included in the regulations or otherwise made publicly available.

As we explained above, the mitigations in the operational workplan are the same as in the RMD and the rule. The operational workplan specifies details for day-to-day operations that are needed to carry out provisions of the rule and the RMD. As a result, operational workplans are living documents that change periodically to reflect new technologies and operational realities in the field.

One commenter asked what constitutes ''direct involvement'' in implementation and monitoring of the operational workplan.

The operational workplan provides APHIS with the standard operating procedures that the NPPO, places of production, packinghouses, and others involved in the production of the fruit will follow as part of the export program. Our oversight will include routine reviews and inspections of the program, but not continual oversight. That would be tantamount to mandatory preclearance program, which we do not consider necessary. The frequency with which we conduct site visits and review export program records will increase if any pest concerns are identified.

One commenter stated that a trust fund agreement to pay for APHIS personnel may be necessary.

A trust fund agreement is associated with preclearance programs in which there is continual APHIS oversight, which we do not consider warranted here.

One commenter stated that registration requirements should extend to contiguous orchards to mitigate the chance of contamination of the place of production during harvest after the initial freedom certification.

APHIS does not consider this to be necessary. As discussed above, the *Brevipalpus* spp. mites that exist in Argentina do not balloon—that is they do not produce streamers of silk and travel with wind currents for longer distances—and have limited mobility. It is unlikely that they could infest contiguous orchards after the initial freedom certification.

One commenter stated that registering small places of production may increase pest risk.

We disagree that small places of production may represent a higher pest risk than large ones. In order to be registered with the NPPO and participate in the export program, the NPPO (and, as warranted, APHIS) must determine that the place of production or packinghouse is able to adhere to the systems approach. This is true regardless of the size of the place of production or packinghouse. Routine inspections by the NPPO, and the possibility of monitoring by APHIS, will corroborate ongoing maintenance of systems approach provisions at registered places of production and packinghouses.

We proposed to require lemons from Argentina to be harvested green and within the time period of April 1 and August 31. If the lemons are harvested yellow or harvested outside of that time period, they would have to be treated for Medfly in accordance with 7 CFR part 305 and the operational workplan. Two commenters asked how we would determine whether a lemon was green or not.

In the ARS study that determined that lemons are a conditional non-host of Medfly, the term ''yellow'' was used interchangeably with ''mature.'' Immature lemons were considered to be a poor host. For purposes of the systems approach, we consider any lemon that is not green as ripe enough to require cold treatment. We are using additional ARS research [8] and a market standard on lemon color to determine if lemons are green.

Two commenters asked who will determine whether a lemon is green or yellow. One commenter asked where this determination will be made. That commenter also stated that APHIS employees should make the determination.

In Argentina, lemons are evaluated for color and graded as part of packinghouse procedures. The determination for color and grade is made by graders employed by SENASA.

One commenter stated that the finding that green fruit is harvested from March to May in Argentina appears to be based on 2007 information, which is outdated.

When green fruit is harvested in Argentina is irrelevant to the conclusions of the PRA. As we explained in the proposed rule, lemons that are harvested yellow would have to be treated for Medfly, regardless of the time of year in which they are harvested.

One commenter stated that the RMD and rule should be consistent with regard to when lemons do not need treatment.

The commenter seems to believe that there is a discrepancy between the RMD and the proposed rule because the requirement is phrased slightly differently, but this is not the case. Both the proposed rule and the RMD specify that a lemon must be green and shipped within the April-August window in order to avoid treatment.

One commenter expressed concern that the use of the term ''safeguarded'' in § 319.56–76(a)(8) is too vague. The commenter stated that the words ''and protected from fruit fly infestation'' should be inserted after the word ''safeguarded'' in that paragraph.

APHIS disagrees that this addition is necessary. We use the term ''safeguarded'' throughout the regulations to mean that fruit must be protected from infestation, or, in the case of treated fruit, reinfestation, by quarantine pests.

One commenter asked whether trucks and workers would be sanitized in between uses for U.S. exports and other uses, and if not, why not.

Packinghouse workers are required to wash their hands and wear clean protective clothing every time they enter the packinghouse. The fruit never touches the trucks; it is harvested and brought to the packinghouse in bins that are disinfected after each use. Fruit for

[8] Jang, E.B., R.L. Mangan, D.M. Obenland, M.L. Arpaia, and R. Rice. (undated). Defining Host Status of California Grown Lemons to Fruit Fly Infestation (PowerPoint Presentation). USDA-Agricultural Research Service and University of California. 8 pp.

export is shipped in clean new boxes. Old shipping boxes are never reused.

Several commenters asked how APHIS will determine pest-free places of production for *B. chilensis,* given that Argentine production for fresh consumption and processing is intermixed.

While *B. chilensis* exists in Argentina, there is no evidence that it exists in northwest Argentina. This is based on extensive and ongoing documentation SENASA has provided to APHIS. Due to the absence of *B. chilensis* in northwest Argentina, the intermixing of fresh and processed production sites in that area does not have a bearing on whether a site is pest-free for *B. chilensis.*

It is worth noting that we have no evidence that Argentine producers designate specific sites for fresh or processed production and use different production practices based on the intended use of the lemons. Rather, as a result of grading during packinghouse inspections, highly graded lots are designated for the fresh market, while the rest of the fruit goes to processing and other uses.

That being said, the rule specifies that APHIS will monitor implementation of the systems approach. This includes monitoring the distribution of *B. chilensis* in Argentina. If the distribution changes, we note that there are still several safeguards that would address the commenter's concern. First, the place of production must be inspected regularly by the NPPO of Argentina; these inspections would include inspections for *B. chilensis.* Second, the place of production must adhere to any pest control or management practices specified by APHIS and/or SENASA. An orchard that was in an area in which *B. chilensis* is known to occur, and in proximity to an orchard not participating in the export program, would be subject to management practices to address this risk. Finally, registration of places of production allows for traceback and quick remediation if infested fruit is discovered later in the production chain.

One commenter stated that APHIS should ask SENASA to prepare a grid-type schematic that shows the location of processed orchards as compared with orchards where fruit is grown for the fresh export market. The commenter stated that this analysis is essential, and that if SENASA will not prepare it, then APHIS should prepare it.

The grid suggested by the commenter is not possible. Orchards in Argentina are not designated for a particular type of production. Rather, as we explained above, lots are designated based on grading conducted in packinghouses.

Two commenters stated that the biometric sampling protocol for *B. chilensis* is insufficient.

APHIS disagrees. Mites have limited mobility. The commenters are referring to the fact that some species of mites are known to travel longer distances by ballooning, where the mites produce streamers of silk and travel with wind currents for longer distances. According to Childers and Rodrigues (2011), *Brevipalpus* mites do not produce silk and therefore are not capable of ballooning. Childers and Rodrigues indicate there is some evidence that these mites can blow from heavily infested plants downwind to nearby plants. They do not present evidence of long distance movement of *Brevipalpus* mites by the wind.

B. chilensis mites in Argentina are associated with the wine grape industry in the state of Mendoza (approximately 1,000 miles south of the region where lemons are produced). They are not present in Tucumán where most of the export lemons in Argentina are grown, nor, again, is there any evidence of their presence in the whole northwestern region.

The systems approach for *B. chilensis* is based on the pest's limited mobility. This systems approach has similarly been used in Chile for citrus for many years without interceptions of this mite in commercial shipments. In addition to the place of production inspection, every shipment of lemons to be exported will also be inspected for mites with the same wash technique. If mites are found on any shipment, that place of production will be removed for the rest of the export season.

One commenter stated that APHIS only described the *B. chilensis* protocol, without providing evidence of its adequacy. The commenter further stated that the lack of interceptions of the mite on fruit that has entered the United States from Chile is not sufficient evidence for the effectiveness of the protocol. Another commenter stated that there is no literature of evidence that suggests the protocol is effective.

APHIS disagrees. Mites and other small organisms have been studied by collecting them from their habitat through sieves that concentrate them. Southwood and Henderson in their classic textbook *Ecological Methods* [9] devote chapters to this method of sampling.

This method of sampling has been used since the 18th century; use of Berlese funnels and sieves is ubiquitous in sampling mites and other small organisms in various habitats. The agricultural quarantine and inspection data that APHIS collects routinely suggests that this method, which has been used for almost 20 years by APHIS as a mitigation measure, has been very effective in detecting *B. chilensis* mites on fruit from Chile.

One commenter stated that it is impossible to know whether 100 samples is sufficient without knowing the size of places of production.

Regardless of the size of the orchard, 100 samples provides 95 percent confidence of a 3 percent infestation rate. This confidence level is sufficient given that *B. chilensis* is not known to exist within 1,000 miles of northwest Argentina and, biologically, tends to aggregate once established. APHIS believes that the overlapping protections of routine visual inspections, NPPO surveying for *B. chilensis* spread, and the biometric protocol provide a sufficient degree of phytosanitary protection.

One commenter stated that the *B. chilensis* biometric sampling protocol is not based on the biology of *B. chilensis.* The commenter stated that other species of *Brevipalpus* are known to have particular habitat preferences within a tree, such as the most shaded, humid areas (Childers & Rodrigues 2011). The commenter stated that if something like this is the case for *B. chilensis,* then a targeted survey, rather than biometric survey of the place of production, is needed to determine prevalence.

APHIS disagrees. Mites, including *B. chilensis,* reproduce and build up populations in a small area because of their limited dispersal capability. The sampling distribution is based on the premise that if one mite is found, there is a high probability that another mite is nearby. This is called an aggregated distribution. This probability distribution (or variation), is called hypergeometric, or negative binomial, and can be used to model the distribution of most insects and mites.

Very few insects and mites do not have aggregated distributions, and there is no evidence that *B. chilensis* does not have aggregated distributions. The production site survey is a targeted survey; the samples are taken from the leaves which is where the mite populations are highest. We note, moreover, that this survey is presently strictly precautionary. There is no evidence of *B. chilensis* in northwest Argentina.

Two commenters stated that biometric sampling may miss immature *B. chilensis* mites.

[9] Southwood, T.R.E., & Henderson, P.A. (2009). *Ecological Methods.* John Wiley & Sons.

The mite exists in populations that contain eggs, immature stages, and adults. Only the adults can be identified reliably through microscopic examination of the filtrate from the sieve. The sieve will collect adult mites. The likelihood of only eggs or nymphs being present is very low, so APHIS can use the sieve sampling method to reliably detect populations of mites at production sites. APHIS will be requiring a number of samples and the probability that only eggs and larvae of the target mite would be present in all of the samples is very low. Moreover, if one sample detects adult *B. chilensis* mites, the production site will not be certified *B. chilensis* free.

One commenter asked how APHIS determined the efficacy of Chilean citrus protocol.

As we state in the RMD, our determination was based on the absence of detections of infested fruit in the export pathway over almost 20 years.

One commenter questioned whether it is appropriate to compare the citrus-growing area that exists in Chile to the growing areas in Northwest Argentina for purposes of dealing with *Brevipalpus* spp. mites. The commenter noted that the growing area in Argentina is much larger than the growing area in Chile, and stated that the growing area in Argentina has high rainfall and high humidity, while the growing area in Chile typically has low rainfall and low humidity. The commenter stated that the difference in climate makes the growing area in Argentina hospitable to certain pathogens, but did not specify which ones.

The commenter is mistaken about the climate in northwest Argentina. The scientists at the Obispo Columbres Agroindustrial Station, SENASA, and the lemon growers in Tucumán told us that northwest Argentina does not have high rainfall. On the contrary, rainfall is low and the lemon groves are often irrigated. Therefore, the mite populations should face similar climates in the citrus growing portions of Chile and the lemon growing parts of northwest Argentina. During the September 2016 site visit, we asked the scientists at the Obispo Columbres Agroindustrial station about the mites. They said that they had found two of the three *Brevipalpus* mite species (not *B. chilensis*) in the lemon production areas in northwest Argentina, but that they were not common. Further, the hot dry conditions favor mites more than rainy humid conditions. The mitigations for *Brevipalpus* mites should not be affected by any climate differences, which appear to be minimal.

One commenter stated that the protocol for citrus from Chile includes species of citrus that may be less hospitable to *B. chilensis.*

APHIS notes that the protocol for mites from Chile also includes fruit that are better hosts than lemons. The sampling method for determining low prevalence works regardless of mite populations on the host fruit.

Two commenters stated that surveying for *B. chilensis* around production sites is necessary because if there are high populations in the vicinity, or if wind is a strong factor in dispersal, mites are likely to be constantly moving into the orchard.

As noted above, *B. chilensis* are a generalist pest, and tend to aggregate. The likelihood of *B. chilensis* in a neighboring orchard, without spillover into the registered production site, is low. Accordingly, if mites are in the vicinity, they should be detected through routine place of production inspections and the biometric sampling protocol.

One commenter stated that the *B. chilensis*-specific protocol should be extended to all *Brevipalpus* spp. mites.

Currently Argentina is sampling for *B. chilensis* and the three *Brevipalpus* spp. mites that are potential vectors for citrus leprosis virus. We are only requiring pest free place of production for *B. chilensis,* because *B. chilensis* is itself a quarantine pest. We are requiring consignment freedom (by inspection of harvested fruit) for all of the mites. *Brevipalpus* species other than *B. chilensis* are only considered quarantine pests if they are carrying the citrus leprosis virus. The probability of movement of the citrus leprosis pathogen from an infected tree in Argentina to a suitable host in the United States via a *Brevipalpus* mite traveling on a lemon fruit is extremely low, and require several additional steps to acquire and spread the pathogen so we are not requiring production site freedom.

One commenter stated that the *B. chilensis* protocol should be extended to surrounding areas of production.

As we explained above, *B. chilensis* is not found within 1,000 miles of northwest Argentina, has low powers of mobility, and tends to aggregate. If it is not found in a registered place of production during routine surveys conducted by the NPPO to evaluate pest spread, as well as routine harvest inspections and two separate biometric samples associated with the systems approach, we are confident that it will not be on fruit for export.

One commenter stated that production sites should be inspected for *B. chilensis* throughout the harvest season.

If mites were found in a consignment at a packinghouse, the originating production site would lose its free status. For this reason it is not necessary to inspect production sites throughout the harvest season.

One commenter stated that the *B. chilensis* protocol should include surveying for citrus leprosis virus.

Symptoms of citrus leprosis virus are easy to detect, and fruit with such symptoms will be detected during standard packinghouse culling and phytosanitary inspections.

One commenter stated that fallen fruit should be cut and inspected for Medfly.

This effectively calls for place of production freedom for Medfly. APHIS notes that in the RMD, fallen fruit are specifically forbidden from being included in harvested fruit going to the packinghouse for fresh market. For this reason, we do not consider it necessary to sample fallen fruit for fruit flies or any other pest.

One commenter stated that trapping requirements for Medfly need to be delineated in the rule itself.

Historically, we have put trapping requirements in operational workplans, rather than rules, to allow flexibility in trapping protocols in order to respond to variations in population densities from season to season, as well as the development of new lure and bait technologies.

One commenter stated that trapping should be at least 50 percent with trimedlure and the other 50 percent should be baited with either 3-component or protein bait.

APHIS notes that both the 3-component bait and the protein bait are far less powerful lures for fruit flies than trimedlure, a pheromone. The trimedlure will draw flies in from farther away and is a more sensitive detection system. Trimedlure will also attract males and unmated females, which will make up a significant portion of any fruit fly population. The only thing that the protein or 3-component baits will attract is mated females, and if they are present then males and unmated females should also be present and will have already been detected by the more powerful trimedlure.

One commenter asked for greater detail about the requirements for packinghouses. The commenter specifically asked whether an entire facility would be included as a packinghouse, how many facilities would pack lemons for the U.S. market and what volume could a dedicated packinghouse expect to process.

A packinghouse has to be an entire facility. APHIS is aware of a few packinghouses that would serve as primary packinghouses; however, all packinghouses would be registered with the NPPO. Both the NPPO and APHIS will monitor packinghouses during routine inspections.

One commenter asked how large a consignment of lemons could be, and if there will be a limit on the size of consignments.

Consignments can vary in size. However, regardless of the size of the consignment, the sampling protocol is aimed at detecting a 3 percent infestation rate with at least 95 percent confidence.

One commenter asked how a biometric sample was defined.

The term 'biometric sampling' simply means that the sample size that is smaller than a straight 2 percent sample can be used to detect pests on large consignments of the commodity. Taking a biometric sample is more efficient than taking a straight percentage sample.

One commenter stated that the number of samples inspected should be 600. The commenter stated that this is consistent with what other countries require from U.S. growers.

APHIS disagrees that the number of samples inspected should be 600. One hundred samples is consistent with the Chilean protocol, which has been effective at precluding infested fruit from being shipped. Inspecting an additional 500 fruit per sample does not substantially impact the probability of finding an infestation, and would be significantly more resource-intensive.

One commenter asked if the same method will be used to inspect for *B. chilensis* as is used for the production site protocol.

Yes, the same method will be used for both production sites and packinghouses.

One commenter asked about the efficacy data for post-harvest inspections.

Post-harvest inspections by the NPPO of an exporting country are a long-standing phytosanitary measure that APHIS employs as part of market access requirements. The safe importation of thousands of foreign commodities into the United States over a prolonged period of time is an indication of its efficacy as a phytosanitary measure.

One commenter stated that fruit that is infested with Medfly larvae should be prohibited from being shipped.

APHIS disagrees. In the event that a single immature Medfly is found in or with the lemons, then the lemons must be treated in accordance with part 305 of the regulations and the operational workplan using a cold treatment. This cold treatment has been shown to be effective at mitigating the risk of Medfly in lemons. Additionally, the registered place of production that produced the lemons in the consignment may be suspended from the export program, pending an investigation.

One commenter stated that remedial actions should be identical, regardless of quarantine pest detected.

The remedial action when quarantine pests are detected is that the fruit cannot be exported. Some findings of quarantine pests also disqualify production sites because the mitigation requires the production site to be a pest-free place of production.

One commenter noted that the rule referred to CBP inspectors, but the supporting documents refer to APHIS inspectors. The commenter asked for clarification as to who will conduct port of entry inspections.

CBP conducts inspections at ports of entries pursuant to authority delegated to APHIS. The use of CBP employees to carry out functions specifically delegated to APHIS is authorized by the Homeland Security Act of 2002. Because CBP is effectively acting as agents of APHIS for the purposes of these inspections, we use the term ''APHIS.'' These inspections sample imported commodities for evidence of pests. If pests are detected, APHIS identifiers will be used to positively identify the pests.

One commenter asked whether port of entry inspections would include biometric sampling for *Brevipalpus* mites. The commenter also asked how CBP would be able to detect the mites.

The *B. chilensis* protocol is used to establish place of production freedom, and is also used as part of the phytosanitary inspection by the NPPO. Port of entry inspection for *B. chilensis* and other *Brevipalpus* mites will look for the pests, as well as signs and symptoms of infestation, such as bronzing.

One commenter asked why, if information from port of entry inspections is ''unreliable,'' they can be stated to be effective.

''Not be detected at the port of entry'' was removed as a criterion in the PRA because we do not have enough information about relative likelihood of detection at the port of entry to be able to weight this criterion relative to other elements. As a result, this criterion could not substantially impact the risk ratings. This does not imply that port of entry inspections are an ineffective component of a systems approach.

One commenter stated that the rule should specify how APHIS will monitor and enforce the systems approach. The commenter expressed concern that APHIS would have to commit substantial resources to ensure compliance with the operational workplan.

This request is predicated on the stated assumptions that SENASA lacks the ability and intent to abide by systems approach requirements. For reasons discussed above, we disagree with those assumptions.

One commenter stated that APHIS should require cold treatment of lemons from northwest Argentina.

This approach would not impose the least restrictive science-based actions needed to address plant pest risk, and thus would be inconsistent with our obligations under the SPS agreement.

One commenter stated that the rule should prohibit the importation of lemons from northwest Argentina into Florida. The commenter also stated that the rule should limit importation of lemons to areas north of the 38th parallel.

We have determined, for the reasons described in the RMD that accompanied the proposed rule, that the measures specified in the RMD will effectively mitigate the risk associated with the importation of lemons from northwest Argentina. The commenter did not provide any evidence suggesting that the mitigations are not effective. Therefore, we are not taking the action requested by the commenter.

Two commenters expressed concern that Argentine producers may use pesticides or practices that are not authorized in the United States.

We note that the Food and Drug Administration (FDA) of the Department of Health and Human Services regulates the pesticide, herbicide, and fertilizer residues that may be present on imported fruits and vegetables intended for human consumption. If illegal pesticides are detected, FDA will take action to remove them from the marketplace. Additionally, we note that the packinghouse disinfectants and treatments for pathogens that we are proposing for Argentina are the same used domestically.

One commenter stated that importing lemons from Argentina will involve carbon dioxide emissions that should be available to the consumer as they purchase the lemons. The commenter stated that the lemons should be labeled with the pounds of carbon dioxide emitted per pound of lemons.

This request is outside the scope of APHIS' statutory authority.

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

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the *Regulations.gov* Web site (see footnote 1 in this document for a link to *Regulations.gov*) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This analysis examines potential economic impacts of a rule that will allow the importation of fresh lemons from a region in Northwest Argentina into the continental United States. A systems approach to pest risk mitigation will provide phytosanitary protection against pests of quarantine concern. Both U.S. producers and consumers will be affected by the rule. While producers' welfare will be negatively affected, welfare gains for consumers will outweigh producer losses, resulting in a net benefit to the U.S. economy.

Commercial lemon production takes place in California and Arizona. For the 2014/15 season, lemon-bearing acres totaled 55,300 (California 47,000, Arizona 8,300). In the same season, the value of U.S. production of lemons was $694 million. Over the production seasons 2008/09 to 2014/15, U.S. fresh lemon production averaged 535,244 metric tons (MT) per year. Over the same period, annual imports averaged 49,995 MT and exports averaged 101,849 MT. Because lemons imported from Argentina that are harvested green between April 1 and August 31 will not require treatment for Medfly, we expect that most will be imported during this period, which coincides roughly with the months in which U.S. lemon exports are declining and imports are increasing.

Effects of the rule are estimated using a partial equilibrium model of the U.S. lemon sector. Annual imports of fresh lemon from Argentina are expected to range between 15,000 and 20,000 MT, with volumes averaging 18,000 MT. Quantity, price and welfare changes are estimated for these three import scenarios.

If the United States imports 18,000 MT of fresh lemon from Argentina and there is no displacement of lemon imports from other countries, we estimate that the price (custom import value) of fresh lemon will decrease by about 4 percent. Consumer welfare gains of $22.4 million will outweigh producer welfare losses of $19.9 million, resulting in a net welfare gain of $2.5 million. The 15,000 MT and 20,000 MT scenarios show similar effects.

More reasonably, partial import displacement will occur, and price and welfare effects will be proportional to the net increase in U.S. lemon imports. Assuming as an upper-bound that one-half of the quantity of fresh lemons imported from Argentina displaces U.S. fresh lemon imports from elsewhere, we estimate for the 18,000 MT scenario that the price decline will be about 2 percent; consumer welfare gains and producer welfare losses will be $11.1 million and $10.0 million, respectively, yielding a net welfare benefit of $1.1 million.

The majority of businesses that may be affected by the final rule are small entities, including lemon producers, packers, wholesalers, and related establishments.

Executive Order 12988

This final rule allows lemons to be imported into the continental United States from Argentina. State and local laws and regulations regarding lemons imported under this rule will be preempted while the fruit is in foreign commerce. Fresh lemons are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0448, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects for 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.28 is amended as follows:

■ a. In paragraph (a)(1), by removing the words ''(except for the States of Catamarca, Jujuy, Salta, and Tucuman, which are considered free of citrus canker)''.

■ b. In paragraph (a)(2), by removing the word ''Argentina,''.

■ c. By redesignating paragraphs (e) through (i) as paragraphs (f) through (j), respectively, and adding a new paragraph (e).

■ d. In newly redesignated paragraph (h), the words ''paragraphs (b) through (e)'' are removed and the words ''paragraphs (b) through (f)'' are added in their place.

The addition reads as follows:

§ 319.28 Notice of quarantine.

* * * * *

(e) The prohibition does not apply to lemons (*Citrus limon* (L.) Burm. f.) from northwest Argentina that meet the requirements of § 319.56–76.

* * * * *

■ 3. Section 319.56–76 is added to read as follows:

§ 319.56–76 Lemons from northwest Argentina.

Fresh lemons (*Citrus limon* (L.) Burm. f.) may be imported into the continental United States from northwest Argentina (the Provinces of Catamarca, Jujuy, Salta, and Tucumán) only under the conditions described in this section. These conditions are designed to prevent the introduction of the

following quarantine pests: *Brevipalpus chilensis,* the Chilean false red mite; *B. californicus,* the citrus flat mite, *B. obovatus,* the scarlet tea mite, and *B. phoenicis,* the false spider mite (referred to in this section as ''*Brevipalpus* spp. mites''); *Ceratitis capitata,* the Mediterranean fruit fly; *Cryptoblabes gnidiella,* the honeydew moth; *Elsinoë australis,* the causal agent of sweet orange scab disease; *Gymnandrosoma aurantianum* (Lima), the citrus borer; and *Xanthomonas citri* subsp. *citri* (ex Hasse) Gabriel et al., the causal agent of citrus canker disease.

(a) *General requirements*—(1) *Operational workplan.* The national plant protection organization (NPPO) of Argentina must provide an operational workplan to APHIS that details the activities that the NPPO of Argentina and places of production and packinghouses registered with the NPPO of Argentina will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The operational workplan must include and describe the specific requirements as set forth in this section. APHIS will be directly involved with the NPPO of Argentina in monitoring and auditing implementation of the systems approach.

(2) *Registered places of production.* The fresh lemons considered for export to the continental United States must be grown by places of production that are registered with the NPPO of Argentina and that have been determined to be free from *B. chilensis* in accordance with this section.

(3) *Registered packinghouses.* The lemons must be packed for export to the continental United States in pest-exclusionary packinghouses that are registered with the NPPO of Argentina.

(4) *Recordkeeping.* The NPPO of Argentina must maintain all forms and documents pertaining to registered places of production and packinghouses for at least 1 year and, as requested, provide them to APHIS for review. Based on APHIS' review of records, APHIS may monitor places of production and packinghouses, as APHIS deems warranted.

(5) *Commercial consignments.* Lemons from Argentina can be imported to the continental United States in commercial consignments only. For purposes of this section, fruit in a commercial consignment must be practically free of leaves, twigs, and other plant parts, except for stems less than 1 inch long and attached to the fruit.

(6) *Identification.* The identity of the each lot of lemons from Argentina must be maintained throughout the export process, from the place of production to the arrival of the lemons at the port of entry into the continental United States. The means of identification that allows the lot to be traced back to its place of production must be authorized by the operational workplan.

(7) *Harvesting restrictions or treatment for fruit flies.* Lemons from Argentina must be harvested green and within the time period of April 1 and August 31. If they are harvested yellow or harvested outside of this time period, they must be treated for *C. capitata* in accordance with part 305 of this chapter and the operational workplan.

(8) *Safeguarding.* Lots of lemons destined for export to the continental United States must be safeguarded during movement from registered places of production to registered packinghouses as specified by the operational workplan.

(9) *Phytosanitary certificate.* Each consignment of lemons imported from Argentina into the continental United States must be accompanied by a phytosanitary certificate issued by the NPPO of Argentina with an additional declaration stating that the requirements of this section have been met and that the consignments have been inspected and found free of *Brevipalpus* spp. mites, *B. chilensis, C. capitata, C. gnidiella,* and *G. aurantianum.*

(b) *Place of production requirements.* (1) Prior to each harvest season, registered places of production of lemons destined for export to the continental United States must be determined by APHIS and the NPPO of Argentina to be free from *B. chilensis* based on biometric sampling conducted in accordance with the operational workplan. If a single live *B. chilensis* mite is discovered as a result of such sampling, the place of production will not be considered free from *B. chilensis* and will not be able to export lemons to the United States. Each place of production will have only one opportunity per harvest season to be considered free of *B. chilensis,* and certification of *B. chilensis* freedom will only last one harvest season.

(2) Places of production must remove plant litter and fallen debris from groves in accordance with the operational workplan. Fallen fruit may not be included in field containers of fruit brought to the packinghouse to be packed for export.

(3) Places of production must trap for *C. capitata* in accordance with the operational workplan. The NPPO must keep records regarding the placement and monitoring of all traps, as well as records of all pest detections in these traps, and provide the records to APHIS, as requested.

(4) Places of production must carry out any additional grove sanitation and phytosanitary measures specified for the place of production by the operational workplan.

(5) The NPPO of Argentina must visit and inspect registered places of production regularly throughout the exporting season for signs of infestations. These inspections must start no more than 30 days before harvest and continue until the end of the export season. The NPPO of Argentina must allow APHIS to monitor these inspections. The NPPO of Argentina must also provide records of pest detections and pest detection practices to APHIS. Before any place of production may export lemons to the continental United States pursuant to this section, APHIS must review and approve of these practices.

(6) If APHIS or the NPPO of Argentina determines that a registered place of production has failed to follow the requirements in this paragraph (b), the place of production will be excluded from the export program until APHIS and the NPPO of Argentina jointly agree that the place of production has taken appropriate remedial measures to address the plant pest risk.

(c) *Packinghouse requirements.* (1) During the time registered packinghouses are in use for packing lemons for export to the continental United States, the packinghouses may only accept lemons that are from registered places of production and that have been produced in accordance with the requirements of this section.

(2) Lemons destined for export to the continental United States must be packed within 24 hours of harvest in a registered pest-exclusionary packinghouse or stored in a degreening chamber in the registered pest-exclusionary packinghouse. Lemons must be packed for shipment to the continental United States in insect-proof cartons or containers, or covered with insect-proof mesh or plastic tarpaulin. These safeguards must remain intact until the lemons arrive in the United States, or the consignment will not be allowed to enter the United States.

(3) Prior to packing, the lemons must be washed, brushed, and surface disinfected for *E. australis* and *X. citri* and in accordance with the operational workplan, treated with an APHIS-approved fungicide, and waxed.

(4) After treatment, the NPPO of Argentina or officials authorized by the NPPO of Argentina must visually inspect a biometric sample of each consignment for quarantine pests, wash

the lemons in this sample, and inspect the filtrate for *B. chilensis* in accordance with the operational workplan. A portion of the lemons must then be cut open and inspected for evidence of quarantine pests.

(i) If a single *C. gnidiella* or *G. aurantianum* in any stage of development is found on the lemons, the entire consignment is prohibited from export to the United States, and the registered place of production that produced the lemons is suspended from the export program until APHIS and the NPPO of Argentina jointly agree that the place of production has taken appropriate remedial measures to address plant pest risk.

(ii) If a single *B. chilensis* or *Brevipalpus* spp. mite in any stage of development is found on the lemons, the entire consignment is prohibited from export, and the registered place of production that produced the lemons may be suspended from the export program, pending an investigation.

(iii) If a single immature Medfly is found in or with the lemons, the lemons must be treated in accordance with part 305 of this chapter and the operational workplan. Additionally, the registered place of production that produced the lemons in the consignment may be suspended from the export program, pending an investigation.

(5) If APHIS or the NPPO of Argentina determines that a registered packinghouse has failed to follow the requirements in this paragraph (c), the packinghouse will be excluded from the export program until APHIS and the NPPO of Argentina jointly agree that the packinghouse has taken appropriate remedial measures to address the plant pest risk.

(d) *Port of entry requirements.* Consignments of lemons from Argentina will be inspected at the port of entry into the United States. If any quarantine pests are discovered on the lemons during inspection, the entire lot in which the quarantine pest was discovered will be subject to appropriate remedial measures to address this risk.

(Approved by the Office of Management and Budget under control number 0579–0448)

Done in Washington, DC, this 20th day of December 2016.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–31013 Filed 12–22–16; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Office of Inspector General

7 CFR Part 2620

Availability of Information to the Public

AGENCY: Office of Inspector General, USDA.

ACTION: Final rule.

SUMMARY: The U.S. Department of Agriculture (USDA), Office of Inspector General (OIG) amends its regulation relating to the availability of its information to the public. The amendments are necessary to update its regulation in order to reflect reorganizations within OIG.

DATES: Effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Christy Slamowitz, Counsel to the Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Room 441–E, Washington, DC 20250–2308, Telephone: (202) 720–9110.

SUPPLEMENTARY INFORMATION: The regulations regarding USDA OIG's processing of requests for information under the Freedom of Information Act (FOIA), 5 U.S.C. 552, were last published in 1995 (60 FR 52842). Since that time, OIG has had several internal reorganizations. As part of those reorganizations, OIG's FOIA program was transferred from OIG's defunct Office of Policy Development and Resources Management to OIG's Office of Counsel. In order to provide the public with current information regarding which OIG office processes FOIA requests, OIG is amending these regulations, which supplement USDA's FOIA regulations at subpart A of part 1 of this title, including the appendix.

Administrative Procedure Act

This rule relates to agency organization and internal agency management. Pursuant to 5 U.S.C. 553(A), such rules are not subject to the requirement to provide public notice of proposed rulemaking and opportunity for public comment. Therefore, notice and comment before the effective date are being waived.

Executive Orders 12866 and 13563

OIG has reviewed this rule to ensure its consistency with the regulatory philosophy and principles set forth in Executive Orders 12866 and 13563. OIG has determined that this rule is non-significant within the meaning of Executive Order 12866. Therefore, this rule is not required to be and has not been reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

These regulations will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis as provided by the Regulatory Flexibility Act, as amended, is not required.

Executive Order 12291

This rule relates to internal agency organization and management. Therefore, it is exempt from the provisions of Executive Order 12291.

Paperwork Reduction Act

These proposed regulations impose no additional reporting and recordkeeping requirements. Therefore, clearance by OMB is not required.

Federalism (Executive Order 13132)

This rule does not have Federalism implications, as set forth in Executive Order 13132. 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.

Congressional Review Act

OIG has determined that this rule is not a major rule as defined by the Congressional Review Act, 5 U.S.C. 804.

List of Subjects in 7 CFR Part 2620

Freedom of information.

■ For the reasons set forth in the preamble, OIG amends 7 CFR chapter XXVI by revising part 2620 to read as follows:

PART 2620—AVAILABILITY OF INFORMATION TO THE PUBLIC

Sec.

Authority: 5 U.S.C. 301, 552; Inspector General Act of 1978, as amended, 5 U.S.C. app. 3.

§ 2620.1 General statement.

This part supplements the regulations of the Secretary of Agriculture implementing the Freedom of Information Act, 5 U.S.C. 552 (FOIA) (subpart A of part 1 of this title, including the appendix), and governs the availability of records of the Office of Inspector General (OIG) to the public upon request.

§ 2620.2 Public inspection.

The FOIA requires that certain materials be made available for public inspection in an electronic format. OIG records are available for public inspection on OIG's public Web site, *https://www.usda.gov/oig/foia.htm.*

§ 2620.3 Requests.

Requests for OIG records shall be submitted to OIG's Office of Counsel and will be processed in accordance with subpart A of part 1 of this title. Specific guidance on how to submit requests (including current contact methods) is available through OIG's Web site, *https://www.usda.gov/oig/foiareq.htm,* and USDA's public FOIA Web site.

§ 2620.4 Denials.

If it is determined that a requested record is exempt from mandatory disclosure and that discretionary release would be improper, the Counsel to the Inspector General or the Counsel's designee shall give written notice of denial in accordance with subpart A of part 1 of this title.

§ 2620.5 Appeals.

The denial of a requested record may be appealed in accordance with subpart A of part 1 of this title. Appeals shall be addressed to the Inspector General, U.S. Department of Agriculture, 1400 Independence Avenue SW., Whitten Building, Suite 441–E, Washington, DC 20250–2308. The Inspector General will give notice of the determination concerning an appeal in accordance with subpart A of part 1 of this title.

Dated: December 15, 2016.

Phyllis K. Fong,

Inspector General.

[FR Doc. 2016–30803 Filed 12–22–16; 8:45 am]

BILLING CODE 3410–23–P

DEPARTMENT OF HOMELAND SECURITY

8 CFR Parts 214 and 264

Removal of Regulations Relating to Special Registration Process for Certain Nonimmigrants

AGENCY: Department of Homeland Security.

ACTION: Final rule.

SUMMARY: The Department of Homeland Security (DHS) is removing outdated regulations relating to an obsolete special registration program for certain nonimmigrants. DHS ceased use of the National Security Entry-Exit Registration System (NSEERS) program in 2011 after finding that the program was redundant, captured data manually that was already captured through automated systems, and no longer provided an increase in security in light of DHS's evolving assessment of the threat posed to the United States by international terrorism. The regulatory structure pertaining to NSEERS no longer provides a discernable public benefit as the program has been rendered obsolete. Accordingly, DHS is removing the special registration program regulations.

DATES: This rule is effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Kekoa Koehler, Office of Policy, U.S. Department of Homeland Security. Phone: 202–447–4125. Email: *Russell.koehler@hq.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

History of the Special Registration Program

In 1991, the legacy Immigration and Naturalization Service (INS), then part of the Department of Justice (DOJ), published a final rule requiring the registration and fingerprinting of certain nonimmigrants bearing Iraqi and Kuwaiti travel documents, due to various factors, including concerns about misuse of Kuwaiti passports.[1] In 1993, INS removed the regulations specific to such nonimmigrants, but added to the regulations at 8 CFR 264.1(f) a provision that allowed the Attorney General to require certain nonimmigrants of specific countries to be registered and fingerprinted upon arrival to the United States, pursuant to section 263(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1303(a).[2] Pursuant to the amendment, the Attorney General could designate countries by **Federal Register** notice.[3]

In June 2002, after the September 11, 2001 terrorist attacks, INS proposed to expand the existing registration and fingerprinting program at 8 CFR 264.1(f) to require certain nonimmigrants to report to INS upon arrival, approximately 30 days after arrival, every 12 months after arrival, upon certain events such as a change of address, and at the time of departure from the United States.[4] The proposed rule provided that the program would apply to nonimmigrants from countries that INS would designate in **Federal Register** notices and to individual nonimmigrants designated by either a U.S. consular officer or immigration officer at a U.S. port-of-entry as indicating a need for closer monitoring. Under the proposed rule, designated nonimmigrants would be required to be fingerprinted and photographed and to provide additional biographical information. The proposed rule also authorized INS to designate certain ports of departure for nonimmigrants subject to the program. In addition, INS proposed to amend 8 CFR 214.1 to require nonimmigrants selected for special registration to comply with 8 CFR 264.1(f) as a condition of maintaining nonimmigrant status.

The INS received 14 comments on the proposed rule, some in support of the proposed program and others opposed to it. In August 2002, INS finalized the proposed program, which became known as the National Security Entry-Exit Registration System (NSEERS), without substantial change.[5] In September 2002, INS announced by **Federal Register** notice that the new program would be applied to those who were subject to the earlier registration program—nonimmigrants from Iraq, Iran, Libya, and Sudan—and added nonimmigrants from Syria.[6] INS announced in November 2002 that only males 16 years of age and older from designated countries would be required to register under the program.[7] Between November 2002 and January 2003, INS added another 20 countries to the compliance list, bringing the total to 25 countries.[8] The responsibility for administering NSEERS was transferred to the Department of Homeland Security (DHS) in 2003 as part of the Homeland Security Act of 2002.[9]

In December 2003, DHS amended the NSEERS regulations by interim final rule to suspend the 30-day post-arrival

[1] 56 FR 1566 (Jan. 16, 1991). Those regulations were at 8 CFR 264.3.

[2] 58 FR 68024 (Dec. 23, 1993).

[3] The Attorney General initially required nonimmigrants from Iraq and Sudan to be registered and fingerprinted under the new provision and later added Iran and Libya. *See* 58 FR 68157 (Dec. 23, 1993) (Iraq and Sudan) and 61 FR 46829 (Sept. 5, 1996) (Iran and Libya). The INS consolidated the two notices in 1998. 63 FR 39109 (July 21, 1998).

[4] 67 FR 40581 (June 13, 2002).

[5] 67 FR 52584 (Aug. 12, 2002).

[6] 67 FR 57032 (Sept. 6, 2002).

[7] 67 FR 67766 (Nov. 6, 2002).

[8] *See* 67 FR 70526 (Nov. 22, 2002); 67 FR 77642 (Dec. 18, 2002); and 68 FR 2363 (Jan. 16, 2003). The 25 countries ultimately included in the compliance list were: Afghanistan, Algeria, Bahrain, Bangladesh, Egypt, Eritrea, Indonesia, Iran, Iraq, Jordan, Kuwait, Lebanon, Libya, Morocco, North Korea, Oman, Pakistan, Qatar, Saudi Arabia, Somalia, Sudan, Syria, Tunisia, United Arab Emirates, and Yemen.

[9] *See* Homeland Security Act of 2002, Public Law 107–296, secs. 402, 441, 442, 451, 1512(d), 1517, 116 Stat. 2135 (6 U.S.C. 202, 251, 252, 271, 552(d), 557); Homeland Security Act of 2002 Amendments, Public Law 108–7, div. L, sec. 105 (2003); *see also* 6 U.S.C. 542 note; 8 U.S.C. 1103(a), 1551 note.

and annual re-registration requirements.[10] DHS determined that automatically requiring 30-day and annual re-registration for designated nonimmigrants was no longer necessary as DHS was implementing other systems to help ensure that all nonimmigrants remain in compliance with the terms of their visa and admission.[11] The interim final rule provided that DHS would utilize a more tailored system in which, as a matter of discretion and on a case-by-case basis, the Department would notify nonimmigrants subject to the program to appear for re-registration interviews where DHS deemed it necessary to determine whether they were complying with the conditions of their status and admission. The interim final rule did not affect the procedures at ports-of-entry for nonimmigrants subject to the program.

In 2011, DHS published a notice in the **Federal Register** indicating that DHS would no longer register nonimmigrants under NSEERS and removing all countries from the NSEERS compliance list.[12] DHS had added no new countries to the compliance list since 2003, and it had since implemented multiple new automated systems that capture information of nonimmigrant travelers to the United States and support individualized determinations of admissibility.[13] Among the new programs and practices that had been implemented by that time were the United States Visitor and Immigrant Status Indicator Technology Program (US–VISIT), which stores and manages the fingerprint scans and photographs required upon entry to the United States,[14] and the Advance Passenger Information System (APIS), which requires that commercial vessels and commercial and private aircraft arriving in or departing the United States submit advance passenger and crew manifest information to U.S. Customs and Border Protection (CBP).[15] In light of these and other improved programs and practices, as well as improved information sharing with foreign counterparts, DHS determined that the data captured by NSEERS, which DHS personnel entered manually, had become redundant and no longer provided any increase in security.[16] Although the 2011 notice announced that DHS would no longer use the program for any countries, the notice did not remove the regulatory framework for NSEERS from the DHS regulations.

2012 DHS Office of Inspector General Report

In 2012, the DHS Office of the Inspector General (OIG) issued a report on border security information sharing within DHS that, among other things, recommended DHS fully eliminate NSEERS by removing the regulatory structure for the program.[17] The OIG report found that processing NSEERS registrations constituted a significant portion of CBP's workload at ports-of-entry while the program was in operation, and that the NSEERS database often did not function properly. The report noted that CBP officers believed NSEERS reporting to be of little utility and that the time spent processing registrations constituted an inefficient use of resources. The OIG report found that DHS's newer automated targeting systems enabled more sophisticated data analysis and intelligence-driven targeting than under NSEERS, as the newer targeting systems consolidate passenger data from various systems, can search across those systems for certain trends or patterns, and can be updated quickly without the need for public notification in the **Federal Register**. The OIG report also found US–VISIT to be the more logical system for capturing biometric information at ports-of-entry due to US–VISIT's superior functionality. The OIG report concluded that advancements in information technology had rendered NSEERS obsolete and that leaving the program in place did not provide any discernable public benefit.[18] The OIG report thus recommended removing the regulatory structure of NSEERS from DHS regulations.

Removal of the NSEERS Framework Regulations

Although DHS retained the regulations that provide the NSEERS framework, subsequent experience has confirmed that NSEERS is obsolete, that deploying it would be inefficient and divert personnel and resources from alternative effective measures, and that the regulation authorizing NSEERS is unnecessary. Since the suspension of NSEERS in 2011, DHS has not found any need to revive or consider the use of the program. Indeed, during this period, DHS's other targeting, data collection, and data management systems have become even more sophisticated. DHS now engages in security and law enforcement efforts that were not possible when NSEERS was established in 2002, and the Department continues to make significant progress in its abilities to identify, screen, and vet all travelers arriving to the United States; to collect and analyze biometric and biographic data; to target high-risk travelers for additional examination; and to track nonimmigrants' entry, stay, and exit from the country.

The information that was previously captured through NSEERS is now generally captured from nonimmigrants through other, more comprehensive and efficient systems. Below we describe several of DHS's data collections, systems, and procedures relating to nonimmigrants and their relation to the NSEERS program.

• *Biometric Information.* At the time of NSEERS' implementation in 2002, most nonimmigrants were admitted to the United States without being either photographed or fingerprinted.[19] Today, in contrast, CBP fingerprints and photographs nearly all nonimmigrants, regardless of nationality, at the time of entry into the United States. Furthermore, systems such as the Automated Biometric Identification System (IDENT), which were initially implemented by US–VISIT, are now used throughout DHS.[20] IDENT is the central DHS-wide system for storage and processing of biometric and associated biographic information for a wide range of uses including national security, law enforcement, immigration and border management, intelligence, and background investigations. IDENT stores and processes biometric data—digital fingerprints, photographs, iris scans, and facial images—and links biometrics with biographic information to establish

[10] 68 FR 67578 (Dec. 2, 2003).

[11] *Id.* at 67579.

[12] 76 FR 23830 (Apr. 28, 2011).

[13] *Id.* at 23831 (stating that since the establishment of NSEERS, ''DHS has developed substantial infrastructure and adopted more universally applicable means to verify the entry and exit of aliens into and out of the United States'').

[14] *See* 8 CFR 235.1(f)(1)(ii).

[15] *See* 19 CFR 4.7b, 4.64(b), 122.22, 122.26, 122.31, 122.49a, 122.49b, 122.75a, and 122.75b.

[16] The manual collection of information required by NSEERS had also become a significant resource drain for CBP, particularly at its busiest ports of entry.

[17] Department of Homeland Security, Office of Inspector General, *Information Sharing on Foreign Nationals: Border Security,* OIG–12–39 (Feb. 2012).

[18] *See id.* at p. 35 (''The availability of newer, more capable DHS data systems argues against ever utilizing the NSEERS data system again.'').

[19] *See* 67 FR at 40581–82 (June 13, 2002) (noting in 2002 that ''current procedures do not provide for the collection of fingerprints at the port of entry from many aliens''); 67 FR at 52586 (Aug. 12, 2002).

[20] The Consolidated and Further Continuing Appropriations Act of 2013, Public Law 113–6, enacted on March 26, 2013, made dramatic changes to US–VISIT's mission set and organization. The 2013 Act transferred activities such as entry-exit policy and operations and overstay analysis to operational components within DHS. Responsibility for the DHS's Automated Biometric Identification System was given to the newly-created Office of Biometric Identity Management, a subcomponent of the National Protection and Programs Directorate.

and verify identities. As noted above, these systems and procedures were not in place in 2002.

• *Arrival and Departure Information.* CBP receives arrival and departure data from commercial vessel and aircraft carriers, as well as private aircraft, through APIS. CBP tracks this information, which is vetted against various law enforcement databases, in its Arrival and Departure Information System. CBP confirms the accuracy of this data information as part of the interview process for travelers arriving in the United States. And the available biographic departure data are matched against arrival data to determine who has complied with the terms of admission and who has overstayed. These systems and procedures did not exist in their current form in 2002.

• *Visa Information.* Visa data is automatically vetted through various mechanisms through a joint coordination effort involving CBP, U.S. Immigration and Customs Enforcement, and the Department of State. This effort permits the relevant agency to take appropriate action, such as revoking visas or requiring additional scrutiny. These information sharing systems and procedures were not in place in 2002.

• *Nonimmigrant Students.* Data on nonimmigrant students is now entered into the Student and Exchange Visitor Information System (SEVIS) by designated school officials at certified institutions and responsible officials in the Exchange Visitor Program. CBP officers at ports-of-entry can interface with SEVIS in real time to determine whether a student or exchange visitor has a current and valid certificate of eligibility to enter the United States. SEVIS did not exist when NSEERS was created.

• *Visa Waiver Program.* The Electronic System for Travel Authorization (ESTA) now captures information used to determine the eligibility of visitors seeking to travel to the United States without a visa under the Visa Waiver Program (VWP). All travelers who intend to apply for entry under the VWP are now required to obtain an ESTA approval prior to boarding a carrier to travel by air or sea to the United States.[21] CBP continuously vets ESTA applications against law enforcement databases for new information throughout the validity period and takes additional action as needed, including revocation of an ESTA approval. In November 2014, February 2016 and June 2016, DHS strengthened the VWP's security by adding additional elements on the ESTA application and revising the eligibility questions.[22] The Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, enacted on December 18, 2015, prohibits certain travelers who have been present in or are nationals of certain countries to travel or be admitted to the United States under the VWP.[23] None of these measures related to the VWP were in place when NSEERS was promulgated.

• *Electronic Visa Update System:* The Electronic Visa Update System (EVUS), which became effective on October 20, 2016, is an online system that allows for the collection of biographic and other information from nonimmigrants who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category.[24] Nonimmigrants subject to these regulations must periodically enroll in EVUS and obtain a notification of compliance with EVUS prior to travel to the United States. Though currently limited to nonimmigrants who hold a B1, B2, or B–1/B–2 visa issued without restriction for maximum validity contained in a passport issued by the People's Republic of China,[25] additional countries could be added to address emerging national security issues.

Due to such changes, DHS has determined that the NSEERS model for border vetting and security, which focused on designated nationalities for special processing, is outmoded. Since the implementation of NSEERS in 2002, DHS has increasingly moved away from the NSEERS model and instead focused on a targeted, intelligence-driven border security model that identifies current and emerging threats in real time. For these reasons, DHS has concluded that NSEERS is obsolete and inefficient; that its implementation would be counterproductive to the Department's comprehensive security measures; and that the regulatory authority for NSEERS should thus be rescinded. For these reasons, DHS is removing the special registration program regulations found in 8 CFR 264.1(f).

Conforming Amendment

DHS is making a conforming amendment to 8 CFR 214.1(f) to remove the specific reference to 8 CFR 264.1(f), which INS added when it implemented NSEERS in 2002. The amendment reinstates the text of 8 CFR 214.1(f) prior to the implementation of NSEERS, with a minor change to reflect the transfer of duties from INS to DHS.

Statutory and Regulatory Requirements

Administrative Procedure Act

The Administrative Procedure Act (APA) generally requires agencies to publish a notice of proposed rulemaking in the **Federal Register** and provide interested persons the opportunity to submit comments.[26] The APA provides an exception to this prior notice and comment requirement for ''rules of agency organization, procedure, or practice.'' [27] This final rule is a procedural rule promulgated for agency efficiency purposes. DHS is removing regulations related to an outdated, inefficient, and decommissioned program. Thus, removing these regulations, which have not been used since 2011, reflects the current practice and procedure of DHS and will not affect the substantive rights or interests of the public.

The APA also provides an exception from notice and comment procedures when an agency finds for good cause that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' [28] DHS finds good cause to issue this rule without prior notice or comment, as such procedures are unnecessary. The removal of these regulations will have no substantive effect on the public because the regulations relate to a program which has not been utilized since 2011 and which has been made obsolete by DHS's more advanced and efficient processes, programs, and systems.

Further, the APA generally requires that substantive rules incorporate a 30-day delayed effective date.[29] This rule, however, is merely procedural and does not impose substantive requirements;

[21] *See* 8 U.S.C. 1187(a)(11), (h)(3); 8 CFR 217.5.

[22] 79 FR 65414 (Nov. 4, 2014); 81 FR 8979 (Feb. 23, 2016); 81 FR 39681 (June 17, 2016).

[23] The Visa Waiver Program Improvement and Terrorist Travel Prevention Act of 2015, sec. 203, enacted as part of Division O, Title II of the Consolidated Appropriations Act of 2016, Public Law 114–113, applies to nationals of VWP countries who have been present in Iraq, Syria, countries listed under specified designation lists (currently Syria, Iran, and Sudan), or countries designated by the Secretary of Homeland Security (currently Libya, Somalia, and Yemen) at any time on or after March 1, 2011 (with limited government/military exceptions) and to nationals of VWP countries who are also nationals of Iran, Iraq, Sudan, or Syria. *See* 8 U.S.C. 1187(a)(12). CBP modified the ESTA application on February 23, 2016 to include questions pertaining to dual citizenship or nationality, and travel to restricted countries. 81 FR 8979 (Feb. 23, 2016). CBP updated the ESTA application again on June 17, 2016 with new questions pertaining to the applicant's participation in the Global Entry Program and travel on or after March 1, 2011 to Libya, Somalia or Yemen. 81 FR 39680 (June 17, 2016).

[24] 8 CFR 215.23–215.24; 81 FR 72481 (Oct. 20, 2016).

[25] *See* 81 FR 72600 (Oct. 20, 2016).

[26] *See* 5 U.S.C. 553(b) and (c).

[27] 5 U.S.C. 553(b)(A).

[28] 5 U.S.C. 553(b)(3)(B).

[29] 5 U.S.C. 553(d).

thus DHS finds that a delayed effective date is unnecessary.

Executive Orders 12866 and 13563

This regulation has been drafted and reviewed in accordance with Executive Orders 12866 and 13563. This rule is not a significant regulatory action under Executive Order 12866, and accordingly this rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

Because DHS is of the opinion that this rule is not subject to the notice and comment requirements of 5 U.S.C. 553, DHS does not consider this rule to be subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector.

This rule does not include any unfunded mandates. The requirements of Title II of the Act, therefore, do not apply, and DHS has not prepared a statement under the Act.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. 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 United States companies to compete with foreign-based companies in domestic and export markets.

Executive Order 13132—Federalism

This rule would 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

Executive Order 12988—Civil Justice Reform

This rule meets the applicable standards set forth in sections 3(a) and 3(b)(2) of Executive Order 12988.

Regulatory Amendments

List of Subjects

8 CFR Part 214

Administrative practice and procedure, Aliens, Cultural exchange programs, Employment, Foreign officials, Health professions, Reporting and recordkeeping requirements, Students.

8 CFR Part 264

Aliens, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons stated in the preamble, DHS amends chapter 1 of title 8 of the Code of Federal Regulations as set forth below.

8 CFR CHAPTER 1

PART 214—NONIMMIGRANT CLASSES

■ 1. The general authority for part 214 continues to read as follows:

Authority: 6 U.S.C. 202, 236; 8 U.S.C. 1101, 1102, 1103, 1182, 1184, 1186a, 1187, 1221, 1281, 1282, 1301–1305 and 1372; sec. 643, Public Law 104–208, 110 Stat. 3009–708; Public Law 106–386, 114 Stat. 1477–1480; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau, 48 U.S.C. 1901 note, and 1931 note, respectively; 48 U.S.C. 1806; 8 CFR part 2.

■ 2. Amend § 214.1 by revising paragraph (f) to read as follows:

§ 214.1 Requirements for admission, extension, and maintenance of status.

* * * * *

(f) *False information.* A condition of a nonimmigrant's admission and continued stay in the United States is the full and truthful disclosure of all information requested by DHS. A nonimmigrant's willful failure to provide full and truthful information requested by DHS (regardless of whether or not the information requested was material) constitutes a failure to maintain nonimmigrant status under section 237(a)(1)(C)(i) of the Act.

* * * * *

PART 264—REGISTRATION AND FINGERPRINTING OF ALIENS IN THE UNITED STATES

■ 3. The general authority citation for part 264 continues to read as follows:

Authority: 8 U.S.C. 1103, 1201, 1303–1305; 8 CFR part 2.

* * * * *

§ 264.1 [Amended]

■ 4. In § 264.1, remove and reserve paragraph (f).

Jeh Charles Johnson,

Secretary.

[FR Doc. 2016–30885 Filed 12–22–16; 8:45 am]

BILLING CODE 9110–9M–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket Number EERE–2014–BT–STD–0042]

RIN 1904–AD34

Energy Conservation Standards for Commercial Water Heating Equipment: Availability of Updated Analysis Results

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of data availability (NODA).

SUMMARY: In this NODA, the U.S. Department of Energy (DOE) presents its updated analysis used to convert the potential energy conservation standard levels the Department has considered for residential-duty commercial gas-fired storage water heaters from thermal efficiency and standby loss metrics to the uniform energy factor (UEF) metric, as required by a recent change in law. In a notice of proposed rulemaking (NOPR) for energy conservation standards for commercial water heating equipment published on May 30, 2016 (''May 2016 CWH ECS NOPR''), DOE analyzed these potential standard levels for residential-duty commercial gas-fired storage waters in terms of thermal efficiency and standby loss, and converted the levels to UEF using conversion factors that were proposed in a separate NOPR published on April 15, 2015 (''April 2015 conversion factor NOPR''). However, DOE subsequently published a supplemental NOPR (''August 2016 conversion factor SNOPR'') in the conversion factor rulemaking in response to new data on August 30, 2016, and recently issued a conversion factor final rule (''December

6, 2016 conversion factor final rule'') based upon the August 2016 conversion factor SNOPR, which finalized updated conversion factor equations. (*See* Docket EERE–2015–BT–TP–0007). This NODA presents the thermal efficiency and standby loss levels analyzed in the May 2016 CWH ECS NOPR for residential-duty gas-fired storage water heaters in terms of UEF, using the recently updated conversion factors adopted in the December 6, 2016 conversion factor final rule.

DATES: DOE will accept comments, data, and information regarding this notice of data availability (NODA) no later than January 9, 2017.

ADDRESSES: Instructions: Any comments submitted must identify the NODA for commercial water heating equipment, and provide docket number EERE–2014–BT–STD–0042 and/or regulatory information number (RIN) number 1904–AD34. Comments may be submitted using any of the following methods:

(1) *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Email: ComWaterHeating2014STD0042@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

(3) *Postal Mail:* Ms. Ashley Armstrong, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies.

(4) *Hand Delivery/Courier:* Ms. Ashley Armstrong, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–6590. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

For further information on how to submit a comment, review other public comments and the docket, contact the Appliance and Equipment Standards Program staff at (202) 586–6636 or by email: *ApplianceStandardsQuestions@ee.doe.gov.*

(5) *Docket:* The Docket Number EERE–2014–BT–STD–0042, is available for review at *www.regulations.gov,* including **Federal Register** notices, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure.

A link to the docket Web page can be found at *https://www.regulations.gov/docket?D=EERE-2014-BT-STD-0042.* The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590. Email: *ApplianceStandardsQuestions@ee.doe.gov.*

Ms. Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–6111. Email: *Jennifer.Tiedeman@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Authority and Background

Title III Part C [1] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or, ''the Act''), Public Law 94–163 (42 U.S.C. 6311–6317, as codified), added by Public Law 95–619, Title IV, Sec. 441(a), sets forth a variety of provisions designed to improve energy efficiency and established the Energy Conservation Program for Certain Industrial Equipment, which includes the commercial water heating equipment that is the subject of this rulemaking.[2] (42 U.S.C. 6311(1)(K))

Under EPCA, DOE's energy conservation program generally consists of four parts: (1) Testing; (2) labeling; (3) energy conservation standards; and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products and equipment must use as the basis for certifying to DOE that their products and equipment comply with the applicable energy conservation standards adopted under EPCA, and for making other representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether such products and certain equipment comply with any relevant standards promulgated under EPCA. (42 U.S.C. 6314) The initial Federal energy conservation standards and test procedures for commercial storage water heaters, instantaneous water heaters, and unfired hot water storage tanks (collectively referred to as ''commercial water heating equipment'' or ''CWH equipment'') were added to EPCA by the Energy Policy Act of 1992 (EPACT 1992), Public Law 102–486. (42 U.S.C. 6313(a)(5) and 42 U.S.C. 6314(a)(4)(A)) These initial CWH equipment standards corresponded to the efficiency levels and equipment classes contained in the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) Standard 90.1–1989, in effect on October 24, 1992. The statute provided that if the efficiency levels in ASHRAE Standard 90.1 were amended after October 24, 1992, the Secretary of Energy (Secretary) must establish an amended uniform national standard at new minimum levels for each equipment type specified in ASHRAE Standard 90.1, unless DOE determines, through a rulemaking supported by clear and convincing evidence, that national standards more stringent than the new minimum levels would result in significant additional energy savings and be technologically feasible and economically justified. (42 U.S.C. 6313(a)(6)(A)(ii)(I)–(II)) The statute was subsequently amended to require DOE to review its standards for commercial water heating equipment (and other ''ASHRAE equipment'') every six years. (42 U.S.C. 6313(a)(6)(C)) On January 12, 2001, DOE published a final rule for commercial water heating equipment that amended energy conservation standards by adopting the levels in ASHRAE Standard 90.1–1999 for all types of commercial water heating equipment, except for electric storage water heaters.[3] 66 FR 3336. Most recently, on July 17, 2015, DOE published a final rule for commercial water heating equipment, in which DOE adopted the thermal efficiency level for oil-fired storage water heaters that was included in ASHRAE 90.1–2013. 80 FR 42614.

On December 18, 2012, the American Energy Manufacturing Technical

[1] For editorial reasons, upon certification in the U.S. Code, Part C was re-designated Part A–1.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

[3] For electric storage water heaters, the standard in ASHRAE Standard 90.1–1999 was less stringent than the standard prescribed in EPCA and, consequently, would have increased energy consumption, so DOE maintained the standards for electric storage water heaters at the statutorily prescribed level.

Corrections Act (AEMTCA), Public Law 112–210, was signed into law. In relevant part, it amended EPCA to require that DOE publish a final rule establishing a uniform efficiency descriptor and accompanying test methods for consumer water heaters and certain commercial water heating equipment within one year of the enactment of AEMTCA. (42 U.S.C. 6295(e)(5)(B)) The final rule must replace the energy factor (EF), thermal efficiency, and standby loss metrics with a uniform efficiency descriptor. (42 U.S.C. 6295(e)(5)(C)) On July 11, 2014, DOE published a final rule that fulfilled these requirements, establishing a uniform energy factor (UEF) as the uniform energy descriptor (''July 2014 final rule'').[4] 79 FR 40542 (July 2014 final rule). AEMTCA requires that, beginning one year after the date of publication of DOE's final rule establishing the uniform descriptor (*i.e.,* July 13, 2015), the efficiency standards for the consumer water heaters and residential-duty commercial water heaters identified in the July 2014 final rule must be denominated according to the uniform efficiency descriptor established in that final rule (42 U.S.C. 6295(e)(5)(D)), and that DOE must develop a mathematical conversion for converting the measurement of efficiency from the test procedures and metrics in effect at that time to the uniform efficiency descriptor. (42 U.S.C. 6295(e)(5)(E)(i))

Pursuant to 42 U.S.C. 6295(e)(5)(E)(ii) and (iii), the conversion factor must not affect the minimum efficiency requirements for covered water heaters, including residential-duty commercial water heaters. Furthermore, such conversions must not lead to a change in measured energy efficiency for covered residential and residential-duty commercial water heaters manufactured and tested prior to the final rule establishing the uniform efficiency descriptor. *Id.* EPCA also contains what is known as an ''anti-backsliding'' provision, which prevents the Secretary from prescribing any amended standard that either increases the maximum allowable energy use or decreases the minimum required energy efficiency of a covered product. (42 U.S.C. 6295(o)(1); 6313(a)(6)(B)(iii)(I)) In the December 6, 2016 conversion factor final rule, DOE's methodology for translating the standards ensures equivalent stringency between the then-existing standards (in terms of EF, thermal efficiency and standby loss metrics) and the updated standards (in terms of UEF). (*See* Docket EERE–2015–BT–TP–0007)

DOE initially presented proposals for establishing mathematical conversion factors for residential-duty commercial water heaters in a NOPR published on April 14, 2015 (''April 2015 conversion factor NOPR'') to be used to convert thermal efficiency and standby loss represented values to UEF represented values for residential-duty commercial water heaters. 80 FR 20116, 20143. DOE also proposed amendments to the minimum energy conservation standards for consumer water heaters and residential-duty commercial water heaters to translate the existing standards to the UEF metric without altering the stringency of the existing energy conservation standards. *Id.* at 20120. In a May 31, 2016 NOPR, DOE analyzed amended thermal efficiency and standby loss standards for residential-duty gas-fired storage water heaters, and used the conversion factors proposed in the April 2015 conversion factor NOPR to convert the analyzed thermal efficiency and standby loss levels to UEF.[5] (''May 2016 CWH ECS NOPR'') DOE also used these conversion factors to develop UEF standard equations (dependent on rated volume) corresponding to the thermal efficiency and standby loss levels selected for each trial standard level (TSL) analyzed. 81 FR 34440, 34477.

Upon further analysis and review of the public comments received in response to the April 2015 conversion factor NOPR, DOE published a supplemental notice of proposed rulemaking on August 30, 2016 (''August 2016 conversion factor SNOPR''). In the SNOPR, DOE proposed revised mathematical conversion factors, as well as updates to the energy conservation standards for residential-duty commercial water heaters denominated in UEF. 81 FR 59736, 59793–59794, 59798. On December 6, 2016, DOE issued a final rule (''December 6, 2016 conversion factor final rule'') that adopted the mathematical conversion factors used to convert thermal efficiency and standby loss to UEF for residential-duty commercial water heaters that were proposed in the August 2016 conversion factor SNOPR. DOE also adopted the energy conservation standards for residential-duty commercial water heaters that were proposed in the August 2016 conversion factor SNOPR and that translate the existing thermal efficiency and standby loss standards to UEF standards. (*See* Docket EERE–2015–BT–TP–0007) In this NODA, DOE has used the updated conversion factors adopted in the December 6, 2016 conversion factor final rule to convert the thermal efficiency and standby loss levels analyzed in the May 2016 CWH ECS NOPR (*i.e.,* levels more stringent than the existing thermal efficiency and standby loss standards) to UEF levels.

II. Summary of the Updated Conversion Factor and Results

The purpose of this NODA is to present the thermal efficiency and standby loss levels that were considered for residential-duty gas-fired commercial water heaters in the May 2016 CWH ECS NOPR in terms of UEF using the recently updated conversion factors adopted in the December 6, 2016 conversion factor final rule. In response to the May 2016 CWH ECS NOPR, DOE received feedback on the efficiency levels analyzed and the efficiency levels included in each TSL for residential-duty commercial gas-fired storage water heaters. DOE is considering this feedback, and will address the comments received in detail, along with any resulting changes to the analysis and relevant conclusions, in the forthcoming final rule. The NODA, however, does not reflect any change in the efficiency levels or TSLs considered in the May 2016 CWH ECS NOPR.

The December 6, 2016 conversion factor final rule adopted conversion factors for residential-duty commercial water heaters for all four draw patterns: High, medium, low, and very small.[6] In the following equations, New UEF is the converted UEF value; E_t is the thermal

[4] The uniform efficiency descriptor and accompanying test procedure apply to commercial water heating equipment with residential applications defined in the July 2014 final rule as a ''residential-duty commercial water heater.'' Specifically, in the July 2014 final rule, DOE adopted a definition for ''residential-duty commercial water heater'' that included seven classes: Gas-fired storage, oil-fired storage, electric storage, heat pump with storage, gas-fired instantaneous, electric instantaneous, and oil-fired instantaneous. 79 FR 40542, 40586. In a subsequent CWH equipment test procedure final rule published on November 10, 2016, DOE revised the definition by removing four classes; therefore, the revised definition for ''residential-duty commercial water heater'' includes three classes: Gas-fired storage, oil-fired storage, and electric instantaneous. 81 FR 79261, 79289.

[5] DOE initiated this rulemaking pursuant to EPCA's requirement that every 6 years, DOE must conduct an evaluation of its standards for CWH equipment and publish either a notice of determination that such standards do not need to be amended or a notice of proposed rulemaking, including proposed amended standards. (42 U.S.C. 6313(a)(6)(C)(i))

[6] The term ''draw pattern'' refers to the duration, flow rate, and timing of hot water draws during the test. The July 2014 final rule adopted four different draw patterns—very small, low, medium, and high—based on the delivery capacity (*i.e.,* first hour rating or maximum gallons per hour rating) of the model under test. 79 FR 40542, 40550 (July 11, 2014). Because the UEF differs based on the draw pattern, separate conversion factors were established for each draw pattern.

efficiency in fractional form (*e.g.,* 0.80 instead of 80 percent); SL is the standby loss (Btu/h); P is input rate (Btu/h); F and G are coefficients as specified in Table 1 based on the applicable draw pattern; and UEF_{rd} is a parameter for residential-duty commercial storage water heaters developed by DOE based on the water heater analysis model (WHAM) equation.[7] The methodology and data used to develop these conversion factors are discussed in detail in the August 2016 conversion factor SNOPR. 81 FR 59750–59751, 59776–59778 (August 30, 2016).

$$UEF_{rd} = \left[\frac{1}{E_t} + F * SL\left(G - \frac{1}{P\,E_t}\right)\right]^{-1}$$

$$New\ UEF = -0.0022 + 1.0002 * \mathrm{UEF}_{rd}$$

TABLE 1—COEFFICIENTS FOR THE ANALYTICAL UEF CONVERSION FACTOR FOR RESIDENTIAL-DUTY COMMERCIAL STORAGE WATER HEATERS

Draw pattern	F	G
Very Small	0.821429	0.0043520
Low	0.821429	0.0011450
Medium	0.821429	0.0007914
High	0.821429	0.0005181

The thermal efficiency and standby loss levels analyzed in the May 2016 CWH ECS NOPR are shown in Table 2 (81 FR 34440, 34472 (May 31, 2016)), and the corresponding updated UEF levels are shown in Table 3. The standby loss and UEF levels correspond to the representative equipment capacities analyzed for residential-duty commercial gas-fired storage water heaters—75 gallon rated storage volume and 76,000 Btu/h rated input. In Table 3, the UEF values correspond to the high draw pattern—DOE believes most, if not all, residential-duty gas-fired storage water heater models will fall into the high draw pattern bin. In the May 2016 CWH ECS NOPR, DOE selected standby loss levels in Btu/h, and translated these values to modified standby loss standard equations using standby loss reduction factors. As proposed in the May 2016 CWH ECS NOPR and presented in this NODA, the standby loss reduction factor is a factor that is multiplied by the current standby loss equation. Because the standby loss reduction factor is a multiplicative factor that is applied to the existing standby loss equation (in lieu of independently changing the coefficients for the volume and input terms of the equation), the standby loss reduction factor preserves the dependence of the existing standby loss equation on rated input and storage volume. 81 FR 34440, 34476 (May 31, 2016).

TABLE 2—THERMAL EFFICIENCY AND STANDBY LOSS LEVELS FOR RESIDENTIAL-DUTY GAS-FIRED STORAGE WATER HEATERS ANALYZED IN THE MAY 2016 CWH ECS NOPR

[75 Gallon rated storage volume, 76,000 Btu/h rated input]

Thermal efficiency level	Thermal efficiency (%)	Standby loss (Btu/h)			
		SL EL0	SL EL1	SL EL2*	SL EL3*
E_t EL0	80	1048	836	811	707
E_t EL1	82	1022	816	791	690
E_t EL2	90	624	503	.....	.....
E_t EL3	95	624	503	.....	.....
E_t EL4	97	624	503	.....	.....

* Electromechanical flue dampers, which were analyzed in SL ELs 2–3, were not considered as a technology option for E_r ELs 2–4 because these thermal efficiency levels can only be met by condensing water heaters. Flue dampers are not used with condensing water heaters because condensing water heaters include mechanical draft systems.

Note: EL stands for efficiency level, E_t stands for thermal efficiency, and SL stands for standby loss.

TABLE 3—UPDATED UEF LEVELS CORRESPONDING TO THERMAL EFFICIENCY AND STANDBY LOSS LEVELS FOR RESIDENTIAL-DUTY GAS-FIRED STORAGE WATER HEATERS ANALYZED IN THE MAY 2016 CWH ECS NOPR

[75 gallon rated storage volume, 76,000 Btu/h rated input]

Thermal efficiency level	Thermal efficiency (%)	Uniform Energy Factor*			
		SL EL0	SL EL1	SL EL2**	SL EL3**
E_t EL0	80	0.59	0.63	0.63	0.65
E_t EL1	82	0.61	0.64	0.64	0.66
E_t EL2	90	0.73	0.76	.....	.....
E_t EL3	95	0.76	0.79	.....	.....
E_t EL4	97	0.77	0.80	.....	.....

* UEF values were determined using the conversion factors for the high draw pattern adopted in the December 6, 2016 conversion factor final rule. (*See* Docket EERE–2015–BT–TP–0007)

** Electromechanical flue dampers, which were analyzed in SL ELs 2–3, were not considered as a technology option for E_r ELs 2–4 because these thermal efficiency levels can only be met by condensing water heaters. Flue dampers are not used with condensing water heaters because condensing water heaters include mechanical draft systems.

[7] For more information *see: http://aceee.org/files/proceedings/1998/data/papers/0114.PDF.*

Note: EL stands for efficiency level, E_t stands for thermal efficiency, and SL stands for standby loss.

The energy conservation standards for residential-duty commercial water heaters adopted in the December 6, 2016 conversion factor final rule (*i.e.,* denominated in UEF and translated from the existing thermal efficiency and standby loss standards) are linear equations dependent on rated volume. Therefore, the converted UEF standard equations for residential-duty gas-fired storage water heaters presented in this NODA are consistent with this equation format. DOE based its methodology for developing UEF standard equations for more-stringent thermal efficiency and standby loss levels on the ''representative model'' method used for determining the converted standards equations in terms of UEF in the December 6, 2016 conversion factor final rule, as outlined below. (*See* Docket EERE–2015–BT–TP–0007)

DOE developed UEF standard equations corresponding to each combination of thermal efficiency and standby loss levels that DOE selected in the TSLs analyzed in the May 2016 CWH ECS NOPR. DOE converted the thermal efficiency level and standby loss value to UEF for each identified rated volume on the market and for each draw pattern using the conversion factors adopted in the December 6, 2016 conversion factor final rule. (*See* Docket EERE–2015–BT–TP–0007) To develop the UEF standard equation for each draw pattern and TSL, DOE used a linear regression between volume and UEF (*see* the December 6, 2016 conversion factor final rule for more details).

Table 4 shows the thermal efficiency and standby loss levels included in each TSL in the May 2016 CWH ECS NOPR for residential-duty commercial gas-fired storage water heaters. 81 FR 34440, 34504 (May 31, 2016). Table 5 shows the updated UEF standard equations, dependent on rated volume, that were developed for each TSL and draw pattern using the conversion factors adopted in the December 6, 2016 conversion factor final rule. (*See* Docket EERE–2015–BT–TP–0007)

TABLE 4—TRIAL STANDARD LEVELS FROM THE MAY 2016 CWH ECS NOPR FOR RESIDENTIAL-DUTY GAS-FIRED STORAGE WATER HEATERS BY EFFICIENCY LEVEL

	Trial standard level				
	0	1	2	3	4
Thermal Efficiency	80%	82%	90%	90%	97%
Standby Loss Reduction Factor	1.00	0.77	0.48	0.48	0.48

TABLE 5—UPDATED UEF EQUATIONS FOR TRIAL STANDARD LEVELS FROM THE MAY 2016 CWH ECS NOPR FOR RESIDENTIAL-DUTY GAS-FIRED STORAGE WATER HEATERS

Draw Pattern *	TSL 0	TSL 1	TSL 2	TSL 3	TSL 4
High	$0.6597 - (0.0009 \times Vr)$	$0.7205 - (0.0008 \times Vr)$	$0.8107 - (0.0008 \times Vr)$	$0.8107 - (0.0008 \times Vr)$	$0.8675 - (0.0009 \times Vr)$
Medium	$0.6002 - (0.0011 \times Vr)$	$0.6749 - (0.0010 \times Vr)$	$0.7686 - (0.0010 \times Vr)$	$0.7686 - (0.0010 \times Vr)$	$0.8192 - (0.0011 \times Vr)$
Low	$0.5362 - (0.0012 \times Vr)$	$0.6227 - (0.0012 \times Vr)$	$0.7192 - (0.0012 \times Vr)$	$0.7192 - (0.0012 \times Vr)$	$0.7631 - (0.0013 \times Vr)$
Very Small	$0.2674 - (0.0009 \times Vr)$	$0.3590 - (0.0012 \times Vr)$	$0.4459 - (0.0014 \times Vr)$	$0.4459 - (0.0014 \times Vr)$	$0.4622 - (0.0015 \times Vr)$

* Draw pattern is a classification of hot water use of a consumer water heater or residential-duty commercial water heater, based upon the first-hour rating. The draw pattern is determined using the Uniform Test Method for Measuring the Energy Consumption of Water Heaters in appendix E to subpart B of 10 CFR Part 430.

Note: TSL 0 represents the baseline, and Vr is rated volume in gallons. UEF values were determined using the conversion factors adopted in the December 6, 2016 conversion factor final rule. (*See* Docket EERE–2015–BT–TP–0007).

III. Issues on Which DOE Seeks Public Comment

DOE is interested in receiving comments on the conversion of the thermal efficiency and standby loss levels for residential-duty gas-fired storage water heaters that were considered in the May 2016 CWH ECS NOPR to UEF levels and UEF standard equations using the conversion factors adopted by DOE in its December 6, 2016 final rule.

Issued in Washington, DC, on December 7, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–30300 Filed 12–22–16; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL ELECTION COMMISSION

11 CFR Parts 4, 5, 100, 110, 112, 113, and 300

[Notice 2016–14]

Technical Amendments and Corrections

AGENCY: Federal Election Commission.

ACTION: Correcting amendments.

SUMMARY: The Commission is making technical corrections to various sections of its regulations. These are non-substantive amendments to correct typographical errors, update references, and remove provisions that no longer apply.

DATES: Effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Eugene Lynch, Paralegal, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Background

The existing rules that are the subject of these corrections are part of the continuing series of regulations that the Commission has promulgated to implement the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–42 (collectively, the ''Funding Acts''), and the Federal Election Campaign Act, 52 U.S.C. 30101–46 (''FECA''). The Commission is promulgating these corrections without advance notice or an opportunity for comment because they fall under the ''good cause'' exemption of the Administrative Procedure Act. 5 U.S.C. 553(b)(B). The

Commission finds that notice and comment are unnecessary here because these corrections are merely typographical and technical; they effect no substantive changes to any rule. For the same reason, these corrections fall within the ''good cause'' exception to the delayed effective date provisions of the Administrative Procedure Act and the Congressional Review Act. 5 U.S.C. 553(d)(3), 808(2).

Moreover, because these corrections are exempt from the notice and comment procedure of the Administrative Procedure Act under 5 U.S.C. 553(b), the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA or the Funding Acts. *See* 52 U.S.C. 30111(d)(1), (4) (providing for congressional review when Commission ''prescribe[s]'' a ''rule of law''); 26 U.S.C. 9009(c)(1), (4), 9039(c)(1), (4) (same). Accordingly, these corrections are effective upon publication in the **Federal Register**.

Corrections to FECA and Funding Act Rules in Chapter I of Title 11 of the Code of Federal Regulations

A. Correction to 11 CFR Chapter I

The Commission has renamed a division within the agency. As a result, throughout 11 CFR chapter I, the Commission is replacing every instance of the phrase ''Public Disclosure Division'' with the phrase ''Public Disclosure and Media Relations Division.''

B. Correction to 11 CFR 100.94

The Commission is correcting a typographical error in paragraph (b) of this section by adding a comma after the word ''maintaining''. This comma was inadvertently omitted when the Commission promulgated this paragraph.

C. Correction to 11 CFR 100.155

The Commission is correcting a typographical error in paragraph (b) of this section by adding a comma after the word ''creating'' and a comma after the word ''maintaining''. These commas were inadvertently omitted when the Commission promulgated this paragraph.

D. Correction to 11 CFR 110.6

The Commission is revising paragraphs (c)(2)(i) and (c)(2)(ii)(C) of this section to correctly note the reporting requirements for candidates and authorized committees receiving earmarked contributions from conduits and intermediaries. These paragraphs currently state that candidates and authorized committees are required to report a conduit or intermediary forwarding earmarked contributions which, in the aggregate, exceed $200 in ''any calendar year.'' In 1999, however, Congress amended FECA to require that authorized committees aggregate and report all receipts and disbursements by election cycle, rather than by calendar year. Treasury and General Government Appropriations Act of 2000, Public Law 106–58, sec. 641, 113 Stat. 430, 477 (1999). In 2000, the Commission implemented this legislation by amending § 104.3(c) of its regulations, Election Cycle Reporting by Authorized Committees, 65 FR 42619–21 (July 11, 2000), but inadvertently failed to update paragraphs (c)(2)(i) and (c)(2)(ii)(C) of § 110.6 to conform to the statute and to revised § 104.3. To correct that oversight, the Commission is amending the relevant portions of the text in paragraphs (c)(2)(i) and (c)(2)(ii)(C).

E. Corrections to 11 CFR 113.2

The Commission is removing paragraph (f) of this section because it is no longer applicable. Paragraph (f) describes the ''personal use'' rules, which concern the permissible non-campaign uses of campaign funds, that applied to Members of Congress serving in the 102d or an earlier Congress. Because this paragraph does not apply to any Members serving in the 103d or a later Congress, which includes all current and future Members of Congress, the Commission is removing paragraph (f).

F. Corrections to 11 CFR 300.12

The Commission is removing and reserving this section because it contains transitional rules that no longer apply. When the Commission enacted rules concerning the use of non-federal funds in 2002, the Commission also promulgated § 300.12, which outlined how and by what date national committees of political parties were to disburse non-federal funds received before November 6, 2002. Prohibited and Excessive Contributions: Non-Federal Funds or Soft Money, 67 FR 49064, 49091–92 (July 29, 2002); *see also* Bipartisan Campaign Reform Act, Public Law 107–155, sec. 402, 116 Stat. 81, 112–13 (2002). Since the deadline for the disbursement of these funds has long passed, this section is no longer necessary. Therefore, the Commission is removing and reserving this section. The Commission is also making conforming amendments by removing from § 300.1 two references to § 300.12.

G. Correction to 11 CFR 300.13

For the reasons discussed above regarding the removal of § 300.12, the Commission is also removing paragraphs (b) and (c) of § 300.13. Paragraph (b) directs national party committees to file termination reports disclosing the disposition of funds in non-federal accounts and building fund accounts by January 31, 2003. Paragraph (c) refers to reporting requirements for receipts and disbursements from national party committee non-federal accounts and building fund accounts for activity occurring between November 6 and December 31, 2002.

List of Subjects

11 CFR Part 4

Freedom of information.

11 CFR Part 5

Archives and records.

11 CFR Part 100

Elections.

11 CFR Part 110

Campaign funds, Political committees and parties.

11 CFR Part 112

Administrative practice and procedure, Elections.

11 CFR Part 113

Campaign funds, Political candidates.

11 CFR Part 300

Campaign funds, Nonprofit organizations, Political committees and parties, Political candidates.

For the reasons set out in the preamble, the Federal Election Commission amends 11 CFR chapter I as follows:

PART 4—PUBLIC RECORDS AND THE FREEDOM OF INFORMATION ACT

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 552, as amended.

§ 4.1 [Amended]

■ 2. Amend paragraph (f) of § 4.1 to remove ''Public Disclosure Division'' and add, in its place, ''Public Disclosure and Media Relations Division''.

PART 5—ACCESS TO PUBLIC DISCLOSURE AND MEDIA RELATIONS DIVISION DOCUMENTS

■ 3. The authority citation for part 5 continues to read as follows:

Authority: 52 U.S.C. 30108(d), 30109(a)(4)(B)(ii), 30111(a); 31 U.S.C. 9701.

■ 4. Revise the heading of part 5 to read as set forth above.

§ 5.1 [Amended]

■ 5. Amend paragraph (f) of § 5.1 to remove ''Public Disclosure Division'' and add, in its place, ''Public Disclosure and Media Relations Division''.

§ 5.4 [Amended]

■ 6. Amend § 5.4 in paragraphs (a) introductory text and (c) by removing ''Public Disclosure Division'' and adding, in its place, ''Public Disclosure and Media Relations Division''.

§ 5.5 [Amended]

■ 7. Amend § 5.5 in paragraphs (a) and (c) by removing ''Public Disclosure Division'' and adding, in its place, ''Public Disclosure and Media Relations Division''.

PART 100—SCOPE AND DEFINITIONS (52 U.S.C. 30101)

■ 8. The authority citation for part 100 continues to read as follows:

Authority: 52 U.S.C. 30101, 30104, 30111(a)(8), and 30114(c).

§ 100.94 [Amended]

■ 9. Amend paragraph (b) of § 100.94 to add a comma after the word ''maintaining''.

§ 100.155 [Amended]

■ 10. Amend paragraph (b) of § 100.155 to add a comma after the word ''creating'' and a comma after the word ''maintaining''.

PART 110—CONTRIBUTION AND EXPENDITURE LIMITATIONS AND PROHIBITIONS

■ 11. The authority citation for part 110 continues to read as follows:

Authority: 52 U.S.C. 30101(8), 30101(9), 30102(c)(2), 30104(i)(3), 30111(a)(8), 30116, 30118, 30120, 30121, 30122, 30123, 30124, and 36 U.S.C. 510.

§ 110.6 [Amended]

■ 12. Amend § 110.6 in paragraphs (c)(2)(i) and (c)(2)(ii)(C) by removing ''calendar year'' and adding, in its place, ''election cycle''.

PART 112—ADVISORY OPINIONS (52 U.S.C. 30108)

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

Authority: 52 U.S.C. 30108, 30111(a)(8).

§ 112.2 [Amended]

■ 14. Amend paragraph (b) of § 112.2 to remove ''Public Disclosure Division'' and add, in its place, ''Public Disclosure and Media Relations Division''.

PART 113—PERMITTED AND PROHIBITED USES OF CAMPAIGN ACCOUNTS

■ 15. The authority citation for part 113 continues to read as follows:

Authority: 52 U.S.C. 30102(h), 30111(a)(8), 30114, and 30116.

§ 113.2 [Amended]

■ 16. Remove paragraph (f) of § 113.2 and redesignate paragraph (g) as paragraph (f).

PART 300—NON-FEDERAL FUNDS

■ 17. The authority citation for part 300 continues to read as follows:

Authority: 52 U.S.C. 30104(e), 30111(a)(8), 30116(a), 30125, and 30143.

§ 300.1 [Amended]

■ 18. Amend § 300.1 as follows:
■ a. In paragraph (b)(1), remove the last sentence.
■ b. In paragraph (c)(1), remove the phrase ''transition rules as BCRA takes effect,''.

§ 300.12 [Removed and Reserved]

■ 19. Remove and reserve § 300.12.

§ 300.13 [Amended]

■ 20. Amend § 300.13 as follows:
■ a. Remove paragraphs (b) and (c).
■ c. Redesignate paragraph (a) as an undesignated paragraph and remove the paragraph heading.

Dated: December 12, 2016.

On behalf of the Commission.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2016–30699 Filed 12–22–16; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 4

[Docket ID OCC–2016–0033]

RIN 1557–AE12

Availability of Information Under the Freedom of Information Act

AGENCY: Office of the Comptroller of the Currency

ACTION: Interim final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its regulations governing the disclosure of information pursuant to requests made under the Freedom of Information Act (FOIA) to reflect changes to the FOIA made by the FOIA Improvement Act of 2016 and the OPEN FOIA Act of 2009 and to make other technical changes that update the OCC's FOIA regulations.

DATES: The interim final rule is effective on December 23, 2016. Comments on the rule must be received by February 21, 2017.

ADDRESSES: You may submit comments to the OCC by any of the methods set forth below. Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments through the Federal eRulemaking Portal or email, if possible. Please use the title ''Availability of Information Under the Freedom of Information Act'' to facilitate the organization and distribution of the comments. You may submit comments by any of the following methods:

- *Federal eRulemaking Portal—''Regulations.gov'':* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2016–0033'' in the Search Box and click ''Search.'' Click on ''Comment Now'' to submit public comments.
- Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*, including instructions for submitting public comments.
- *Email: regs.comments@occ.treas.gov.*
- *Mail:* Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219.
- *Hand Delivery/Courier:* 400 7th Street SW., Suite 3E–218, mail stop 9W–11, Washington, DC 20219.
- *Fax:* (571) 465–4326.

Instructions: You must include ''OCC'' as the agency name and ''Docket ID OCC–2016–0033'' in your comment. In general, the OCC will enter all comments received into the docket and publish them on the *Regulations.gov* Web site without change, including any business or personal information that you provide such as name and address information, email addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

You may review comments and other related materials that pertain to this rulemaking action by any of the following methods:

• *Viewing Comments Electronically:* Go to *www.regulations.gov.* Enter ''Docket ID OCC–2016–0033'' in the Search box and click ''Search.'' Click on ''Open Docket Folder'' on the right side of the screen. Comments and supporting materials can be viewed and filtered by clicking on ''View all documents and comments in this docket'' and then using the filtering tools on the left side of the screen.

• Click on the ''Help'' tab on the *Regulations.gov* home page to get information on using *Regulations.gov*. The docket may be viewed after the close of the comment period in the same manner as during the comment period.

• *Viewing Comments Personally:* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Melissa Lisenbee, Attorney, Legislative and Regulatory Activities Division, (202) 649–5490, or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597.

SUPPLEMENTARY INFORMATION:

I. Background

The Freedom of Information Act (FOIA) sets forth the process for obtaining federal agency records, unless the records (or any portion thereof) are protected from disclosure by one of the FOIA's nine exemptions or by one of its three special law enforcement record exclusions.[1] On June 30, 2016, the FOIA Improvement Act of 2016 (the FOIA Improvement Act or the Act) [2] amended the FOIA to, among other changes, require Federal agencies to make certain records electronically available, extend the time available for a requester to appeal an adverse determination, amend the circumstances under which an agency can assess search and duplication fees, establish FOIA dispute resolution procedures, and establish a new standard for the withholding of information pursuant to a FOIA exemption.

Additionally, under section 2222 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA),[3] the OCC is required to conduct a review at least once every 10 years to identify any outdated or otherwise unnecessary regulations. The OCC completed the last comprehensive review of its regulations under EGRPRA in 2006 and is concluding the current decennial review. As part of its current EGRPRA review, the OCC issued a notice of proposed rulemaking on March 14, 2016, that included proposed technical amendments to the OCC's part 4 FOIA regulations. The OCC did not receive any specific comments on the proposed FOIA amendments, and those changes will be reflected in this rulemaking to the extent they have not been superseded by the FOIA Improvement Act.[4]

Finally, the OPEN FOIA Act of 2009 (the OPEN FOIA Act),[5] limited Exemption 3, which applies to information specifically exempted by statute. To be exempt under Exemption 3 following the OPEN FOIA Act, information must be exempt pursuant to a statute that requires: (1) That the matters be withheld from the public in such a manner as to leave no discretion on the issue, or establishes particular criteria for withholding or refers to particular types of matters to be withheld and, (2) if enacted after the date of enactment of the OPEN FOIA Act, specifically cites to Exemption 3 of the FOIA. Previously, statutes did not need to specifically cite to Exemption 3 of the FOIA.

II. Description of the Interim Final Rule

Twelve CFR part 4, subpart B, sets forth OCC policies regarding the availability of information under the FOIA and establishes procedures for requesters to follow when seeking information. This interim final rule amends 12 CFR part 4, subpart B, to implement the FOIA Improvement Act and the OPEN FOIA Act and to make technical changes to the regulations as a result of the OCC's EGRPRA review.

Section 4.11 Purpose and Scope

As part of the EGRPRA proposed rule, the OCC proposed to remove § 4.11(b)(4), which stated that the OCC's FOIA rules did not apply to FOIA requests filed with the former Office of Thrift Supervision (OTS) before July 21, 2011, because the OTS's rules would apply to those requests instead. The OCC adopted this provision when it amended part 4 to reflect the transfer of certain powers, authorities, rights, and duties of the OTS to the OCC pursuant to Title III of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).[6] There are no remaining open FOIA requests that had been submitted to the OTS prior to its integration with the OCC. Therefore, § 4.11(b)(4) is no longer necessary and is removed by this interim final rule.

Section 4.12 Information Available Under the FOIA

Pursuant to the Act, the interim final rule amends 12 CFR 4.12 to revise the language about the availability of records in subsection (a), consistent with the FOIA Improvement Act; limit the deliberative process exemption; expand the information segregation provisions; update 12 CFR 4.12(b)(3) to be consistent with the OPEN FOIA Act; and implement proposed clarifications from the EGRPRA review.

Section 4.12(a) currently provides that OCC records are available to the public except for records that the FOIA exempts from disclosure. The FOIA Improvement Act adds new language to the statute that relates to an agency's decision to disclose information that is covered by an exemption. This language provides for the withholding of information pursuant to a FOIA exemption only if an agency ''reasonably foresees that disclosure would harm an interest protected by an exemption'' or if the disclosure is prohibited by law.[7]

These considerations will inform the OCC's future determinations about whether to disclose information covered by an exemption. Accordingly, the interim final rule removes the existing reference to ''exempt records'' in subsection (a) and replaces it with the phrase ''[e]xcept as otherwise provided by the FOIA.'' This language is broad enough to encompass the ''reasonable foreseeability'' and the ''prohibited by law'' language added by the FOIA Improvement Act, and it encompasses the former reference to coverage by an exemption as well. Based on legislative history, in which the sponsors of the Act expressed their intent to preserve the longstanding protections afforded by Exemption 8,[8] the OCC does not

[1] 5 U.S.C. 552 *et seq.*

[2] Public Law 114–185 (2016).

[3] Public Law 104–208, 110 Stat. 3009 (1996).

[4] 81 FR 13608 (March 14, 2016).

[5] Public Law 111–83, 123 Stat. 2142, 2184 (2009).

[6] Public Law 111–203, 124 Stat. 1376 (2010).

[7] 5 U.S.C. 552(a)(8)(A)(i).

[8] The Senate Judiciary Committee report on the FOIA Improvement Act states that:

Extreme care should be taken with respect to disclosure under Exemption 8 which protects matters that are 'contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.' Currently, financial regulators rely on Exemption 8, and other relevant

Continued

anticipate that the Act or revised § 4.12(a) will alter the application of FOIA Exemption 8, which protects matters that are ''contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions.'' [9]

The interim final rule also amends the deliberative process exemption in § 4.12(b)(5) to reflect the Act's limitations on records created 25 years or more before the date of an information request. Previously, the deliberative process exemption protected all intra-agency and interagency memoranda and letters not routinely available by law to a private party in litigation, including memoranda, reports, and other documents prepared by OCC employees and records of deliberations and discussions at meetings of OCC employees. After the change, the deliberative process provision as amended by the interim final rule will exempt only those memoranda and letters created within 25 years of the date on which they were requested.

Additionally, although the OCC's rules already provide for the separation and provision of nonexempt information, the interim final rule clarifies that, in cases in which full disclosure is not possible, the OCC considers whether partial disclosure of information is possible and takes reasonable steps necessary to segregate and release nonexempt information. This provision is consistent with current OCC practice.

The interim final rule also amends § 4.12(b)(3) to reflect the OPEN FOIA Act provision that requires that statutes enacted after the date of the enactment of the OPEN FOIA Act must specifically cite to Exemption 3 of the FOIA in order to qualify under Exemption 3. The OPEN FOIA Act was enacted on October 28, 2009, so the requirement applies to statutes enacted after that date.

Finally, the interim final rule adopts the changes to § 4.12(a) and (b) that the OCC proposed as part of its EGRPRA review. Previously, § 4.12(b)(10) exempted from disclosure any OTS information similar to that listed in the exemptions in § 4.12(b)(1) to (b)(9) to the extent the information is in the possession of the OCC. For purposes of clarification, we are amending the § 4.12(a) disclosure standard so that it applies to OTS records, in addition to OCC records, and removing the resulting unnecessary exemption in paragraph (b)(10).

Section 4.14 Public Inspection in an Electronic Format

Section 4.14(a) lists the types of information the OCC makes available for public inspection. Consistent with the Act's amendments to 5 U.S.C. 552(a)(2), the interim final rule adds two categories of information to § 4.14(a). New § 4.14(a)(11) specifies that the OCC will make available for public inspection in an electronic format any records, regardless of form or format, that have been released to any person under 5 U.S.C. 552(a)(3) provided that: (1) The OCC determines that, because of the nature of their subject matter, the records are or are likely to become the subject of subsequent requests for substantially the same record; or (2) the records have been requested three or more times.

New § 4.14(a)(12) states that the OCC will provide reference materials or a guide for requesting records or information from the OCC, including an index of all major OCC information systems, a description of major information and record locator systems maintained by the OCC, and a handbook for obtaining various types and categories of public information from the OCC pursuant to FOIA and chapter 35 of title 44.

Finally, the interim final rule makes clarifying and conforming changes to § 4.14, including amending § 4.14(a) and (b) to specify that information will be made available for public inspection in an electronic format to implement section 2 of the Act.

Section 4.15 How To Request Records

Pursuant to the Act, the interim final rule amends § 4.15, which describes the process for requesting OCC records. Specifically, to implement section 2 of the Act, the interim final rule amends § 4.15(c)(4) to specify that if a request for information is denied, the OCC will notify the requester of the right to seek dispute resolution services from the OCC's FOIA Public Liaison or the Office of Government Information Services through the processes described in new § 4.15(h).

Pursuant to the Act's amendments to 5 U.S.C. 552(a)(6)(A)(i), the interim final rule also extends the time available for administrative appeal of a denial to release records from 35 days to 90 days. Under new § 4.15(d), requesters will have 90 days after the date of an initial denial determination to submit a written administrative appeal of denial of a request for records.

Additionally, the interim final rule expands § 4.15(f), which addresses the time limits for FOIA request responses and provides for extensions in certain situations, including a 10-day extension for unusual circumstances.[10] Pursuant to the Act's amendments to 5 U.S.C. 552(a)(6)(A)(i), the interim final rule adds a new § 4.15(f)(4) that provides additional information and alternatives for requesters when the OCC determines that a request will require more than a 10-day extension to process. Under this provision, if unusual circumstances apply to a request for records, and the OCC determines that it cannot respond to the request within the 10-day extension, the OCC will: (1) Notify the requester that the request cannot be processed within the 10-day extension; (2) provide the requester with an opportunity to limit the scope of the request so that it may be processed within the 10-day period or to arrange with the OCC an alternative time frame for processing the request or a modified request; (3) make available the FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the OCC; and (4) notify the requester of the right of the requester to seek dispute resolution services from the Office of Government Information Services.

Finally, the interim final rule makes other clarifying and conforming changes to § 4.15, including amending § 4.15(d)(4) to specify that the OCC will provide notification of a denial of an appeal ''in writing,'' rather than ''by mail.'' The OCC expects this change will provide greater flexibility and efficiency

exemptions in Section 552(b), to protect sensitive information received from regulated entities, or prepared in connection with the regulation of such entities, in fulfilling their goals of ensuring safety and soundness of the financial system, compliance with federal consumer financial law, and promoting fair, orderly, and efficient financial markets.

Exemption 8 was intended by Congress, and has been interpreted by the courts, to be very broadly construed to ensure the security of financial institutions and to safeguard the relationship between the banks and their supervising agencies. The D.C. Circuit has gone so far as to state that in Exemption 8 Congress has provided ''absolute protection regardless of the circumstances underlying the regulatory agency's receipt or preparation of examination, operating or condition reports.'' Nothing in this legislation shall be interpreted to compromise the stability of any financial institution or the financial system, disrupt the operation of financial markets or undermine consumer protection efforts due to the release of confidential information about individuals or information that a financial institution may have, or encourage the release of confidential information about individuals. This legislation is not intended to lessen the protection under Exemption 8 created by Congress and traditionally afforded by the courts.

S. Rep. No 114–4 (February 23, 2015).

[9] 5 U.S.C. 552(b)(8).

[10] 12 CFR 4.15(f)(3)(i).

by permitting other forms of communication, such as electronic mail. The interim final rule also amends § 4.15 to provide updated contact information for the Office of Management and Budget's (OMB) request portal, the OCC's Chief FOIA Officer, and the Federal Deposit Insurance Corporation.

Section 4.17 FOIA Request Fees

Section 4.17 provides information for the assessment and payment of FOIA request fees. As stated in § 4.17(b)(1), the OCC generally charges fees to fulfill FOIA requests. However, § 4.17(b)(6) provided that the OCC will not assess search or duplication fees, as applicable, if the OCC did not respond within the time limits set forth in § 4.15(f) and no unusual or exceptional circumstances applied. The FOIA Improvement Act provided additional information about the circumstances in which an agency may charge search or duplication fees if the agency does not meet the time limits provided by the FOIA. Thus, pursuant to the Act, the interim final rule amends § 4.17(b)(6) to update the circumstances in which the OCC is permitted to assess search or duplication fees, even if the OCC does not respond within the § 4.15(f) time limits.

For example, amended § 4.17(b)(6) permits the OCC to assess search or duplication fees if the OCC has determined ''unusual circumstances'' (as defined in § 4.15(f)(3)(i)) apply, has provided timely written notice to the requester, and complies with the extended time limit.[11] The interim final rule also permits the OCC to assess search or duplication fees if the OCC has determined that unusual circumstances apply and more than 5,000 pages are necessary to respond to the request. In such a situation, the OCC must provide a timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B) and discuss with the requester via written mail, electronic mail, or telephone (or make not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii). Finally, if a court has determined that exceptional circumstances (as defined in 5 U.S.C. 552(a)(6)(C)) apply to the processing of a request, the OCC may assess search or duplication fees for the length of time provided by the court order.

The interim final rule also updates the payment of fees contact information listed in § 4.17(c).

Section 4.18 How To Track a FOIA Request

The interim final rule makes a technical amendment to § 4.18(b) to provide updated contact information for the OCC's Communications Division that requesters may use to track the progress of their requests.

III. Effective Date/Request for Comment

The OCC is issuing the interim final rule without prior notice and the opportunity for public comment and the 30-day delayed effective date ordinarily prescribed by the Administrative Procedure Act (APA).[12] Pursuant to section 553(b)(B) of the APA, general notice and the opportunity for public comment are not required with respect to a rulemaking when an ''agency for good cause finds (and incorporates the finding and a brief statement of the reasons therefor in the rule issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' [13] The interim final rule's changes to 12 CFR part 4 are limited to technical changes and those that are necessary to implement the provisions of the FOIA Improvement Act and OPEN FOIA Act. Because the OCC is not exercising discretion with respect to the interim final rule's substantive revisions that implement the Act, the OCC believes the public interest is best served by implementing the interim final rule as soon as possible.

In addition, the OCC believes that providing a notice and comment period prior to issuance of the interim final rule is unnecessary because the OCC does not expect public objection to the regulations being promulgated, as this rule implements the substantive changes specified in the Act and technical, non-substantive updates and clarifications to part 4. Moreover, the OCC expects that the majority of the changes will provide additional services and critical updates that will assist FOIA requesters.

The APA also requires a 30-day delayed effective date, except for (1) substantive rules that grant or recognize an exemption or relieve a restriction; (2) interpretative rules and statements of policy; or (3) as otherwise provided by the agency for good cause.[14] The OCC concludes that, because the rules recognize an exemption, the interim final rule is exempt from the APA's delayed effective date requirement.[15] Additionally, the OCC finds good cause to publish the interim final rule with an immediate effective date for the same reasons set forth above under the discussion of section 553(b)(B) of the APA.

Pursuant to section 302(a) of the Riegle Community Development and Regulatory Improvement Act (RCDRIA),[16] in determining the effective date and administrative compliance requirements for a new regulation that imposes additional reporting, disclosure, or other requirements on insured depository institutions (IDIs), the OCC must consider any administrative burdens that such regulation would place on depository institutions and the benefits of such regulation. In addition, section 302(b) of the RCDRIA requires any such new regulation to take effect on the first day of a calendar quarter that begins on or after the date on which the regulation is published in final form, with certain exceptions, including for good cause. The OCC has considered the administrative burdens that such regulations would place on institutions and the benefits of such regulations in determining the effective date and compliance requirements. Due to the nature of the rule's changes to the OCC's existing FOIA regulations, the interim final rule does not impose additional reporting, disclosure, or other requirements on IDIs, and section 302 of the RCDRIA therefore does not apply. Therefore, for the same reasons set forth above under the discussion of section 553(b)(B) of the APA, the OCC finds good cause exists under section 302 of RCDRIA to publish the interim final rule with an immediate effective date.

While the OCC believes there is good cause to issue the rule without notice and comment and with an immediate effective date, the OCC is interested in the views of the public and requests comment on all aspects of the interim final rule.

[11] Section 4.15(f)(3)(i) states that the OCC may extend the time limits in unusual circumstances for a maximum of 10 business days. If the OCC extends the time limits, the OCC provides written notice to the person making the request or appeal, containing the reason for the extension and the date on which the OCC expects to make a determination. Unusual circumstances exist when the OCC requires additional time to: Search for and collect the requested records from field facilities or other buildings that are separate from the office processing the request or appeal; search for, collect, and appropriately examine a voluminous amount of requested records; consult with another agency that has a substantial interest in the determination of the request; or allow two or more components of the OCC that have substantial interest in the determination of the request to consult with each other. . . .''

[12] 5 U.S.C. 553.

[13] 5 U.S.C. 553(b)(B).

[14] 5 U.S.C. 553(d).

[15] 5 U.S.C. 553(d)(1).

[16] 12 U.S.C. 4802(a).

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [17] applies only to rules for which an agency publishes a general notice of proposed rulemaking pursuant to 5 U.S.C. 553(b). As discussed above, consistent with section 553(b)(B) of the APA, the agencies have determined for good cause that general notice and opportunity for public comment is not necessary. Accordingly, the RFA's requirements relating to initial and final regulatory flexibility analysis do not apply.

V. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 [18] states that no agency may conduct or sponsor, nor is the respondent required to respond to, an information collection unless it displays a currently valid OMB control number. Because the interim final rule does not create a new, or revise an existing, collection of information, no information collection request submission needs to be made to the OMB.

VI. OCC Unfunded Mandates Reform Act of 1995 Determination

Consistent with section 202 of the Unfunded Mandates Reform Act of 1995,[19] before promulgating any final rule for which a general notice of proposed rulemaking was published, the OCC prepares an economic analysis of the final rule. As discussed above, the OCC has determined that the publication of a general notice of proposed rulemaking was unnecessary. Accordingly, the OCC has not prepared an economic analysis of the joint interim final rules.

List of Subjects in 12 CFR Part 4

Administrative practice and procedure, Freedom of information, Individuals with disabilities, Minority businesses, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Women.

Authority and Issuance

For the reasons set forth in the preamble, the OCC hereby amends 12 CFR part 4 as set forth below.

[17] Public Law 96–354, Sept. 19, 1980, codified to 5 U.S.C. 601 *et seq.*

[18] 44 U.S.C. 3501–3521.

[19] 2 U.S.C. 1532.

PART 4—ORGANIZATION AND FUNCTIONS, AVAILABILITY AND RELEASE OF INFORMATION, CONTRACTING OUTREACH PROGRAM, POST-EMPLOYMENT RESTRICTIONS FOR SENIOR EXAMINERS

■ 1. The authority citation for part 4 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 12 U.S.C. 1, 93a, 161, 481, 482, 484(a), 1442, 1462a, 1463, 1464, 1817(a), 1818, 1820, 1821, 1831m, 1831p–1, 1831o, 1833e, 1867, 1951 *et seq.,* 2601 *et seq.,* 2801 *et seq.,* 2901 *et seq.,* 3101 *et seq.,* 3401 *et seq.,* 5321, 5412, 5414; 15 U.S.C. 77uu(b), 78q(c)(3); 18 U.S.C. 641, 1905, 1906; 29 U.S.C. 1204; 31 U.S.C. 5318(g)(2), 9701; 42 U.S.C. 3601; 44 U.S.C. 3506, 3510; E.O. 12600 (3 CFR, 1987 Comp., p. 235).

§ 4.11 [Amended]

■ 2. Section 4.11 is amended by removing paragraph (b)(4).

■ 3. Section 4.12 is amended by:

■ a. Revising paragraphs (a), (b)(3), and (b)(5);

■ b. In paragraph (b)(8), adding ''and'' at the end;

■ c. In paragraph (b)(9), removing ''; and'' at the end and adding in its place a period;

■ d. Removing paragraph (b)(10); and

■ e. Revising the first sentence of paragraph (d).

The revisions read as set forth below.

§ 4.12 Information available under the FOIA.

(a) *General.* Except as otherwise provided by the FOIA, OCC and Office of Thrift Supervision (OTS) records are available to the public.

(b) * * *

(3) A record specifically exempted from disclosure by statute (other than 5 U.S.C. 552b), provided that the statute requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; establishes particular criteria for withholding, or refers to particular types of matters to be withheld; and, if enacted after the date of enactment of the OPEN FOIA Act of 2009, specifically cites to 5 U.S.C. 552(b)(3);

* * * * *

(5) An intra-agency or interagency memorandum or letter not routinely available by law to a private party in litigation, including memoranda, reports, and other documents prepared by OCC employees, and records of deliberations and discussions at meetings of OCC employees, provided that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested;

* * * * *

(d) * * * If the OCC determines that full disclosure of a requested record is not possible, the OCC considers whether partial disclosure of information is possible and takes reasonable steps necessary to segregate and release nonexempt information. * * *

■ 4. Section 4.14 is amended by:

■ a. Revising the section heading and paragraphs (a) and (c); and

■ b. Amending paragraph (b) by removing the phrase ''and copying'', and adding in its place ''in an electronic format''.

The revisions read as set forth below.

§ 4.14 Public inspection in an electronic format.

(a) *Available information.* Subject to the exemptions listed in § 4.12(b), the OCC makes the following information available for public inspection in an electronic format:

(1) Any final order, agreement, or other enforceable document issued in the adjudication of an OCC enforcement case, including a final order published pursuant to 12 U.S.C. 1818(u);

(2) Any final opinion issued in the adjudication of an OCC enforcement case;

(3) Any statement of general policy or interpretation of general applicability not published in the **Federal Register**;

(4) Any administrative staff manual or instruction to staff that may affect a member of the public as such;

(5) A current index identifying the information referred to in paragraphs (a)(1) through (a)(4) of this section issued, adopted, or promulgated after July 4, 1967;

(6) A list of available OCC publications;

(7) A list of forms available from the OCC, and specific forms and instructions; [1]

(8) Any public Community Reinvestment Act performance evaluation;

(9) Any public securities-related filing required under parts 11, 16, 194 or 197 of this chapter;

(10) Any public comment letter regarding a proposed rule;

(11) Any records, regardless of form or format, that have been released to any person under 5 U.S.C. 552(a)(3) provided that:

(i) The OCC determines that, because of the nature of their subject matter, the

[1] Some forms and instructions that national banks and Federal savings associations use are not available from the OCC. The OCC will provide information on where persons may obtain these forms and instructions upon request.

records are or are likely to become the subject of subsequent requests for substantially the same records; or

(ii) The records have been requested three or more times;

(12) Reference materials or a guide for requesting records or information from the OCC, including an index of all major OCC information systems, a description of major information and record locator systems maintained by the OCC, and a handbook for obtaining various types and categories of public information from the OCC pursuant to FOIA and chapter 35 of title 44;

(13) The public file (as defined in 12 CFR 5.9) with respect to a pending application described in part 5 of this chapter; and

(14) Any OTS information similar to that listed in paragraphs (a)(1) through (a)(13) of this section, to the extent this information is in the possession of the OCC.

* * * * *

(c) *Addresses.* The information described in paragraphs (a)(1) through (14) of this section is available from the Chief FOIA Officer, Communications Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219. The information described in paragraph (a)(13) of this section in the case of both national banks and Federal savings associations is available from the Licensing Manager at the appropriate district office at the address listed in § 4.5(a), or in the case of national banks and Federal savings associations supervised by the Large Bank Supervision Department, from the Large Bank Licensing Expert, Licensing Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

■ 5. Section 4.15 is amended by:

■ a. Revising paragraph (b)(1), and revising paragraph (b)(2)(i) introductory text;

■ b. Revising paragraphs (c)(2), (c)(4), and (d)(1) and (4);

■ c. Removing ''Saturday'' in paragraph (f)(1) and adding it its place ''Saturdays'';

■ d. Adding paragraph (f)(4);

■ e. Republishing paragraph (g); and

■ f. Adding paragraph (h).

The additions and revisions read as set forth below.

§ 4.15 How to request records.

* * * * *

(b) * * * (1) *General.* Except as provided in paragraph (b)(2) of this section, a person requesting a record or filing an administrative appeal must submit the request or appeal:

(i) Through the OCC's FOIA Web portal at *https://foia-pal.occ.gov/palMain.aspx;*

(ii) Through the consolidated online request portal maintained by the Office of Management and Budget pursuant to 5 U.S.C. 552(m)(1); or

(iii) Under this section to the Chief FOIA Officer, Communications Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

(2) *Exceptions*—(i) *Records at the Federal Deposit Insurance Corporation.* A person requesting any of the following records, other than blank forms (see § 4.14(a)(7)), must submit the request to the FDIC, Legal Division, FOIA/PA Group, 550–17th Street NW., Washington, DC 20429, or fax to (703) 562–2797:

* * * * *

(c) * * *

(2) *Initial determination.* The Comptroller or the Comptroller's delegate initially determines whether to grant a request for OCC records and notifies the requester, in accordance with the time limits set forth in paragraph (f) of this section, of the determination and the reasons therefore and of the right to seek assistance from the OCC's FOIA Public Liaison.

* * * * *

(4) *If request is denied.* If the OCC denies a request for records, in whole or in part, the OCC will notify the requester in writing. The notification is dated and contains a brief statement of the reasons for the denial, sets forth the name and title or position of the official making the decision, advises the requester of the right to seek dispute resolution services from the OCC's FOIA Public Liaison or the Office of Government Information Services, and advises the requester of the right to appeal to the Comptroller of the Currency in accordance with paragraph (d) of this section.

(d) *Administrative appeal of a denial*—(1) *Procedure.* A requester must submit an administrative appeal of denial of a request for records in writing within 90 days after the date of the initial determination. The appeal must include the circumstances and arguments supporting disclosure of the requested records.

* * * * *

(4) *If appeal is denied.* If the OCC denies an appeal, in whole or in part, the OCC notifies the requester in writing. The notification contains a brief statement of the reasons for the denial, sets forth the name and title or position of the official making the decision, and advises the requester of the right to judicial review of the denial under 5 U.S.C. 552(a)(4)(B).

* * * * *

(f) * * *

(4) *Requests that require more than a 10-day extension to process.* If the OCC determines unusual circumstances apply to a request for records, and the OCC determines it cannot respond to the request within the 10-day extension set forth in paragraph (f)(3)(i) of this section, the OCC will:

(i) Notify the requester that the request cannot be processed within the time limit set forth in paragraph (f)(3)(i) of this section;

(ii) Provide the requester with an opportunity to limit the scope of the request so that it may be processed within that 10-day period or to arrange with the OCC an alternative time frame for processing the request or a modified request;

(iii) Make available the FOIA Public Liaison, who shall assist in the resolution of any disputes between the requester and the OCC; and

(iv) Notify the requester of the right of the requester to seek dispute resolution services from the Office of Government Information Services.

(g) *Date of receipt of request or appeal.* The date of receipt of a request for records or an appeal is the date that Disclosure Services, Communications Division receives a request that satisfies the requirements of paragraph (c)(1) or (d)(1) of this section, except as provided in § 4.17(d).

(h) *Dispute resolution services.* Requesters with concerns about the handling of their FOIA requests may contact the FOIA Public Liaison or the Office of Government Information Services for dispute resolution services.

(1) To apply for dispute resolution assistance from the FOIA Public Liaison, requesters should submit a written request to the FOIA Public Liaison, Communications Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

(2) For dispute resolution services through the Office of Government Services, requesters should contact the Office of Government Services as set forth at 36 CFR 1250.32.

■ 6. Section 4.17 is amended by:

■ a. Revising paragraph (b)(6); and

■ b. Amending paragraph (c)(1) by removing the phrase ''Communications Division'', and adding in its place the phrase ''Financial Management, Accounts Receivable''.

The revisions read as set forth below.

§ 4.17 FOIA request fees.

* * * * *

(b) * * *

(6) *No fee if the time limit passes and the OCC has not responded to the request.* The OCC will not assess search or duplication fees, as applicable, if it fails to respond to a requester's FOIA request within the time limits specified under 5 U.S.C. 552(a)(6) and 12 CFR 4.15(f), except as follows:

(i) *Unusual circumstances*—(A) *General.* If the OCC has determined that unusual circumstances (as defined in 5 U.S.C. 552(a)(6)(B) and § 4.15(f)(3)(i)) apply and the OCC provides timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B), the OCC may assess search or duplication fees, as applicable, for an additional 10 days. If the OCC fails to comply with the extended time limit, the OCC will not assess any search or duplication fees, as applicable.

(B) *Voluminous Requests.* Notwithstanding paragraph (b)(6)(i)(A) of this section, if the OCC has determined that unusual circumstances (as defined in 5 U.S.C. 552(a)(6)(B) and § 4.15(f)(3)(i)) apply and more than 5,000 pages are necessary to respond to the request, the OCC may assess search or duplication fees, as appropriate, if the OCC provides a timely written notice to the requester in accordance with 5 U.S.C. 552(a)(6)(B) and discusses with the requester via written mail, electronic mail, or telephone (or makes not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(ii) *In exceptional circumstances.* If a court has determined that exceptional circumstances (as defined in 5 U.S.C. 552(a)(6)(C)) apply to the processing of a request, the OCC may assess search or duplication fees, as applicable, for the length of time provided by the court order.

* * * * *

§ 4.18 [Amended]

■ 7. Section 4.18 is amended by:

■ a. In paragraph (a), removing the word ''Department'' and adding in its place the word ''Division'', wherever it appears; and

■ b. In paragraph (b), removing the phrase ''Disclosure Officer'', and adding in its place the phrase ''Chief FOIA Officer''.

Dated: December 14, 2016.

Thomas J. Curry,

Comptroller of the Currency.

[FR Doc. 2016–30725 Filed 12–22–16; 8:45 am]

BILLING CODE P

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 121 and 125

RIN 3245–AG71

Credit for Lower Tier Small Business Subcontracting

AGENCY: U.S. Small Business Administration.

ACTION: Final rule.

SUMMARY: The U.S. Small Business Administration (SBA) is amending its regulations to implement section 1614 of the National Defense Authorization Act for Fiscal Year 2014 (NDAA 2014). Section 1614 amended the Small Business Act to provide that where a prime contractor has an individual subcontracting plan for a specific prime contract with an executive agency, the prime contractor shall receive credit towards its subcontracting plan goals for awards made to small business concerns at any tier under the contract. The changes authorized by this statute will allow an other than small prime contractor that has an individual subcontracting plan for a contract to receive credit towards its small business subcontracting goals for subcontract awards made to small business concerns at any tier, to the extent reported on the subcontracting plans of its lower tier subcontractors. The final rule also implements the statutory requirements related to the subcontracting plans of all subcontractors that are required to maintain such plans, including the requirement to monitor subcontractors' performance and compliance toward reaching the goals set out in those plans as well as their compliance with subcontracting reporting requirements. SBA is also clarifying that the size standard for a particular subcontract must appear in the solicitation for the subcontract.

DATES: This rule is effective on January 23, 2017.

FOR FURTHER INFORMATION CONTACT: Michael McLaughlin, Office of Policy, Planning and Liaison, 409 Third Street SW., Washington, DC 20416; (202) 205–5353; *michael.mclaughlin@sba.gov.*

SUPPLEMENTARY INFORMATION:

Introduction

The final rule implements Section 1614 of the National Defense Authorization Act for Fiscal Year 2014, Public Law 113–66, December 26, 2013 (hereinafter NDAA 2014). Section 1614 amended section 8(d)(6)(D) of the Small Business Act, 15 U.S.C. 637(d)(6)(d), to provide that where a prime contractor has a subcontracting plan for a specific prime contract with an executive agency, as required by Section 8(d) of the Small Business Act, the prime contractor will receive credit towards its subcontracting plan goals for awards made to small business concerns at any tier under the contract, to the extent reported under the subcontracting plan of a lower tier other than small subcontractor. When a prime contractor awards a subcontract to a firm, it is generally considered a first tier subcontract. That subcontractor may award a subcontract, which would be considered a second tier subcontract, and so on. Currently, with few exceptions, a prime contractor cannot receive credit towards its small business subcontracting plan goals for awards made below the first tier.

SBA is amending its regulations to require other than small business prime contractors to count lower tier small business subcontract awards towards their federal small business subcontracting goals on unrestricted federal contracts, to the extent the lower tier subcontractor are required to report the information. With limited exceptions, unrestricted federal procurements and subcontracts over $700,000 ($1.5 million for construction of any public facility) include Federal Acquisition Regulation (FAR) clause 52.219–9 (Small Business Subcontracting Plan), which requires other than small contractors and their lower tier subcontractors to make a good faith effort to meet or to exceed the small business subcontracting goals established in their respective subcontracting plans. Failure to make this effort could result in liquidated damages, default termination, and negative performance reviews. For a subcontracting plan for a specific prime contract, the contractor or subcontractor is required to submit an Individual Subcontract Report (ISR) and Summary Subcontracting Report (SSR). The ISR is submitted semiannually during contract performance and upon contract completion. The SSR is submitted annually to procuring agencies. Both forms are submitted through the Electronic Subcontracting Reporting System (eSRS). Until this final rule, a large prime contractor could not take credit for a subcontract award to a second-tier small business subcontractor. Lastly, large prime contractors are already required to identify the size standard that applies to a subcontract. 13 CFR 121.410, 121.411, 125.3(c)(1)(v). Subcontractor size representation is reviewed during compliance reviews (See 13 CFR 125.3(f)(2)(i)) and size representations at

the subcontract level may be protested (See 13 CFR 121.411). In addition, Section 868 of the National Defense Authorization Act of 2016, Public Law 114–92 (November 25, 2015), requires SBA, as part of the its scorecard on agency small business prime contracting and subcontracting performance, to compare ''The number of small business concerns, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women awarded subcontracts in each North American Industry Classification System code during the fiscal year and a comparison to the number of awarded subcontracts during the prior fiscal year, if available.''

SBA published a proposed rule regarding these changes in the **Federal Register** on October 6, 2015. 80 FR 60300 (October 6, 2015). SBA received a total of 13 comments. Two of these comments were generally positive without offering any comments on specific provisions. SBA received three comments that were generally opposed to the rule without offering comment on specific provisions. These three commenters generally felt that the statute and the regulations were likely to hurt small business subcontractors rather than help them, and would likely result in large prime contractors attempting to exert more control over their subcontractors. SBA received one comment that was not relevant; this comment made no mention of the proposed regulation.

Two commenters did not think that SBA's regulatory impact analysis took into consideration the extra burden that large businesses would have under these changes. The commenters claimed that the costs and challenges of collecting the data are more than minimal, and that large businesses will incur more than minimal costs. Neither commenter provided data or analysis on what those costs would be, just a general statement that they would be more than minimal. SBA addressed this issue in its proposed rule. Any costs associated with the regulatory implementation of these provisions of the NDAA 2014 will be included in the proposed Federal Acquisition Regulation (FAR) changes. Thus, any Paperwork Reduction Act (PRA) costs associated with proposed rulemaking and implementation will occur during the FAR rulemaking process.

SBA received one comment seeking clarification that this rule and credit for lower tier subcontracting does not affect Agencies' prime contract goaling numbers. This rule only applies to subcontracting plans, not to agency prime contract goaling requirements. Generally, agencies do not count subcontracting dollars awarded to small business concerns towards their prime contract goaling requirements, except for the Department of Energy. This rule does not change reporting under the SSR, which is how agencies receive credit for subcontracting. Firms will continue to report only their first-tier subcontracts on the SSR.

SBA received one comment regarding enforcement of these regulations prior to FAR regulatory implementation and updates to eSRS. As noted in the proposed rule, it is SBA's position that this regulation will require changes to FAR prior to full implementation in eSRS.

Summary of Proposed Rule, Comments, and SBA's Responses

Part 121

SBA proposed amending § 121.411(b) allowing prime contractors to accept a subcontractor's size certification electronically. The list of enumerated methods is illustrative only, and is not exhaustive. SBA received several comments on this issue, and all believed the proposed change was positive, but that more clarity was needed about who may accept the certifications, and whether this applied to socioeconomic certifications. Thus, SBA is adopting the language as proposed, with minor additions for clarity. The final rule now makes clear that prime and subcontractors may rely on any form of electronic certification that they deem appropriate provided it is given in connection with an offer for specific subcontract and it includes the language in SBA's regulation which provides that in order to accept an electronic representation, the representation must be in connection with an offer for a subcontract and the solicitation and subcontract provides that the subcontractor verifies by submission of the offer that the size and socioeconomic representations and certifications are current accurate and complete as of the date of offer for the subcontract. See 13 CFR 121.411(b), 125.3(c)(1)(v).

Part 125

In proposed § 125.3(a)(1), SBA included the new statutory definition for a subcontract that was enacted by NDAA 2014. SBA received one comment that requested more specificity with regard to what will be considered a subcontract. Specifically, this commenter wanted lists of what would and would not be considered a subcontract, based in part on FAR definitions. The proposed definition is taken from the statute, which was added by NDAA 2014, and SBA is adopting the statutory definition in the final rule. See 15 U.S.C. 632(dd)(1).

In proposed § 125.3(a)(1)(i)(C), SBA provided guidance on when a prime contractor may receive credit for lower tier subcontracting. Specifically, the proposed rule stated that only individual subcontracting plans were entitled to receive the credit. SBA has revised this section based on the comments. Specifically, the final rule clearly states how commercial and individual plans differ, and what the prime contractor's and subcontractor's responsibilities and requirements are for individual subcontracting plans as required by the Small Business Act. SBA received several comments asking for clarification, and several comments asking SBA to also apply the new guidelines to commercial subcontracting plans. SBA addressed this issue in its proposed rule, ''Section 1614 applies only when determining whether or not a prime contractor has met its individual subcontracting plan goals. Thus, Section 1614 does not apply where the prime contractor has a commercial plan or comprehensive subcontracting plan.'' 80 FR 60300, 60301 (October 6, 2015). The Small Business Act specifically states that the prime contractor shall receive lower tier credit ''if the subcontracting goals pertain to a single contract with the executive agency.'' 15 U.S.C. 637(d)(16)(A)(i). A commercial plan, like a comprehensive subcontracting plan, applies to more than one government contract, and thus the lower tier credit provisions do not apply to those types of plans.

SBA received two comments on the issue of double counting and the incorporation of subcontracting plans from lower tier, other than small subcontractors. One commenter suggested that SBA amend the language of the regulation and add examples to provide clarity. One commenter requested that SBA remove the requirement that other than small subcontractors are required to have their own subcontracting plan, if their plan is incorporated into the prime contractor's plan. The requirement that subcontractors have their own plan is an independent statutory requirement that must be met. SBA has crafted the final rule to make it clear that incorporation

of lower tier goals does not change the requirements of the lower tier subcontractors to have its own subcontracting plans, meet their goals, and report on its first tier performance. Further, the prime contractor will continue to report on performance at the first tier level. The prime contractor's performance towards its lower tier small business subcontracting goals will be based on the reports of its other than small lower tier subcontractors with subcontracting plans to the extent that the lower tier subcontractor are required to report. The prime contractor remains responsible for ensuring accurate reporting to the government.

SBA received two comments on proposed § 125.3(c)(1)(i), which proposed to require that in order for a prime contractor to receive credit for awards made at lower tiers, the prime contractor would be required to have a complete subcontracting plan, including incorporation of its subcontractor's goals, prior to award. The Small Business Act requires that subcontracting plans be submitted, negotiated, and approved before contract award. 15 U.S.C. 637(d)(4)(B) and (C). The commenters contend that having all of the necessary steps done and completed prior to award, including the incorporation of lower tier subcontractor's plans, is not practicable on all contracts. The commenters state that often the prime will not be aware of which companies their subcontractors may be utilizing. The Small Business Act provides that prime contractors ''shall'' receive credit for subcontractors at any tier pursuant to a subcontracting plan required by section 15 U.S.C. 637(d)(6)(D), which is the statutory requirement to require other than small subcontractors to have subcontracting plans if the subcontract exceeds certain threshold amounts. 15 U.S.C. 637(d)(16)(A)(i). Thus, the prime contractor with an individual subcontracting plan will be obligated to consider and establish goals based on the subcontracting plans of its other than small subcontractors prior to award of the contract.

SBA proposed to amend § 125.3(c)(1)(v) to clarify which NAICS should apply to a subcontract and how primes should inform potential subcontractors which NAICS and corresponding size standard will be applied. SBA's regulations currently require that the prime contractor (or subcontractor that is subcontracting to another concern) must assign a NAICS code to the subcontract that best describes the work being performed or the product being purchased by that subcontract. The contractor may not simply pass down the NAICS assigned to the prime contract to all subcontracts. SBA received five negative comments on this requirement, and one comment that believed it would be in conflict with the FAR. However, this is not a new requirement. SBA's current regulations require that each subcontract have a NAICS assigned that describes the work being performed under the subcontract, with the corresponding size standard. While not a new requirement, SBA believes it is important to reiterate why this requirement is necessary to accurately reflect small business participation in subcontracting. Utilizing the prime contract's NAICS for subcontracts may not always accurately describe the work being done under that subcontract. SBA does not have a one-size-fits-all definition of what a small business is, because whether a firm is small depends largely on what type of work it performs, or what type of product it supplies. Utilizing one NAICS code for all subcontracts would distort the calculation of small business subcontracting performance.

Several comments requested clarification on whether, based on the wording of this rule, all subcontracts would require a solicitation. That was not the intention of the regulation, and SBA has added a sentence to the regulation to make this clear. However, it should also be clear that the prime contractor (or lower tier subcontractor that is subcontracting) assigning the NAICS to the subcontract is responsible for providing notice of the size standard to prospective subcontractors prior to acceptance and formation of a subcontract. This is necessary to ensure that small businesses can accurately certify to their size status. SBA also added parentheticals to make clear that this applies to prime contractors and subcontractors.

SBA proposed to add § 125.3(c)(1)(x) to implement 15 U.S.C. 637(d)(6)(D) of the Small Business Act, requiring prime contractors and subcontractors with subcontracting plans to do various tasks in connection with their subcontractors with subcontracting plans. SBA received one negative comment stating the requirements were too burdensome and one comment requesting clarification concerning whether these requirements pertain to commercial subcontracting plans. SBA also received a comment requesting that the requirements of this paragraph and paragraph (xi) be required only if the prime contractor incorporates its subcontractors' subcontracting plans. The requirements articulated in the proposed rule are required by statute for all subcontracting plans, and thus we are adopting the language as proposed in the final rule. Subcontractors of primes with commercial plans do not have to have subcontracting plans if the subcontract is for a commercial item. Consequently, the requirements of § 125.3(c)(1)(x) apply to a prime with a commercial plan to the extent its subcontractors have their own individual subcontracting plans, not commercial plans

SBA received one comment stating that the dollar value thresholds in SBA's rule are different than the recently updated FAR thresholds. The revised inflation adjusted subcontracting plan thresholds became effective after SBA issued the proposed rule, and SBA has updated the thresholds in this final rule.

SBA proposed to add § 125.3(c)(1)(xi) in order to incorporate new requirements from the statute concerning the records the prime contractor must maintain to demonstrate subcontractors at all tiers comply with the subcontracting plan requirements. Two commenters noted confusion as to what was meant by the phrase ''recite the types of records the prime will maintain.'' SBA is changing language to make clear that a written statement is required.

Finally, with respect to liquidated damages, the Small Business Act provides that each contract subject to the requirements for a subcontracting plan shall contain a clause for the payment of liquidated damages upon a finding that a prime contractor has failed to make a good faith effort to comply with the requirements imposed on such subcontractor by section 8(d)(4)(F) of the Small Business Act, 15 U.S.C. 637(d)(4)(F). Thus, a prime contractor could be subject to liquidated damages if it fails to make a good faith effort to review and approve subcontracting plans submitted by its subcontractors; monitor subcontractor compliance with its approved subcontracting plans; ensure that subcontracting reports are submitted by its subcontractors when required; acknowledge receipt of its subcontractors' reports; compare the performance of its subcontractors to subcontracting plans and goals; and discuss performance with subcontractors when necessary to ensure its subcontractors make a good faith effort to comply with their subcontracting plans.

Compliance With Executive Orders 12866, 13563, 12988, and 13132, the Paperwork Reduction Act (44 U.S.C. Ch. 35), and the Regulatory Flexibility Act (5 U.S.C. 601–612)

Executive Order 12866

The Office of Management and Budget (OMB) has determined that this final rule is a significant regulatory action for the purposes of Executive Order 12866. Accordingly, the next section contains SBA's Regulatory Impact Analysis. This is not a major rule, however, under the Congressional Review Act.

Regulatory Impact Analysis

1. Is there a need for the regulatory action?

The final regulations implement section 1614 of the National Defense Authorization Act for Fiscal Year 2014. Section 1614(c)(3) requires the Administrator to promulgate regulations necessary to implement the Act.

2. What are the potential benefits and costs of this regulatory action?

The benefits of the final regulations are minimal and the final costs cannot be determined until the FAR rules are proposed. Other than small business prime contractors and subcontractors already establish individual subcontracting plan goals and report on their achievements if the subcontracting plan thresholds are met. Under section 1614 of the NDAA 2014, a prime contractor with an individual subcontracting plan will receive credit towards its goals for small business performance at lower tiers. Thus, there will be some costs to the prime contractor to propose subcontracting plan goals that incorporate small business performance at lower tiers and to ensure that their subcontractors have plans and submit required reports, and there will also be costs to the Government to evaluate whether the prime contractor's goals adequately address maximum practicable small business subcontracting opportunity at all tiers. SBA estimates that there were approximately 34,000 individual subcontracting plans in fiscal year 2015, and that approximately 24,000 were at the prime contract level. Other than small firms may have multiple individual subcontracting plans at the prime and sub level, so the number of other than small firms affected by this rule will be less than the number of individual subcontracting plans, but we cannot say with any precision how many will be impacted. There may also be costs to the Government as eSRS may have to be modified to allow other than small prime contractors to receive small business credit at any tier towards their subcontracting plan goals. However, SBA is not able to estimate these costs because the system will be modified when this rule is implemented into the FAR and the process for capturing the lower tier reports is further defined. There should not be any costs imposed on small business concerns as this rule does not change any reporting or recordkeeping requirements for small business concerns.

3. What are the alternatives to this final rule?

Many of the final regulations are required to implement specific statutory provisions which require promulgation of implementing regulations. There are no other alternatives that would meet the statutory requirements.

Executive Order 13563

As part of its ongoing efforts to engage stakeholders in the development of its regulations, SBA has solicited comments and suggestions from the public and the procuring agencies on how to best implement section 1614 of NDAA 2014. For example, SBA received comments from the American Bar Association Section of Public Contract Law, the Associated General Contractors of America, the Council of Defense and Space Industry Associations, the U.S. Women's Chamber of Commerce, and Women Impacting Public Policy (WIPP).

SBA has incorporated those comments and suggestions to the extent feasible. SBA has considered the comments received in response to the proposed rule and incorporated public input into the final rule to the extent feasible.

Executive Order 12988

For purposes of Executive Order 12988, SBA has drafted this final rule, to the extent practicable, in accordance with the standards set forth in section 3(a) and 3(b)(2) of Executive Order 12988, to minimize litigation, eliminate ambiguity, and reduce burden. This rule has no preemptive or retroactive effect.

Executive Order 13132

For the purpose of Executive Order 13132, SBA has determined that this final rule 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 layers of government. Therefore, SBA has determined that this final rule has no federalism implications warranting preparation of a federalism assessment.

Paperwork Reduction Act, 44 U.S.C. Ch. 35

For purposes of the Paperwork Reduction Act (PRA), SBA has determined that this final rule, if adopted in final form, would not impose new government-wide reporting and recordkeeping requirements on other than small prime contractors and subcontractors. If any information collection procedures change or are amended during the subsequent FAR rulemaking of this SBA rule, they will be addressed in the FAR rulemaking process.

Regulatory Flexibility Act, 5 U.S.C. 601–612

According to the Regulatory Flexibility Act (RFA), 5 U.S.C. 601, when an agency issues a rulemaking, it must prepare a regulatory flexibility analysis to address the impact of the rule on small entities. However, section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities. The RFA defines ''small entity'' to include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' This final rule concerns various aspects of SBA's contracting programs. As such, the rule relates to small business concerns, but would not affect ''small organizations'' or ''small governmental jurisdictions'' because those programs generally apply only to ''business concerns'' as defined by SBA regulations, in other words, to small businesses organized for profit. ''Small organizations'' or ''small governmental jurisdictions'' are non-profits or governmental entities and do not generally qualify as ''business concerns'' within the meaning of SBA's regulations.

This rule will impact other than small business concerns, as small business concerns are not required to have subcontracting plans. Other portions of the rule simply clarify existing regulations, and do not impose new requirements on small business concerns. As discussed previously, SBA's rules currently require firms to certify their size and socioeconomic status in connection with subcontracts. This rule simply clarifies that the requirement to certify applies to the solicitation for the subcontract. In sum, the final rule will not have a disparate impact on small businesses or impose any additional costs on small business concerns. For the reasons discussed, SBA certifies that this final rule will not have a significant economic impact on

a substantial number of small business concerns.

List of Subjects

13 CFR Part 121

Government contracts, Government procurement, Small businesses, Size standards.

13 CFR Part 125

Government contracts, Government procurement, Reporting and recordkeeping requirements, Small businesses, Small business subcontracting.

For the reasons stated in the preamble, SBA amends 13 CFR parts 121 and 125 as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

■ 1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632, 634(b)(6), 662, and 694a(9).

■ 2. Amend § 121.411 by removing the second sentence in paragraph (b) and adding two sentences in its place to read as follows:

§ 121.411 What are the size procedures for SBA's Section 8(d) Subcontracting Program?

* * * * *

(b) * * * Prime contractors (or subcontractors) may accept paper self-certifications as to size and socioeconomic status or a subcontractor's electronic self-certification as to size or socioeconomic status, if the solicitation for the subcontract contains a clause which provides that the subcontractor verifies by submission of the offer that the size or socioeconomic representations and certifications are accurate and complete. Electronic submission may include any method acceptable to the prime contractor (or subcontractor) including, but not limited to, size representations and certifications made in SAM (or any successor system) and electronic conveyance of subcontractor certifications in prime contractor systems in connection with an offer for a subcontract. * * *

* * * * *

PART 125—GOVERNMENT CONTRACTING PROGRAMS

■ 3. The authority citation for part 125 continues to read as follows:

Authority: 15 U.S.C. 632(p), (q); 634(b)(6), 637, 644, 657f, and 657q.

■ 4. Amend § 125.3 as follows:

■ a. Revise paragraph (a)(1) introductory text;

■ b. Add paragraph (a)(1)(i)(C);

■ c. Add paragraph (a)(1)(i)(D);

■ d. Revise the heading for paragraph (c);

■ e. Amend paragraph (c)(1) by removing ''$650,000'' and adding in its place ''$700,000'';

■ f. Revise the first sentence of paragraph (c)(1)(i);

■ g. Revise paragraph (c)(1)(v);

■ h. Remove the word ''and'' at the end of paragraph (c)(1)(viii);

■ i. Remove the period at the end of paragraph (c)(1)(ix) and add in its place a semi-colon and the word ''and''; and

■ j. Add new paragraphs (c)5(1)(x) and (xi).

The additions and revisions read as follows:

§ 125.3 What types of subcontracting assistance are available to small businesses?

(a) * * *

(1) Subcontract under this section means a legally binding agreement between a contractor that is already under contract to another party to perform work and a third party (other than one involving an employer-employee relationship), hereinafter referred to as the subcontractor, for the subcontractor to perform a part or all of the work that the contractor has undertaken.

(i) * * *

(C) Where the prime contractor has an individual subcontracting plan, the prime contractor shall establish two sets of small business subcontracting goals, one goal for the first tier and one goal for lower tier subcontracts awarded by other than small subcontractors with individual subcontracting plans. Under individual subcontracting plans the prime contractor shall receive credit for small business concerns performing as first tier subcontractors (first tier goal) and subcontractors at any tier pursuant to the subcontracting plans required under paragraph (c) of this section in an amount equal to the dollar value of work awarded to such small business concerns (lower tier goal). Other-than-small, lower tier subcontractors must have their own individual subcontracting plans if the subcontract is at or above the subcontracting plan threshold, and are required to make a good faith effort to meet their subcontracting plan goals. The prime contractor and any subcontractor with a subcontracting plan are responsible for reporting on subcontracting performance under their contracts or subcontracts at their first tier. The prime contractor's performance under its individual subcontracting plan will be calculated using its own reporting at the first tier for its first tier goal and its subcontractors' first tier reports under their plans for the lower tier subcontracting goals. The prime contractor's performance under the individual subcontracting plan must be evaluated based on its combined performance under the first tier and lower tier goal.

(D) Other-than-small prime contractors and subcontractors with subcontracting plans shall report on their subcontracting performance on the Summary Subcontracting report (SSR) at their first tier only.

* * * * *

(c) *Additional responsibilities of other than small contractors.* * * *

(1) * * *

(i) Submitting and negotiating before award an acceptable subcontracting plan that reflects maximum practicable opportunities for small businesses in the performance of the contract as subcontractors or suppliers at all tiers of performance. * * *

* * * * *

(v) The contractor must assign to each subcontract, and to each solicitation, if a solicitation is utilized, the NAICS code and corresponding size standard that best describes the principal purpose of the subcontract (see § 121.410 of this chapter). A formal solicitation is not required for each subcontract, but the contractor must provide some form of written notice of the NAICS code and size standard assigned to potential offerors prior to acceptance and award of the subcontract. The prime contractor (or subcontractor) may rely on a subcontractor's electronic representations and certifications, if the solicitation for the subcontract contains a clause which provides that the subcontractor verifies by submission of the offer that the size or socioeconomic representations and certifications are current, accurate and complete as of the date of the offer for the subcontract. Electronic submission may include any method acceptable to the prime contractor (or subcontractor) including, but not limited to, size or socioeconomic representations and certifications made in SAM (or any successor system). A prime contractor (or subcontractor) may not require the use of SAM (or any successor system) for purposes of representing size or socioeconomic status in connection with a subcontract;

* * * * *

(x) Except when subcontracting for commercial items, the prime contractor must require all subcontractors (except small business concerns) who receive subcontracts in excess of $1,500,000 in

the case of a subcontract for the construction of any public facility, or in excess of $700,000 in the case of all other subcontracts, and which offer further subcontracting possibilities, to adopt a subcontracting plan of their own consistent with this section, and must ensure at a minimum that all subcontractors required to maintain subcontracting plans pursuant to this paragraph will review and approve subcontracting plans submitted by their subcontractors; monitor their subcontractors' compliance with their approved subcontracting plans; ensure that subcontracting reports are submitted by their subcontractors when required; acknowledge receipt of their subcontractors' reports; compare the performance of their subcontractors to their subcontracting plans and goals; and discuss performance with their subcontractors when necessary to ensure their subcontractors make a good-faith effort to comply with their subcontracting plans; and

(xi) The prime contractor must provide a written statement of the types of records it will maintain to demonstrate procedures which have been adopted to ensure subcontractors at all tiers comply with the requirements and goals set forth in the subcontracting plan established in accordance with paragraph (c)(1)(x) of this section, including the establishment of source lists of small business concerns, small business concerns owned and controlled by veterans, small business concerns owned and controlled by service-disabled veterans, qualified HUBZone small business concerns, small business concerns owned and controlled by socially and economically disadvantaged individuals, and small business concerns owned and controlled by women; the efforts to identify and award subcontracts to such small business concerns; and size or socioeconomic certifications or representations received in connection with each subcontract.

* * * * *

Dated: December 14, 2016.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–30874 Filed 12–22–16; 8:45 am]

BILLING CODE 8025–01–P

SECURITES AND EXCHANGE COMMISSION

17 CFR Part 242

[Release No. 34–79237A]

RIN 3235–AL99

Consolidated Audit Trail

ACTION: Notification regarding expired temporary rule.

SUMMARY: The Commission is providing notice regarding temporary Rule 608T under the Securities Exchange Act of 1934. The Commission designated 12:01 a.m. on November 16, 2016, as the expiration time for Rule 608T, because after that time the rule would no longer be necessary.

DATES: December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Rebekah Liu, Special Counsel, at (202) 551–5665; Jennifer Colihan, Special Counsel, at (202) 551–5642; Leigh Duffy, Special Counsel, at (202) 551–5928; John Lee, Special Counsel, at (202) 551–5689; or Ted Uliassi, Special Counsel, at (202) 551–6905, or Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: On November 3, 2016, the Securities and Exchange Commission adopted a temporary rule, Rule 608T, under the Securities Exchange Act of 1934 to extend to November 15, 2016, the date by which the Commission was required to act on the proposed National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan''). Rule 608T solely governed the timeframe for action on the proposed CAT NMS Plan. The Commission adopted the temporary rule as an interim final temporary rule in light of the impending November 10, 2016 date designated by the Commission under Rule 608 as the date by which the Commission would take action on the proposed CAT NMS Plan. The Commission designated 12:01 a.m. on November 16, 2016, as the expiration time for Rule 608T because after that time the temporary rule would no longer be necessary.

On November 3, 2016, the Commission published the temporary rule on its Web site. Due to a subsequent clerical error, the temporary rule was not published in the **Federal Register**. On November 8, 2016, the Commission provided public notice of its scheduled open meeting to consider the CAT NMS Plan, posting the notice on its Web site, and on November 15, 2016, the Commission approved the CAT NMS Plan at its open meeting. The expiration time of 12:01 a.m. on November 16, 2016 for the temporary rule has now passed.

Dated: December 19, 2016.

Brent J. Fields,

Secretary.

[FR Doc. 2016–30883 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 882

[Docket No. FDA–2016–N–4165]

Medical Devices; Neurological Devices; Classification of the Neurovascular Mechanical Thrombectomy Device for Acute Ischemic Stroke Treatment

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA) is classifying the neurovascular mechanical thrombectomy device for acute ischemic stroke treatment into class II (special controls). The special controls that will apply to the device are identified in this order and will be part of the codified language for the neurovascular mechanical thrombectomy device for acute ischemic stroke treatment's classification. The Agency is classifying the device into class II (special controls) in order to provide a reasonable assurance of safety and effectiveness of the device.

DATES: This order is effective December 23, 2016. The classification was applicable on September 2, 2016.

FOR FURTHER INFORMATION CONTACT: Leigh Anderson, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2656, Silver Spring, MD 20993–0002, 301–796–5613, *leigh.anderson@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with section 513(f)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(f)(1)), devices that were not in commercial distribution before May 28, 1976 (the date of enactment of the Medical Device Amendments of 1976), generally referred to as postamendments devices, are classified automatically by statute into class III without any FDA

rulemaking process. These devices remain in class III and require premarket approval unless and until the device is classified or reclassified into class I or II, or FDA issues an order finding the device to be substantially equivalent, in accordance with section 513(i) of the FD&C Act, to a predicate device that does not require premarket approval. The Agency determines whether new devices are substantially equivalent to predicate devices by means of premarket notification procedures in section 510(k) of the FD&C Act (21 U.S.C. 360(k)) and part 807 (21 CFR part 807) of the regulations.

Section 513(f)(2) of the FD&C Act, as amended by section 607 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144), provides two procedures by which a person may request FDA to classify a device under the criteria set forth in section 513(a)(1). Under the first procedure, the person submits a premarket notification under section 510(k) of the FD&C Act for a device that has not previously been classified and, within 30 days of receiving an order classifying the device into class III under section 513(f)(1) of the FD&C Act, the person requests a classification under section 513(f)(2). Under the second procedure, rather than first submitting a premarket notification under section 510(k) of the FD&C Act and then a request for classification under the first procedure, the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence and requests a classification under section 513(f)(2) of the FD&C Act. If the person submits a request to classify the device under this second procedure, FDA may decline to undertake the classification request if FDA identifies a legally marketed device that could provide a reasonable basis for review of substantial equivalence with the device or if FDA determines that the device submitted is not of ''low-moderate risk'' or that general controls would be inadequate to control the risks and special controls to mitigate the risks cannot be developed.

In response to a request to classify a device under either procedure provided by section 513(f)(2) of the FD&C Act, FDA shall classify the device by written order within 120 days. This classification will be the initial classification of the device.

On October 26, 2015, Concentric Medical, Inc., submitted a request for classification of the Trevo ProVue and XP ProVue Retrievers (Trevo Retrievers) under section 513(f)(2) of the FD&C Act.

In accordance with section 513(f)(2) of the FD&C Act, FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1). FDA classifies devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls to provide reasonable assurance of the safety and effectiveness of the device for its intended use. After review of the information submitted in the request, FDA determined that the device can be classified into class II with the establishment of special controls. FDA believes these special controls, in addition to general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on September 2, 2016, FDA issued an order to the requestor classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 882.5600.

Following the effective date of this final classification order, any firm submitting a premarket notification (510(k)) for a neurovascular mechanical thrombectomy device for acute ischemic stroke treatment will need to comply with the special controls named in this final order.

The device is assigned the generic name neurovascular mechanical thrombectomy device for acute ischemic stroke treatment, and it is identified as a prescription device used in the treatment of acute ischemic stroke to improve clinical outcomes. The device is delivered into the neurovasculature with an endovascular approach, mechanically removes thrombus from the body, and restores blood flow in the neurovasculature.

FDA has identified the following risks to health associated specifically with this type of device, as well as the measures required to mitigate these risks in table 1.

TABLE 1—NEUROVASCULAR MECHANICAL THROMBECTOMY DEVICE FOR ACUTE ISCHEMIC STROKE TREATMENT RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measure
Adverse Tissue Reaction	Biocompatibility Evaluation.
Infection	Sterility Testing, Shelf-Life Testing, Labeling.
Tissue or Vessel Damage:	
• Dissection	Non-clinical Performance Testing.
• Perforation	Clinical Performance Testing.
• Hemorrhage	Labeling.
Stroke Progression	Non-clinical Performance Testing, Clinical Performance Testing, Labeling.
Emboli	Non-clinical Performance Testing, Clinical Performance Testing, Labeling.

FDA believes that the special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of the safety and effectiveness.

Neurovascular mechanical thrombectomy device for acute ischemic stroke treatment devices are not safe for use except under the supervision of a practitioner licensed by law to direct the use of the device. As such, the device is a prescription device and must satisfy prescription labeling requirements (see 21 CFR 801.109 *Prescription devices*).

Section 510(m) of the FD&C Act provides that FDA may exempt a class II device from the premarket notification requirements under section 510(k) if FDA determines that premarket notification is not necessary to provide reasonable assurance of the safety and effectiveness of the device. For this type of device, FDA has determined that premarket notification is necessary to provide reasonable assurance of the safety and effectiveness of the device. Therefore, this device type is not exempt from premarket notification requirements. Persons who intend to market this type of device must submit to FDA a premarket notification, prior to marketing the device, which contains information about the neurovascular mechanical thrombectomy device for acute ischemic stroke treatment they intend to market.

II. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

III. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120, and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 882

Medical devices, Neurological devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 882 is amended as follows:

PART 882—NEUROLOGICAL DEVICES

■ 1. The authority citation for part 882 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 882.5600 to subpart F to read as follows:

§ 882.5600 Neurovascular mechanical thrombectomy device for acute ischemic stroke treatment.

(a) *Identification.* A neurovascular mechanical thrombectomy device for acute ischemic stroke treatment is a prescription device used in the treatment of acute ischemic stroke to improve clinical outcomes. The device is delivered into the neurovasculature with an endovascular approach, mechanically removes thrombus from the body, and restores blood flow in the neurovasculature.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) The patient contacting components of the device must be demonstrated to be biocompatible.

(2) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use, including:

(i) Mechanical testing to demonstrate the device can withstand anticipated tensile, torsional, and compressive forces.

(ii) Mechanical testing to evaluate the radial forces exerted by the device.

(iii) Non-clinical testing to verify the dimensions of the device.

(iv) Non-clinical testing must demonstrate the device can be delivered to the target location in the neurovasculature and retrieve simulated thrombus under simulated use conditions.

(v) Non-clinical testing must demonstrate the device is radiopaque and can be visualized.

(vi) Non-clinical testing must evaluate the coating integrity and particulates under simulated use conditions.

(vii) Animal testing must evaluate the safety of the device, including damage to the vessels or tissue under anticipated use conditions.

(3) Performance data must support the sterility and pyrogenicity of the patient contacting components of the device.

(4) Performance data must support the shelf-life of the device by demonstrating continued sterility, package integrity, and device functionality over the specified shelf-life.

(5) Clinical performance testing of the device must demonstrate the device performs as intended for use in the treatment of acute ischemic stroke and must capture any adverse events associated with the device and procedure.

(6) The labeling must include:

(i) Information on the specific patient population for which the device is intended for use in the treatment of acute ischemic stroke, including but not limited to, specifying time from symptom onset, vessels or location of the neurovasculature that can be accessed for treatment, and limitations on core infarct size.

(ii) Detailed instructions on proper device preparation and use for thrombus retrieval from the neurovasculature.

(iii) A summary of the clinical testing results, including a detailed summary of the device- and procedure-related complications and adverse events.

(iv) A shelf life.

Dated: December 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–31007 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

28 CFR Parts 500 and 553

[Docket No. BOP–1163]

RIN 1120–AB63

Contraband and Inmate Personal Property: Technical Change

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rule.

SUMMARY: In this document, the Bureau of Prisons makes a minor technical change to its regulations on contraband and inmate personal property to maintain consistency in language which describes the purpose of the regulations as ensuring the safety, security, or good order of the facility or protection of the public.

DATES: This rule will be effective on January 23, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah Qureshi, Office of General Counsel, Bureau of Prisons, phone (202) 307–2105.

SUPPLEMENTARY INFORMATION:

In this document, the Bureau of Prisons (Bureau) finalizes a minor technical change to its regulations on contraband and inmate personal property to maintain consistency in language which describes the purpose of the regulations as ensuring the ''safety, security, or good order of the facility or protection of the public.''

Variations on this phrase appear throughout the Bureau's regulations in 28 CFR Chapter V. *See* 28 CFR 500.1(h), 501.2(b), 501.3(b), 511.10(a), 511.11(a), 511.12(a), 511.15(b), 511.17(b), 540.12(a), 540.14(c) and (d), 540.15(d), 540.40, 540.44(c), 540.51(h), 540.70, 540.71(b) and (d), 540.100(a), 540.101(a), 541.12, 541.43(b), 541.63(c), 543.11(f), 543.14(a) and (c), 543.15(c), 543.16(b), 544.20, 544.21(b), 548.10, 548.16–548.18, 549.13(b), 549.50, 549.51(b), 551.1, 551.10, 551.12(d), 551.16(a), 551.31(b), 551.34(b), 551.35, 551.71(d), 551.110(a), 551.112(b), 551.113(a), 551.115(a), 552.13(b), 552.20, 552.21(a) and (d), 553.11(h), 553.12(b).

The Bureau has conformed the phrase in all revised regulations since approximately 2005. This rule likewise conforms this phrase in the Bureau's regulations on contraband. An interim rule on this subject was published on August 3, 2015 (80 FR 45883), and became effective on September 2, 2015, although public comments were accepted until October 2, 2015.

Prior to the September 2, 2015, effective date of the interim rule, the definition of contraband in § 500.1(h) read as follows: ''Contraband is material prohibited by law, or by regulation, or material which can reasonably be expected to cause physical injury or adversely affect the security, safety, or good order of the institution.'' The interim rule conformed the ''security, safety, or good order'' phrase to the language we have used in recent years, to read as follows: ''Contraband is material prohibited by law, regulation, or policy that can reasonably be expected to cause physical injury or adversely affect the safety, security, or good order of the facility or protection of the public.''

Likewise, to conform the phrase and underscore the importance of prohibiting contraband, we added the phrase to the end of the first sentence of § 553.10, regarding inmate personal property, to read as follows: ''It is the policy of the Bureau of Prisons that an inmate may possess ordinarily only that property which the inmate is authorized to retain upon admission to the institution, which is issued while the inmate is in custody, which the inmate purchases in the institution commissary, or which is approved by staff to be mailed to, or otherwise received by an inmate, *that does not threaten the safety, security, or good order of the facility or protection of the public.*'' [Emphasis added.] Further, § 543.12(b) contained another description/definition of contraband, categorizing it as either ''hard contraband'' or ''nuisance contraband.'' The interim rule added the ''safety, security'' phrase to this regulation as well.

It is important to note that neither the interim nor this final rule change the substantive requirements or obligations relating to petitions for commutation of sentence, nor do they seek to alter the Bureau's responsibilities in this regard.

Public Comments

We received two comments on the August 3, 2015 interim rule via the publicly-accessible *regulations.gov* Web site.

One commenter requested that the Bureau of Prisons ''plainly spell out the changes that are being put out for public notice,'' indicating confusion with regard to the interim rule changes.

The interim rule contained an explanation of the changes made by the interim rule. It is possible that the commenter may have read only the summary available on the *regulations.gov* Web site, rather than the entire interim rule document. However, for the benefit of any who may have been confused by the interim rule, we offer the following explanation.

The interim rule document made a minor technical change to the Bureau of Prisons regulations on contraband and inmate personal property: We added the phrase ''safety, security, or good order of the facility or protection of the public.'' We did this to show that this is the purpose of the contraband regulations—to ensure the ''safety, security, or good order of the facility or protection of the public.'' We also did this because this phrase appears, for the same purpose, throughout the Bureau's other regulations, and we have used this phrase in new regulations, when possible, since 2005. The addition of the phrase did not change the meaning or requirements of the regulations to which it was added, and did not alter the Bureau's responsibilities.

The second commenter stated as follows: ''So many times inmates come to facilities and mix with wrong crowds out of fear or intimidation. Leaving lockers unlocked due to [comfort] and many other reasons. These things should be [taken into account] if this happens three times in one year they should be further reviews on the inmates. This is not tolerated but common for Camps.'' This comment is not relevant to the current regulation change, which does not discuss inmate lockers or storage of personal property. The Bureau will take this comment into consideration when developing new policy with regard to inmates in federal prison camps.

For the aforementioned reasons, the Bureau now finalizes the interim rule published on August 2, 2015, without change.

Executive Order 12866. This regulation falls within a category of actions that the Office of Management and Budget (OMB) has determined not to constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866 and, accordingly, it was not reviewed by OMB.

Executive Order 13132. This regulation will not have substantial direct effect on the States, on the relationship between the national government and the States, or on distribution of power and responsibilities among the various levels of government. Therefore, under Executive Order 13132, we determine that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Regulatory Flexibility Act. The Director of the Bureau of Prisons, under the Regulatory Flexibility Act (5 U.S.C. 605(b)), reviewed this regulation and by approving it certifies that it will not have a significant economic impact upon a substantial number of small entities for the following reasons: This regulation pertains to the correctional management of offenders committed to the custody of the Attorney General or the Director of the Bureau of Prisons, and its economic impact is limited to the Bureau's appropriated funds.

Unfunded Mandates Reform Act of 1995. This regulation will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one 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.

Small Business Regulatory Enforcement Fairness Act of 1996. This regulation is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This regulation will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Parts 500 and 553

Prisoners.

Kathleen M. Kenney,

Assistant Director/General, Counsel, Federal Bureau of Prisons.

■ Under rulemaking authority vested in the Attorney General in 5 U.S.C. 301; 28 U.S.C. 509, 510 and delegated to the Director, Bureau of Prisons in 28 CFR 0.96, the interim rule amending 28 CFR parts 500 and 553, which was published at 80 FR 45883, on August 3, 2015, is adopted as a final rule without change.

[FR Doc. 2016–30998 Filed 12–22–16; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 560

Iranian Transactions and Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adopting a final rule amending the Iranian Transactions and Sanctions Regulations (ITSR) to reflect OFAC's licensing policies and address inquiries from the regulated public. This final rule makes changes relating to authorized sales of agricultural commodities, medicine, and medical devices to Iran pursuant to the Trade Sanctions Reform and Export Enhancement Act of 2000 (TSRA), as amended, and clarifies the definition of the terms *goods of Iranian origin* and *Iranian-origin goods.*

DATES: *Effective:* December 23, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*).

Background

TSRA Amendments

OFAC first issued regulations to implement TSRA (22 U.S.C. 7201 *et seq.*) on July 12, 2001 (66 FR 36683). Since then, OFAC has amended the licensing provisions of the ITSR (and its predecessor, the Iranian Transactions Regulations), 31 CFR part 560, as they relate to the exportation and reexportation of agricultural commodities, medicine, or medical devices to Iran on a number of occasions. As set forth in more detail below, OFAC is adopting a final rule to amend the licensing provisions of the ITSR to expand the scope of medical devices and agricultural commodities generally authorized for export or reexport to Iran and, in response to feedback from the regulated public regarding improving patient safety, provide new or expanded authorizations relating to training, replacement parts, software and services related to the operation, maintenance, and repair of medical devices, and items that are broken or connected to product recalls or other safety concerns.

Statutory Background

TSRA provides that, with certain exceptions, the President may not impose a unilateral agricultural sanction or unilateral medical sanction against a foreign country or foreign entity unless, at least 60 days before imposing such a sanction, the President submits a report to Congress describing the proposed sanction and the reasons for it and Congress enacts a joint resolution approving the report. *See* 22 U.S.C. 7202. Section 906 of TSRA, however, requires in pertinent part that the export of agricultural commodities, medicine, or medical devices to the government of a country that has been determined by the Secretary of State, pursuant to, *inter alia,* Section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), to have repeatedly provided support for acts of international terrorism,[1] or to any entity in such a country, shall be made pursuant to one-year licenses issued by the United States Government, except that the requirements of such one-year licenses shall be no more restrictive than general licenses administered by the Department of the Treasury. *See* 22 U.S.C. 7205(a)(1). Section 906 also specifies that procedures shall be in place to deny licenses for exports of agricultural commodities, medicine, or medical devices to any entity within such country promoting international terrorism.

As provided in Section 221 of the USA PATRIOT Act (Pub. L. 107–56) (codified at 22 U.S.C. 7210), nothing in TSRA shall limit the application or scope of any law, including any Executive order or regulation promulgated pursuant to such law, establishing criminal or civil penalties for the unlawful export of any agricultural commodity, medicine, or medical device to: A Foreign Terrorist Organization; a foreign organization, group, or person designated pursuant to Executive Orders 12947 or 13224 (sanctions on terrorists and certain supporters of terrorism); weapons of mass destruction or missile proliferators; or designated narcotics trafficking entities. In addition, TSRA provides in Section 904(2) that the restrictions on the imposition of unilateral agricultural sanctions or unilateral medical sanctions shall not affect any authority or requirement to impose a sanction to the extent such sanction applies to any agricultural commodity, medicine, or medical device that is controlled on the United States Munitions List (USML), controlled on any control list established under the Export Administration Act of 1979 or any successor statute, or used to facilitate the design, development, or production of chemical or biological weapons, missiles, or weapons of mass destruction. *See* 22 U.S.C. 7203(2).

Specific TSRA-Related Regulatory Amendments

On October 22, 2012, OFAC adopted a final rule that, among other things, added a general license in § 560.530(a)(3) of the ITSR that authorized the exportation or reexportation of medicine and basic medical supplies to the Government of Iran, to individuals or entities in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions (*see* 77 FR 64664). The term ''basic medical supplies'' was defined to mean those medical devices, as defined in the ITSR, that were included on the List of Basic Medical Supplies made available on OFAC's Web site and published in the **Federal Register**, but did not include replacement parts. On April 17, 2014, OFAC adopted a final rule that, among other things, updated the definition of ''basic medical supplies'' to exclude the word ''basic'' and make related conforming changes, including renaming the list on OFAC's Web site as the ''List of Medical Supplies'' (*see* 79 FR 18990). On November 2, 2015 and April 12, 2016, OFAC updated the List of Medical Supplies to add additional medical devices to the list.

Also on April 17, 2014, OFAC expanded an existing general license in § 560.530(a)(2) that authorized the exportation and reexportation of food to authorize the exportation or reexportation of the broader category of agricultural commodities, with certain specified exceptions, to the Government of Iran, to individuals or entities in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions (*see* 79 FR 18980). OFAC also added a general license in § 560.530(a)(4) authorizing the exportation or reexportation of replacement parts for certain medical devices, provided that the replacement parts are designated as EAR99 or, in the case of replacement parts that are not subject to the EAR, would be designated as EAR99 if they were located in the United States, and further provided that the replacement parts are limited to a one-for-one basis of exchange (*i.e.,* only one replacement part can be exported or

[1] The Secretary of State made such a determination with respect to Iran on January 19, 1984.

reexported to replace a broken or non-operational component).

Since these amendments, in consultation with the Department of State, OFAC has routinely issued specific licenses authorizing the exportation or reexportation of certain additional medical devices and agricultural commodities to the Government of Iran, to individuals or entities in Iran, or to persons in third countries purchasing such goods specifically for resale to any of the foregoing. In addition, OFAC has continued to receive feedback from the regulated public and review its TSRA licensing procedures, particularly the procedures for licensing exports and reexports of medical devices and agricultural commodities.

As a result of this review, OFAC today is amending the general license relating to authorized sales of certain medical devices in § 560.530(a)(3) to expand the scope of medical devices that may be exported or reexported to Iran without specific authorization. OFAC is also narrowing the list of agricultural commodities excluded from the general license relating to authorized sales of agricultural commodities in § 560.530(a)(2). In addition, in response to feedback from the regulated public regarding improving patient safety, OFAC is making the following changes: Expanding existing general licenses to authorize the provision of training for the safe and effective use or operation of agricultural commodities, medicine, and medical devices; expanding an existing general license authorizing the exportation or reexportation to Iran of replacement parts to permit certain additional replacement parts to be exported or reexported and stored for future use; adding a new general license to authorize the exportation and reexportation to Iran of software and services related to the operation, maintenance, and repair of medical devices previously exported pursuant to an OFAC authorization; and adding a new general license to authorize the importation into the United States of items previously exported pursuant to an OFAC authorization in connection with product recalls, adverse events, or other safety concerns, as set forth in more detail below.

Additional medical devices. OFAC is amending the existing general license in § 560.530(a)(3) relating to authorized exports or reexports of certain medical devices specified on the List of Medical Supplies. As amended, the general license has been expanded to authorize the exportation or reexportation to Iran of all items meeting the definition of the term ''medical device'' as set forth in § 560.530(e)(3), except for certain medical devices that are explicitly excluded from the authorization as specified in a new List of Medical Devices Requiring Specific Authorization, which is maintained on OFAC's Web site on the Iran Sanctions page, as set forth in revised § 560.530(a)(3)(ii). The List of Medical Devices Requiring Specific Authorization will also be published in the **Federal Register**, as will any changes to this list. The exportation and reexportation of the specified excluded medical devices requires specific authorization from OFAC, as reflected in amended § 560.530(a)(1)(ii)(C). Medical devices other than those specified on the new List of Medical Devices Requiring Specific Authorization may be exported or reexported to Iran without separate authorization from OFAC. In light of these changes, this rule also eliminates reference to the List of Medical Supplies.

Excluded agricultural commodities. OFAC is also narrowing the list of excluded agricultural commodities set forth in § 560.530(a)(2)(ii). Pursuant to this amendment, the general license in § 560.530(a)(2) now authorizes the exportation or reexportation to Iran of shrimp and shrimp eggs.

Training. OFAC is adding a new provision in § 560.530(a)(2)(iv) to generally authorize the provision of training necessary and ordinarily incident to the safe and effective use of agricultural commodities exported or reexported pursuant to the general license in § 560.530(a)(2). OFAC similarly is adding a new provision in § 560.530(a)(3)(v) to authorize the provision of training necessary and ordinarily incident to the safe and effective use or operation of medicine and medical devices exported or reexported pursuant to the general license in § 560.530(a)(3).

Additional replacement parts. OFAC is amending the existing general license in § 560.530(a)(4) authorizing exports or reexports of and related transactions for replacement parts for certain medical devices that are designated as EAR99 or, in the case of replacement parts that are not subject to the EAR, would be designated as EAR99 if they were located in the United States, on a one-for-one export or reexport basis of exchange. As amended, the general license removes the requirement for a one-for-one basis of exchange and allows the exportation and reexportation of such replacement parts provided that they are intended to replace a broken or nonoperational component of a medical device previously exported or reexported to Iran pursuant to an OFAC authorization or that the exportation or reexportation of the replacement part is ordinarily incident and necessary to the proper preventative maintenance of such a medical device, and further provided that the number of replacement parts that are exported or reexported to and stored in Iran does not exceed the number of corresponding parts in use in relevant medical devices in Iran.

Software and services related to the operation, maintenance, and repair of medical devices. OFAC is adding a new general license in § 560.530(a)(5) to authorize the exportation or reexportation to Iran of software and services related to the operation, maintenance, and repair of medical devices that previously were exported or reexported to Iran pursuant to an OFAC authorization, provided that, among other things, such software is designated as EAR99, or in the case of software that is not subject to the EAR, would be designated as EAR99 if it were located in the United States. In § 560.530(a)(5)(i), OFAC is adding an authorization for the exportation or reexportation to Iran of software necessary for the installation and operation of medical devices authorized for export or reexport by OFAC. In § 560.530(a)(5)(ii), OFAC is adding an authorization to allow the exportation or reexportation of software updates for those devices. In § 560.530(a)(5)(iii), OFAC is adding an authorization for repair services for medical devices authorized for export or reexport to Iran by OFAC, including inspection, testing, calibration, and diagnostic services to ensure patient safety or effective operation of such medical devices.

Importation of items that are broken, defective, or non-operational or in connection with product recalls, adverse events, or other safety concerns. OFAC also is adding a new general license in § 560.530(a)(6) to authorize the importation into the United States of certain U.S.-origin agricultural commodities, medicine, and medical devices that previously were exported or reexported to Iran pursuant to the authorization in § 560.530 and that are broken, defective, or non-operational or connected to product recalls, adverse events, or other safety concerns.

Conforming change to section headings. In light of the addition of several new general licenses in § 560.530, OFAC is also making a conforming change to the section heading to reflect the additions. As the new general licenses require the payment and financing terms set forth in § 560.532, OFAC is making a similar

conforming change to that section heading to reflect the additions.

Amendment to Definition of ''Goods of Iranian Origin'' and ''Iranian-Origin Goods''

To address inquiries from the regulated public, including with regard to the status of goods on vessels and aircraft, OFAC also is amending the definition in § 560.306 of the terms *goods of Iranian origin* and *Iranian-origin goods* to clarify that this definition does not include certain categories of goods, provided that such goods were not grown, produced, manufactured, extracted, or processed in Iran. First, the amended definition excludes goods exported or reexported to Iran under an authorization issued pursuant to this part (*e.g.,* a medical device or a personal communications device exported or reexported to Iran pursuant to a general or specific license issued pursuant to this part) and that have subsequently been reexported from and are located outside of Iran. Second, the amended definition also clarifies that it does not include goods transported on a vessel or aircraft, as well as the underlying vessel or aircraft itself, that passed though Iranian territorial waters or stopped at a port or place in Iran en route to a destination outside of Iran and that have not otherwise come into contact with Iran. A note clarifies that, pursuant to this section, goods that are temporarily offloaded from a vessel in Iranian territorial waters or at a port in Iran and reloaded onto the same vessel or another vessel in the same location en route to a destination outside of Iran and that have not otherwise come into contact with Iran are not considered goods of Iranian origin. Similarly, goods that are offloaded from an aircraft at a place in Iran and reloaded onto the same aircraft or another aircraft in the same location en route to a destination outside of Iran and that have not otherwise come into contact with Iran are not considered goods of Iranian origin. This amended definition is relevant to the prohibitions in §§ 560.201 and 560.206 of the ITSR, which remain in place; it is not relevant to the prohibitions in §§ 560.204, 560.205, and 560.211 on exports of goods to Iran and on transactions in goods involving blocked persons, which also remain in place.

Public Participation

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

Paperwork Reduction Act

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

List of Subjects in 31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, Banking, Iran, Medicine, Medical devices.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 560 as follows:

PART 560—IRANIAN TRANSACTIONS AND SANCTIONS REGULATIONS

■ 1. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2339B, 2332d; 22 U.S.C. 2349aa–9; 22 U.S.C. 7201–7211; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); Pub. L. 110–96, 121 Stat. 1011 (50 U.S.C. 1705 note); Pub. L. 111–195, 124 Stat. 1312 (22 U.S.C. 8501–8551); Pub. L. 112–81, 125 Stat. 1298 (22 U.S.C. 8513a); Pub. L. 112–158, 126 Stat. 1214 (22 U.S.C. 8701–8795); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217; E.O. 13599, 77 FR 6659, 3 CFR, 2012 Comp., p. 215; E.O. 13628, 77 FR 62139, 3 CFR, 2012 Comp., p. 314.

Subpart C—General Definitions

■ 2. Amend § 560.306 by revising paragraph (a), redesignating paragraphs (b) through (d) as paragraphs (c) through (e), and adding new paragraph (b) to read as follows:

§ 560.306 Iranian-origin goods or services; goods or services owned or controlled by the Government of Iran.

(a) Except as provided in paragraph (b) of this section, the terms *goods of Iranian origin* and *Iranian-origin goods* include:

(1) Goods grown, produced, manufactured, extracted, or processed in Iran; and

(2) Goods that have entered into Iranian commerce.

(b) The terms *goods of Iranian origin* and *Iranian-origin goods* do not include the following categories of goods, provided that such goods were not grown, produced, manufactured, extracted, or processed in Iran:

(1) Goods exported or reexported to Iran under an authorization issued pursuant to this part and that have subsequently been reexported from and are located outside of Iran; or

(2) Goods transported on a vessel or aircraft, as well as the vessel or aircraft itself, that passed though Iranian territorial waters or stopped at a port or place in Iran en route to a destination outside of Iran and that have not otherwise come into contact with Iran.

Note to paragraph (b)(2) of § 560.306: Pursuant to this section, goods that are temporarily offloaded from a vessel in Iranian territorial waters or at a port or place in Iran and reloaded onto the same vessel or another vessel in the same location en route to a destination outside of Iran and that have not otherwise come into contact with Iran are not considered goods of Iranian origin. Similarly, goods that are offloaded from an aircraft at a place in Iran and reloaded onto the same aircraft or another aircraft in the same location en route to a destination outside of Iran and that have not otherwise come into contact with Iran are not considered goods of Iranian origin.

* * * * *

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

■ 3. Amend § 560.530 as follows:
■ a. Revise the section heading and paragraphs (a)(1)(ii)(C) and (D) and (a)(2)(ii) and (iii);
■ b. Add paragraph (a)(2)(iv);
■ c. Revise paragraphs (a)(3)(i), (ii), and (iv);
■ d. Add paragraph (a)(3)(v);
■ e. Revise paragraphs (a)(4)(i) and (ii);
■ f. Add paragraphs (a)(5) and (6); and
■ g. Revise paragraph (c)(5).

The revisions and additions read as follows:

§ 560.530 Commercial sales, exportation, and reexportation of agricultural commodities, medicine, medical devices, and certain related software and services.

(a)(1) * * *

(ii) * * *

(C) The excluded medical devices specified in paragraph (a)(3)(ii) of this section; and

(D) Agricultural commodities (as defined in paragraph (e)(1) of this

section), medicine (as defined in paragraph (e)(2) of this section), and medical devices (as defined in paragraph (e)(3) of this section) to military, intelligence, or law enforcement purchasers or importers.

(2) * * *

(ii) *Excluded agricultural commodities.* Paragraph (a)(2)(i) of this section does not authorize the exportation or reexportation of the following items: Castor beans, castor bean seeds, certified pathogen-free eggs (unfertilized or fertilized), dried egg albumin, live animals (excluding live cattle, shrimp, and shrimp eggs), embryos (excluding cattle embryos), Rosary/Jequirity peas, non-food-grade gelatin powder, peptones and their derivatives, super absorbent polymers, western red cedar, or all fertilizers.

(iii) *Excluded persons.* Paragraph (a)(2)(i) of this section does not authorize the exportation or reexportation of agricultural commodities to military, intelligence, or law enforcement purchasers or importers.

(iv) *General license for related training.* The provision by a covered person (as defined in paragraph (e)(4) of this section) of training necessary and ordinarily incident to the safe and effective use of agricultural commodities exported or reexported pursuant to paragraph (a)(2) of this section to the Government of Iran, to any individual or entity in Iran, or to persons in a third country purchasing such goods specifically for resale to any of the foregoing is authorized, provided that:

(A) Unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532;

(B) Any technology released pursuant to this authorization is designated as EAR99; and

(C) Such training is not provided to any military, intelligence, or law enforcement entity, or any official or agent thereof.

* * * * *

(3)(i) *General license for the exportation or reexportation of medicine and medical devices.* Except as provided in paragraphs (a)(3)(ii) through (iv) of this section, the exportation or reexportation by a covered person (as defined in paragraph (e)(4) of this section) of medicine (as defined in paragraph (e)(2) of this section) and medical devices (as defined in paragraph (e)(3) of this section) to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, and the conduct of related transactions, including the making of shipping and cargo inspection arrangements, obtaining of insurance, arrangement of financing and payment, shipping of the goods, receipt of payment, and entry into contracts (including executory contracts), are hereby authorized, provided that, unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532; and further provided that all such exports or reexports are shipped within the 12-month period beginning on the date of the signing of the contract for export or reexport.

(ii) *Excluded medical devices.* Paragraph (a)(3)(i) of this section does not authorize the exportation or reexportation of medical devices on the List of Medical Devices Requiring Specific Authorization, which is maintained on OFAC's Web site (*www.treasury.gov/ofac*) on the Iran Sanctions page.

* * * * *

(iv) *Excluded persons.* Paragraph (a)(3)(i) of this section does not authorize the exportation or reexportation of medicine or medical devices to military, intelligence, or law enforcement purchasers or importers.

(v) *General license for related training.* The provision by a covered person (as defined in paragraph (e)(4) of this section) of training necessary and ordinarily incident to the safe and effective use of medicine and medical devices exported or reexported pursuant to paragraph (a)(3) of this section to the Government of Iran, to any individual or entity in Iran, or to persons in a third country purchasing such goods specifically for resale to any of the foregoing is authorized, provided that:

(A) Unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532;

(B) Any technology released pursuant to this authorization is designated as EAR99; and

(C) Such training is not provided to any military, intelligence, or law enforcement entity, or any official or agent thereof.

* * * * *

(4) * * *

(i) Except as provided in paragraph (a)(4)(ii) of this section, the exportation or reexportation by a covered person (as defined in paragraph (e)(4) of this section) of replacement parts to the Government of Iran, to any individual or entity in Iran, or to persons in third countries purchasing specifically for resale to any of the foregoing, for medical devices (as defined in paragraph (e)(3) of this section) exported or reexported pursuant to paragraph (a)(1) or (a)(3)(i) of this section, and the conduct of related transactions, including the making of shipping and cargo inspection arrangements, obtaining of insurance, arrangement of financing and payment, shipping of the goods, receipt of payment, and entry into contracts (including executory contracts), are hereby authorized, provided that, unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532; and further provided that:

(A) Such replacement parts are designated as EAR99, or, in the case of replacement parts that are not subject to the Export Administration Regulations, 15 CFR parts 730 *through 774* (EAR), would be designated as EAR99 if they were located in the United States;

(B) Such replacement parts are exported or reexported to replace a broken or nonoperational component of a medical device that previously was exported or reexported pursuant to paragraph (a)(3)(i) of this section, or the exportation or reexportation of such replacements parts is necessary and ordinarily incident to the proper preventative maintenance of such a medical device;

(C) The number of replacement parts that are exported or reexported and stored in Iran does not exceed the number of corresponding operational parts currently in use in relevant medical devices in Iran; and

(D) The broken or non-operational replacement parts that are being replaced are promptly exported, reexported, or otherwise provided to a non-Iranian entity located outside of Iran selected by the supplier of the replacement parts.

(ii) *Excluded persons.* Paragraph (a)(4)(i) of this section does not authorize the exportation or reexportation of replacement parts for medical devices to military, intelligence, or law enforcement purchasers or importers.

* * * * *

(5) *General license for services and software necessary for the operation, maintenance, and repair of medical devices*—(i) *Operational software.* Except as provided in paragraph

(a)(5)(iv) of this section, the exportation or reexportation by a covered person (as defined in paragraph (e)(4) of this section) to the Government of Iran, to any individual or entity in Iran, or to persons in a third country purchasing specifically for resale to any of the foregoing, of software necessary for the installation and operation of medical devices or replacement parts exported or reexported pursuant to this section, and the conduct of related transactions, are hereby authorized, provided that such software is designated as EAR99, or in the case of software that is not subject to the EAR, would be designated as EAR99 if it were located in the United States, and further provided that, unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532.

(ii) *Software updates.* Except as provided in paragraph (a)(5)(iv) of this section, the exportation or reexportation by a covered person (as defined in paragraph (e)(4) of this section) to the Government of Iran, to any individual or entity in Iran, or to persons in a third country purchasing specifically for resale to any of the foregoing, of software intended for and limited to the provision of safety and service updates and the correction of system or operational errors in medical devices, replacement parts, and associated software that previously were exported, reexported, or provided pursuant to this part, and the conduct of related transactions, are hereby authorized, provided that such software is designated as EAR99, or in the case of software that is not subject to the EAR, would be designated as EAR99 if it were located in the United States, and further provided that, unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532. Such software updates may be exported or reexported only to the same end user to whom the original software was exported or reexported.

(iii) *Maintenance and Repair Services.* Except as provided in paragraph (a)(5)(iv) of this section, the exportation or reexportation by a covered person (as defined in paragraph (e)(4) of this section) to the Government of Iran, to any individual or entity in Iran, or to persons in a third country purchasing specifically for resale to any of the foregoing, of services necessary to maintain and repair medical devices that previously were exported or reexported pursuant to this section, including inspection, testing, calibration, or repair services to ensure patient safety or effective operation, and the conduct of related transactions, are hereby authorized, provided that such services do not substantively alter the functional capacities of the medical device as originally authorized for export or reexport, and further provided that, unless otherwise authorized by specific license, payment terms and financing for sales pursuant to this general license are limited to, and consistent with, those authorized by § 560.532.

(iv) *Excluded persons.* Paragraphs (a)(5)(i) through (iii) of this section do not authorize the exportation or reexportation of software, software updates, or maintenance and repair services for medical devices to military, intelligence, or law enforcement purchasers or importers.

(6)(i) *General license for the importation of certain U.S.-origin agricultural commodities, medicine, and medical devices.* Except as provided in paragraph (a)(6)(ii) of this section, the importation into the United States of U.S.-origin agricultural commodities, medicine, and medical devices, including parts, components, or accessories thereof, that previously were exported or reexported pursuant to the authorizations in this section and that are broken, defective, or non-operational, or are connected to product recalls, adverse events, or other safety concerns, and the conduct of related transactions, are hereby authorized.

(ii) *Excluded persons.* Paragraph (a)(6)(i) of this section does not authorize the importation into the United States of U.S.-origin agricultural commodities, medicine, and medical devices that previously were exported or reexported pursuant to the authorizations in this section as broken, defective, or non-operational, or in connection with product recalls, adverse events, or other safety concerns, from military, intelligence, or law enforcement purchasers or importers.

* * * * *

(c) * * *

(5) For items subject to the EAR, an Official Commodity Classification of EAR99 issued by the Department of Commerce's Bureau of Industry and Security (BIS), certifying that the product is designated as EAR99, is required to be submitted to OFAC with the request for a license authorizing the exportation or reexportation of all fertilizers, live horses, western red cedar, or the excluded medical devices specified in paragraph (a)(3)(ii) of this section. *See* 15 CFR 748.3 for instructions for obtaining an Official Commodity Classification of EAR99 from BIS.

* * * * *

■ 4. Amend § 560.532 by revising the section heading to read as follows:

§ 560.532 Payment for and financing of exports and reexports of agricultural commodities, medicine, and medical devices, and certain related software and services.

* * * * *

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2016–30968 Filed 12–22–16; 8:45 am]

BILLING CODE 4810–AL–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0304; FRL–9957–20–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Control of Volatile Organic Compounds Emissions From Fiberglass Boat Manufacturing Materials

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision submitted by the State of Maryland. This revision pertains to Maryland's adoption of the requirements in EPA's control technique guidelines (CTG) for fiberglass boat manufacturing materials. EPA is approving this Maryland SIP submittal as it is in accordance with the requirements of the Clean Air Act (CAA).

DATES: This final rule is effective on January 23, 2017.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2016–0304. All documents in the docket are listed on the *http://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 through *http://www.regulations.gov,* or please contact

the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Gavin Huang, (215) 814–2042, or by email at *huang.gavin@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 1, 2016 (81 FR 50427 and 81 FR 50336), EPA simultaneously published a notice of proposed rulemaking (NPR) and a direct final rule (DFR) for the State of Maryland. On September 16, 2016 (81 FR 63701), EPA withdrew the DFR due to the receipt of a comment on the proposed rulemaking. In the NPR, EPA proposed to include in the Maryland SIP a Maryland regulation which adopted the requirements in EPA's CTG for fiberglass boat manufacturing materials. The formal SIP revision (#15–07) was submitted by Maryland on December 23, 2015.

As described in the DFR published on August 1, 2016 (81 FR 50336), section 172(c)(1) of the CAA provides that SIPs for nonattainment areas must include reasonably available control measures (RACM), including reasonably available control technology (RACT), for sources of emissions. Additionally, Maryland is in the Ozone Transport Region (OTR) established under section 184(a) of the CAA. Pursuant to section 184(b)(1)(B) of the CAA, all areas in the OTR must submit SIP revisions that include implementation of RACT with respect to all sources of volatile organic compounds (VOC) in the states covered by a CTG. *See* CAA section 184(b)(1).

In September 2008, EPA developed a CTG entitled Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials (Publication No. EPA 453/R–08–004). The CTG for fiberglass boat manufacturing materials provides control recommendations for reducing VOC emissions from the use of gel coats, resins, and materials used to clean application equipment in fiberglass boat manufacturing operations. This CTG applies to facilities that manufacture hulls or decks of boats from fiberglass or build molds to make fiberglass boat hulls or decks.

II. Summary of SIP Revision

On December 23, 2015, the Maryland Department of the Environment (MDE) submitted on behalf of the State of Maryland to EPA SIP revision #15–07 concerning implementation of RACT requirements for the control of VOC emissions from fiberglass boat manufacturing materials. Maryland adopted EPA's CTG standards for fiberglass boat manufacturing materials through a regulation found at Code of Maryland Regulations (COMAR) 26.11.19 (relating to VOC from specific processes). This SIP revision adds COMAR 26.11.19.26–1 (control of VOC emissions from fiberglass boat manufacturing materials) to the Maryland SIP and also includes an amendment to COMAR 26.11.19.26 (control of VOC emissions from reinforced plastic manufacturing) which was previously approved into the Maryland SIP. In addition to adopting EPA's CTG standards, COMAR 26.11.19.26–1 includes numerous terms and definitions to support the interpretation of the measures, as well as work practices for cleaning, compliance and monitoring requirements, sampling and testing, and record keeping requirements. The amendment to COMAR 26.11.19.26 at COMAR 26.11.19.26A exempts fiberglass boat manufacturing from provisions within COMAR 26.11.19.26 to avoid duplicative or conflicting requirements. Prior to Maryland's new COMAR 26.11.19.26–1, fiberglass boat manufacturing materials were covered under COMAR 26.11.19.26 which did not address fully EPA's CTG requirements. Thus, with COMAR 26.11.19.26–1 now addressing fiberglass boat manufacturing materials, Maryland has revised COMAR 26.11.19.26A to clarify and exempt fiberglass boat manufacturing materials from COMAR 26.11.19.26A as these are now clearly addressed in COMAR 26.11.19.26–1. EPA finds the provisions in COMAR 26.11.19.26–1 identical to the CTG standards for fiberglass boat manufacturing materials and therefore approvable in accordance with sections 172(c)(1) and 184(b)(1)(B) of the CAA.

III. Public Comments and EPA's Responses

EPA received a comment from the Export Inspection Council of India within the Ministry of Commerce and Industry, Government of India (hereinafter referred to as ''Commenter'') on the August 1, 2016 NPR.

Comment: The Commenter sought clarification to determine if Maryland's adoption of EPA's CTG guidelines for fiberglass boat manufacturing materials applied to international manufacturing facilities that export fiberglass boats into the United States. Additionally, if the proposed guidelines are applicable to imported boats, the Commenter questioned how EPA will implement the guidelines and if they will add to the international import requirements of fiberglass boats into the United States.

Response: EPA thanks the Commenter for its submission seeking clarification of the Maryland regulation on fiberglass boat manufacturing. COMAR 26.11.19.26–1 applies to fiberglass manufacturing facilities that manufacture hulls or decks of fiberglass boats, assemble fiberglass boats from premanufactured hulls and decks, or build molds to make hulls or decks of fiberglass boats. *See* COMAR 26.11.19.26–1(B)(5). As such, the regulation applies only to manufacturing, assembling or building occurring within Maryland and does not apply to fiberglass boats imported into the State from other locations, including from locations overseas. In addition, under Annotated Code of Maryland § 2–103(b), Maryland and the Maryland Department of the Environment specifically only have jurisdiction over emissions into the air in the State and over ambient air quality in the State of Maryland. Because Maryland's regulatory authority therefore does not extend to regulating activities outside the State, EPA is clarifying that COMAR 26.11.19.26–1 does not regulate nor apply to fiberglass boat manufacturing done outside the State of Maryland. Because the regulation does not apply to fiberglass boat manufacturing outside the State of Maryland, EPA need not respond to the Commenter's inquiry as to how COMAR 26.11.19.26–1 would be implemented for imported fiberglass boats. Finally, EPA clarifies that COMAR 26.11.19.26–1 does not add to import requirements for fiberglass boats being imported into Maryland.

IV. Final Action

EPA is approving the December 23, 2015 Maryland SIP submittal, which revises the Maryland SIP by adding new regulation COMAR 26.11.19.26–1 and amending COMAR 26.11.19.26, because the SIP submittal meets the requirement to adopt RACT for sources covered by EPA's CTG standards for fiberglass boat manufacturing materials and is in accordance with requirements in CAA sections 172, 182 and 184.

V. Incorporation by Reference

In this rule, EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, EPA is finalizing the incorporation by reference of COMAR 26.11.19.26–1 and an amendment to COMAR 26.11.19.26 addressing VOC content limits for fiberglass boat manufacturing into the Maryland SIP. Therefore, these materials have been approved by EPA for inclusion in the SIP, have been incorporated by reference by EPA into

that plan, are fully federally enforceable under sections 110 and 113 of the CAA as of the effective date of the final rulemaking of EPA's approval, and will be incorporated by reference by the Director of the Federal Register in the next update to the SIP compilation.[1] EPA has made, and will continue to make, these materials generally available through *http://www.regulations.gov* and/or at the EPA Region III Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

VI. Statutory and Executive Order Reviews

A. General Requirements

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 21, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving the Maryland SIP revision adding new regulation COMAR 26.11.19.26–1 and amending COMAR 26.11.19.26 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, Ozone, Volatile organic compounds.

Dated: December 7, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising COMAR 26.11.19.26 and the entry for COMAR 26.11.19.26–1. The amended text reads as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	*	*	*	*
26.11.19 Volatile Organic Compounds From Specific Processes				

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

EPA-APPROVED REGULATIONS, TECHNICAL MEMORANDA, AND STATUTES IN THE MARYLAND SIP—Continued

Code of Maryland Administrative Regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/ citation at 40 CFR 52.1100
*	* * * *	*	*	*
26.11.19.26	Control of Volatile Organic Compound Emissions from Reinforced Plastic Manufacturing.	09/28/15	12/23/16 [Insert **Federal Register** citation].	Amendment to .26A.
26.11.19.26–1	Control of Volatile Organic Compound Emissions from Fiberglass Boat Manufacturing.	09/28/15	12/23/16 [Insert **Federal Register** citation].	New Regulation.
*	* * * *	*	*	*

* * * * *

[FR Doc. 2016–30880 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0009; FRL–9957–31-Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the North Penn Area 6 Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; notice of partial deletion of the North Penn Area 6 Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is publishing a direct final notice of partial deletion of a portion of the North Penn Area 6 Superfund Site (Site) located in Lansdale Borough, Montgomery County, Pennsylvania, from the National Priorities List (NPL). The deletion affects approximately 6.5 acres located at 135 East Hancock Street (the ''Administrative Parcel''). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). This direct final partial deletion is being published by EPA with the concurrence of the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), because EPA has determined that all appropriate response actions at the Administrative Parcel under CERCLA, other than five-year reviews, have been completed. However, this partial deletion does not preclude future actions at the Administrative Parcel under Superfund.

This partial deletion pertains to soils and groundwater of the Administrative Parcel portion of the Site. The other portions of the Site will remain on the NPL, and are not being considered for deletion as part of this action.

DATES: This direct final partial deletion is effective February 21, 2017 unless EPA receives adverse comments by January 23, 2017. If adverse comments are received, EPA will publish a timely withdrawal of the direct final partial deletion in the **Federal Register** informing the public that the partial deletion will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0009, by one of the following methods:

- *http://www.regulations.gov*. Follow on-line instructions for submitting comments.
- *Email: ngo.huu@epa.gov.*
- *Mail:* U.S. Environmental Protection Agency, Region III, Attn: Huu Ngo (3HS21), 1650 Arch Street, Philadelphia, PA 19103–2029
- *Hand Delivery:* U.S. Environmental Protection Agency, Region III, Attn: Huu Ngo (3HS21), 1650 Arch Street, Philadelphia, PA 19103–2029, Phone: 215–814–3187, Business Hours: Mon. through Fri.—8:00 a.m. to 4:30 p.m. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID no. EPA–HQ–SFUND–1989–0009. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *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, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at:

- U.S. EPA Region III, Superfund Records Center, 6th Floor, 1650 Arch Street, Philadelphia, PA 19103–2029;

(215) 814–3157, Monday through Friday 8:00 a.m. to 5:00 p.m.

• The Lansdale Public Library, 301 Vine St, Lansdale, PA 19446; phone (215) 855–3228. Monday through Friday 10:00 a.m.–9:00 p.m.

FOR FURTHER INFORMATION CONTACT: Huu Ngo, Remedial Project Manager (3HS21), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029; (215) 814–3187; email: *ngo.huu@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

EPA Region III is publishing this direct final Notice of Partial Deletion of a portion the North Penn Area 6 Superfund Site from the National Priorities List (NPL). This partial deletion pertains to the soils and groundwater of the Administrative Parcel portion of the Site. The NPL constitutes Appendix B of 40 CFR part 300, which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) of 1980, as amended. EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund (Fund). This partial deletion of the North Penn Area 6 Site is proposed in accordance with 40 CFR 300.425(e) and is consistent with the Notice of Policy Change: Partial Deletion of Sites Listed on the National Priorities List. 60 FR 55466 (Nov. 1, 1995). As described in 40 CFR 300.425(e)(3) of the NCP, a portion of a site deleted from the NPL remains eligible for Fund-financed remedial actions if future conditions warrant such actions.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the Administrative Parcel of the North Penn Area 6 Superfund Site and demonstrates how it meets the deletion criteria. Section V discusses EPA's action to delete the Administrative Parcel portion of the Site from the NPL unless adverse comments are received during the public comment period.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate. In making such a determination pursuant to 40 CFR 300.425(e), EPA will consider, in consultation with the Commonwealth, whether any of the following criteria have been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. all appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

iii. the remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, the taking of remedial measures is not appropriate.

Pursuant to CERCLA section 121(c) and the NCP, EPA conducts five-year reviews to ensure the continued protectiveness of remedial actions where hazardous substances, pollutants, or contaminants remain at a site above levels that allow for unlimited use and unrestricted exposure. EPA conducts such five-year reviews even if a site is deleted from the NPL. EPA may initiate further action to ensure continued protectiveness at a deleted site if new information becomes available that indicates such action is appropriate. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system.

III. Partial Deletion Procedures

The following procedures apply to deletion of the Administrative Parcel portion of the Site:

(1) EPA consulted with the Commonwealth of Pennsylvania prior to developing this direct final Notice of Partial Deletion and the Notice of Intent for Partial Deletion co-published today in the ''Proposed Rules'' section of the **Federal Register**.

(2) EPA provided the Commonwealth 30 working days for review of this notice and the parallel Notice of Intent for Partial Deletion prior to their publication today, and the Commonwealth, through PADEP, concurred on the partial deletion of the Site from the NPL.

(3) Concurrently with the publication of this direct final Notice of Partial Deletion, a notice of the availability of the parallel Notice of Intent for Partial Deletion is being published in a major local newspaper, *The Reporter.* The newspaper notice announces the 30-day public comment period concerning the Notice of Intent for Partial Deletion of the Site from the NPL.

(4) The EPA placed copies of documents supporting the partial deletion in the deletion docket and made these items available for public inspection and copying at the Site information repositories identified above.

(5) If adverse comments are received within the 30-day public comment period on this partial deletion action, EPA will publish a timely notice of withdrawal of this direct final Notice of Partial Deletion before its effective date, and will prepare a response to comments and continue with the deletion process, as appropriate, on the basis of the Notice of Intent for Partial Deletion and the comments already received.

Deletion of a portion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. Deletion of a portion of a site from the NPL does not in any way alter EPA's right to take enforcement actions, as appropriate. The NPL is designed primarily for informational purposes and to assist EPA management. Section 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility for future response actions, should future conditions warrant such actions.

IV. Basis for Partial Site Deletion

The following information provides EPA's rationale for deleting the Administrative Parcel portion of the Site from the NPL:

Site Background and History

The North Penn Area 6 Superfund Site (EPA Identification Number PAD980926976) is located primarily in Lansdale Borough, Montgomery County, Pennsylvania. The Site is comprised of multiple properties contaminated primarily with volatile organic compounds (VOCs) in the soil and associated groundwater contamination. One of the properties consists of approximately 10 acres of land located at 135 East Hancock Street in Lansdale Borough (the ''Property''). The Property was formerly occupied by the Tate Andale Company, and later by the Rogers Mechanical Company. The Administrative Parcel is comprised of approximately 6.5 acres located within the Property.

The current owner of the Property, including the Administrative Parcel, is

Andale Properties, LLC. Andale Properties, LLC plans to redevelop the Property for future residential purposes. Andale Properties, LLC has divided the Property into four Phases (1 through 4) for redevelopment. The Administrative Parcel is comprised of Phases 2 and 3.

The Property is currently occupied by three buildings, portions of two former structures, and footers and concrete pads from previous on-site buildings. A treatment system operated currently by EPA for treatment of groundwater and multiple monitoring wells are also present at the Property. The Property is bordered to the southwest by East Hancock Street, and to the west, northwest, and east by railroad lines. The ground surface elevation of the Property is approximately 370 feet above mean sea level. The Property consists of relatively flat terrain with a gradual slope towards the southwest. There are no surface water bodies located within the boundaries of the Property. The nearest body of water is the Towamencin Creek, which is located approximately 2,800 feet southwest of the Property. Surface water runoff following precipitation events either infiltrates the ground surface or drains towards the western portion of the Property prior to entering a swale adjacent to the neighboring railroad tracks. Surrounding land use includes commercial, industrial, and residential uses.

The Tate Andale Company formerly occupied the Property dating back to at least the 1920s, and historically used the Property to fabricate oil coolers, heaters, and strainers. Rogers Mechanical Company purchased the Property in 1985 and operated a plumbing and heating business. The former Tate Andale Company was one of twenty-six property owners/operators to be identified as a potentially responsible party (PRP) at the Site following the detection of groundwater contamination in the Lansdale area in 1979. North Penn Area 6 was proposed to the National Priorities List on January 22, 1987 (52 FR 27620), and became a Superfund Site when the listing became final on March 31, 1989 (54 FR 13296). EPA divided the Site into three operable units (OUs). Operable Unit One (OU1) consists of Fund-financed response actions to address the contaminated soils at certain of the properties that comprise the Site. Operable Unit Two (OU2) consists of PRP-financed response actions to address the contaminated soils at certain other properties that comprise the Site. Operable Unit Three (OU3) consists of Fund-financed and PRP-financed response actions to address the contaminated groundwater over the entire Site. All activities associated with investigation and remediation at the Property were performed by EPA and financed by the Fund, and are part of OU1 and OU3. The Administrative Parcel consists of soils and groundwater on the aforementioned approximately 6.5 acre portion of the Property.

Remedial Investigation and Feasibility Study (OU1)

Soils at the Property were investigated as part of the OU1 Remedial Investigation and Feasibility Study (RI/FS). The OU1 RI at the Property focused primarily on a coal ash and scrap metal pile located on the southwestern portion of the Property and another area on the eastern portion of the Property. Soil gas and soil samples were collected from these areas, and elevated levels of VOCs were found in the area on the eastern portion of the Property. Trichloroethylene (TCE) was detected at concentrations up to 4600 µg/kg, and contaminants associated with the breakdown of TCE were also found at elevated levels. The Risk Assessment determined that the contaminant levels would present a risk to groundwater, and a cleanup standard of 131 µg/kg for TCE in soil was determined to protect groundwater. An area comprising roughly 18,000 cubic feet of soil on the east side of the Property was determined to require treatment. The OU1 Feasibility Study considered alternatives for remediation of the VOC-contaminated soil including No Action, Containment with Cap, Vapor Extraction, Low Temperature Thermal Desorption, Soil Washing/Biotreatment, Excavation and Off-site Disposal, and In-Place Processing with Hot Air Injection.

Selected Remedy (OU1)

The Property was one of four properties addressed in the 1995 Record of Decision (ROD) for OU1. The OU1 Remedial Action Objective was to prevent further contamination of groundwater from contaminated soils. The selected alternative was in-place processing using hot air injection, with excavation and off-site disposal as a back-up. During the Remedial Design, it was determined that hot air injection would not achieve the performance standards of the OU1 ROD, and the backup remedy of excavation and off-site disposal was used to meet performance standards. Approximately 861 cubic yards of contaminated soil were removed from the Property as part of the OU1 remedial action and disposed of in a Resource Conservation and Recovery Act (RCRA) permitted landfill facility in Model City, New York. EPA approved the OU1 remedial action report for the Property in 2001.

Operable Unit 2 (OU2)

OU2 consists of soils investigations at certain enforcement-lead properties. The Property (including the Administrative Parcel to be deleted from the NPL) is not included in OU2.

Remedial Investigation and Feasibility Study (OU3)

Groundwater contamination was investigated as part of the RI/FS for OU3. Groundwater contamination at the Property is focused primarily in the southwestern portion of the Property. The OU3 RI/FS found contamination from VOCs at unacceptable levels in monitoring wells and a former production well (TA–1) on the Property. Contamination in well TA–1 was found at concentrations up to 7,740 µg/L of TCE, and the Property was included in the OU3 Feasibility Study to evaluate alternatives for treatment of the groundwater. The OU3 Feasibility Study considered several alternatives involving extraction of contaminated groundwater using differing treatment technologies and differing discharge points.

Selected Remedy (OU3)

The Property was included in the OU3 ROD in 2000, which called for construction of groundwater extraction and treatment systems at several properties, including the Property, included in the Site to remediate the contaminated groundwater. The goal of the groundwater extraction and treatment systems is to restore the aquifer to beneficial use as a potable use aquifer. The major components of the selected remedy in the OU3 ROD include the following:

- Completion of a groundwater remedial design study to determine the most efficient design of a groundwater extraction and treatment system.
- Installation, operation, and maintenance of on-site groundwater extraction wells to remove contaminated groundwater from beneath the Site and to prevent contaminants from migrating off-site.
- Installation, operation, and maintenance of air stripping treatment at on-site groundwater extraction wells to treat groundwater to required cleanup levels.
- Construction, operation, and maintenance of a pipeline from the on-site groundwater treatment systems to the nearest surface water body or storm drain leading to a surface water body.

• Periodic sampling of groundwater and treated water to ensure treatment components are effective and groundwater remediation is progressing towards the cleanup levels.

During the Remedial Design of the groundwater extraction and treatment system at the Property, EPA conducted a pump test on the extraction well at the Property. The well failed to produce an adequate yield of contaminated water to treat to significantly improve groundwater quality. As a result, EPA conducted additional testing to determine if adding a vapor extraction unit to the treatment system at the Property would increase contaminant removal and improve the performance of the OU3 selected remedy at the Property. Based on those results, EPA issued an Explanation of Significant Differences (ESD) on September 16, 2009, requiring implementation of a modified remedy at the Property which includes vapor extraction to enhance the performance of the remedy selected in the OU3 ROD. Testing also indicated that significant cost savings could be achieved by replacing the air stripper at the Property with a vessel containing granular activated carbon (GAC). Therefore, the ESD further allowed EPA to modify the OU3 remedy at the Property to allow for this form of treatment. The treatment system at the Property was built, and determined to be operational and functional in 2012. EPA plans on transferring the groundwater treatment system at the Property to PADEP for Operation and Maintenance (O&M) in 2022.

Response Actions

During the Remedial Design of the OU1 remedy to address contaminated soils at the Property, it was determined that the alternative selected in the OU1 ROD would not achieve the performance standards of the ROD; therefore, the backup remedy of excavation and off-site disposal was used to meet the performance standards. Approximately 861 cubic yards of contaminated soil were removed from the Property as part of the OU1 remedial action. EPA approved the OU1 remedial action report for the Property in 2001. No further actions to remediate the soil at the Property have been required.

During the Remedial Design of the OU3 remedy to address contaminated groundwater at the Property, it was determined that the alternative selected in the OU3 ROD would not treat enough contaminated water at the Property to significantly improve groundwater quality. As a result, EPA issued the ESD to require a modified remedy at the Property which includes vapor extraction and allows for the replacement of the air stripper with a vessel containing GAC to enhance the performance of the remedy selected in the OU3 ROD. EPA built the treatment system at the Property, and determined that it was operational and functional in 2012. EPA continues to operate and maintain the groundwater treatment system at the Property.

Cleanup Levels

In the OU1 ROD, EPA selected a soil cleanup level of 131 µg/kg of trichloroethylene (TCE) to be protective of groundwater. To expedite backfilling of excavated areas at the Property, EPA conducted Quality Control sampling prior to excavation to delineate the extent of contamination, and eliminate the need to keep excavation areas open while additional sampling and analysis were being performed to determine if the performance standard (cleanup level) for soil in the OU1 ROD had been met. Thirty samples were collected at the Property and sent for analysis. The performance standard was exceeded at one location; therefore, additional samples were collected further out. As a result of the sampling, the boundary of excavation was extended out five feet to comply with the OU1 performance standard. After the excavation and off-site disposal of soils was completed, EPA certified the OU1 Remedial Action at the Property to be complete.

The OU3 remedy to address contaminated groundwater called for restoration of the aquifer to beneficial use as a potable use aquifer. The OU3 ROD set the groundwater cleanup level as the EPA Maximum Contaminant Level (MCL). The MCL for TCE is 5 ug/L. There are currently ten monitoring wells on or near the Property: ROG–1S, ROG–1D, ROG–2S, ROG–2I, ROG–3S, ROG–3I, ROG–4S, ROG–4I, ROG–5, and ROG–6, in addition to the extraction well TA–1. Currently, only two of the monitoring wells at the Property, ROG–3S and ROG–4S, show contamination above the MCL. Most monitoring wells at the Property have shown downward trends in contamination since the OU3 remedy was implemented. The monitoring wells located in the Administrative Parcel (ROG–1S, ROG1D, ROG–2S, and ROG–2I) have never exhibited contaminant concentrations in excess of the performance standard (cleanup level) for groundwater in the OU3 ROD and are considered to be upgradient from the current contaminated groundwater plume.

Operation and Maintenance (O&M)

There are no O&M requirements and no institutional controls for OU1 at the Property. For OU3, EPA plans on transferring the groundwater treatment system at the Property to PADEP for O&M in 2022. There are no institutional controls for OU3 at the Property. The monitoring wells on the Administrative Parcel will continue to be sampled.

Five-Year Review

The selected remedial actions, upon completion, will not leave hazardous substances, pollutants, or contaminants on site above levels that allow for unlimited use and unrestricted exposure; however, the OU3 remedial action will require more than five years to complete. As a result, EPA will perform Five Year Reviews at the Site pursuant to Section 121(c) of CERCLA, 42 U.S.C. 9621(c), until the cleanup levels for groundwater in the OU3 ROD are achieved, allowing for unlimited use and unrestricted exposure. Five Year Reviews will be triggered by the date that construction is completed at the entire Site.

Additional Investigations

The owner of the Property performed additional investigations at the Property subsequent to EPA's investigations. In 2005, fifty soil borings were advanced throughout the Property. A soil sample was collected from each soil boring and analyzed for VOC contamination. No soil samples exceeded EPA's performance standards (cleanup levels) for soil in the OU1 ROD. Nine composite samples were also collected and analyzed for semi-volatile organic compounds (SVOCs), polychlorinated biphenyls (PCBs), pesticides, metals, and cyanide. SVOCs, PCBs, pesticides, and cyanide were not detected at elevated levels in these samples; however, arsenic was detected in three samples at levels that exceeded background and EPA Regional Screening Levels (RSLs). In 2006, the owner of the Property conducted additional sampling in the vicinity of the samples where the elevated levels of arsenic were found. Eighteen additional soil borings were advanced, and two soil samples were collected from each boring. Elevated levels of arsenic were detected in two soil borings. EPA conducted a more rigorous evaluation of the risks associated with the arsenic levels and determined that the risks associated with the concentrations are within EPA's acceptable risk range.

The owner of the Property also conducted sampling to evaluate the planned construction of a stormwater

basin on the Lansdale Borough electrical substation property located within the boundaries of the Property. Twelve test pits were excavated, two of which are located within the Administrative Parcel. The test pits were analyzed for VOCs, and a composite sample was analyzed for SVOCs, pesticides, PCBs, metals, and cyanide. No VOCs were detected at levels above EPA's performance standards (cleanup levels) for soil in the OU1 ROD. SVOCs, PCBs, metals, and cyanide were not detected at elevated levels.

The owner of the Property conducted additional sampling in 2016 on an approximately 3,000 cubic yard pile of top soil to be used as ground cover for the residential development. Twelve samples were collected from the pile and analyzed for metals. One sample was analyzed for hexavalent chromium. Metals concentrations were all found to be within EPA's acceptable risk range.

Community Involvement

Public participation activities have been satisfied as required in CERCLA section 113(k), 42 U.S.C. 9613(k), and CERCLA section 117, 42 U.S.C. 9617. Documents in the deletion docket on which EPA relied for recommendation of the deletion of the Administrative Parcel from the NPL are available to the public in the information repositories. The locations of the information repositories are set forth at the end of the Addresses section at the beginning of this notice.

Determination That the Criteria for Deletion Have Been Met

EPA has determined based on the investigations conducted that all appropriate response actions under CERCLA have been implemented at the Administrative Parcel. The remedial action for OU1 removed contaminated soil from the Administrative Parcel. The implemented OU1 remedy for soils has achieved performance standards specified in the OU1 ROD at the Administrative Parcel. The four monitoring wells (ROG1S, ROG1D, ROG2S, and ROG2I) that are located within the Administrative Parcel have not shown significant detections of contaminants. These wells are also considered upgradient from the current contaminated groundwater plume. The implemented OU3 remedy for groundwater has achieved performance standards specified in the OU3 ROD at the Administrative Parcel and will continue to extract and treat contaminated groundwater at other portions of the Property. The selected remedial action objectives and associated cleanup levels for OU1 and OU3 at the Administrative Parcel are consistent with agency policy and guidance and have been achieved at the Administrative Parcel. No further Superfund response action for the Administrative Parcel is needed to protect human health and the environment. Other procedures for deletion required by 40 CFR 300.425(e) are detailed in Section III of this direct Final Notice of Partial Deletion of a portion of the Site.

V. Partial Deletion Action

The EPA, with concurrence of the Commonwealth of Pennsylvania, through the PADEP, has determined that all appropriate response actions under CERCLA, other than five-year reviews and monitoring, have been completed for the Administrative Parcel. Therefore, EPA is deleting the Administrative Parcel portion of the North Penn Area 6 Superfund Site from the NPL.

Because EPA considers this action noncontroversial and routine, EPA is taking it without prior publication. This action will be effective February 21, 2017 unless EPA receives adverse comments by January 23, 2017. If adverse comments are received within the 30-day public comment period, EPA will publish a timely withdrawal of this direct final notice of partial deletion before the effective date of the partial deletion, and it will not take effect. EPA will prepare a response to comments and continue with the deletion process, as appropriate, on the basis of the notice of intent to partially delete and the comments already received. There will be no additional opportunity to comment.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: December 5, 2016.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

For the reasons set out in this document, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR 1987 Comp., p. 193.

■ 2. Table 1 of appendix B to part 300 is amended by revising the PA entry for ''North Penn-Area 6'', ''Lansdale'' to read as follows:

Appendix B to Part 300—[Amended]

TABLE 1—GENERAL SUPERFUND SECTION

State	Site name	City/County	Notes (a)
*	* * * * *	*	*
PA	North Penn-Area 6	Lansdale	P
*	* * * * *	*	*

(a) = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be greater than or equal to 28.50).
S = State top priority (included among the 100 top priority sites regardless of score).
P = Sites with partial deletion(s).

[FR Doc. 2016–31032 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[EPA–HQ–OPPT–2016–0207; FRL–9956–13]

RIN 2070–AB27

Significant New Use Rules on Certain Chemical Substances; Technical Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: EPA issued a final rule in the **Federal Register** of November 17, 2016 for 57 chemical substances that were the subject of premanufacture notices (PMNs). For the chemical substance that was the subject of PMN P–15–614, EPA inadvertently listed an incorrect Chemical Abstract Service (CAS) Registry Number. In addition, for the chemical substance that was the subject of PMN P–16–52, EPA inadvertently used the incorrect name. The amendment in this document is being issued to correct these errors.

DATES: This technical correction is effective January 17, 2017.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPPT–2016–0207, is available at *http://www.regulations.gov* or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Kenneth Moss, Chemical Control Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–9232; email address: *moss.kenneth@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

The Agency included in the November 17, 2016 final rule a list of those who may be potentially affected by this action.

II. What does this technical correction do?

EPA issued a final rule in the **Federal Register** of November 17, 2016 (81 FR 81250) (FRL–9953–41) for significant new uses for 57 chemical substances that were the subject of PMN notices. EPA included the wrong Chemical Abstracts Service (CAS) Registry Number for § 721.10949 and the wrong name for § 721.10958. This action corrects these errors.

III. Why is this correction issued as a final rule?

Section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)(3)(B)) provides that, when an Agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the Agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making this technical correction final without prior proposal and opportunity for comment. The SNUR at § 721.10949 contains the wrong CAS number associated with PMN P–15–614, and the SNUR at § 721.10958 contains the wrong name associated with PMN P–16–52 that was the basis for the SNUR. EPA finds that this constitutes good cause under 5 U.S.C. 553(b)(3)(B).

IV. Do any of the statutory and Executive Order reviews apply to this action?

No. For a detailed discussion concerning the statutory and executive order review, refer to Unit XII. of the November 17, 2016 final rule.

V. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), 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**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and Recordkeeping requirements.

Dated: December 9, 2016.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is corrected as follows:

PART 721—[AMENDED]

■ 1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 2. In § 721.10949, revise paragraph (a)(1) to read as follows:

§ 721.10949 Neodymium sulfur yttrium oxide.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified as neodymium sulfur yttrium oxide (PMN P–15–614; CAS No. 1651153–45–5) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

* * * * *

■ 3. In § 721.10958, revise the section heading and paragraph (a)(1) to read as follows:

§ 721.10958 Dialkylol amine, polymer with succinic anhydride and aromatic carboxylic acid (generic).

(a) *Chemical substance and significant new uses subject to reporting.* (1) The chemical substance identified generically as dialkylol amine, polymer with succinic anhydride and aromatic carboxylic acid (PMN P–16–52) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

* * * * *

[FR Doc. 2016–30769 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 413, 414 and 494

[CMS–1651–CN]

Medicare Program; End-Stage Renal Disease Quality Incentive Program; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies Competitive Bidding Program Bid Surety Bonds, State Licensure, and Appeals Process for Breach of Contract Actions; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects technical and typographical errors that appeared in the final rule published in the **Federal Register** on November 4, 2016, entitled ''Medicare Program; End-Stage Renal Disease Prospective Payment System, Coverage and Payment for Renal Dialysis Services Furnished to Individuals with Acute Kidney Injury, End-Stage Renal Disease Quality Incentive Program, Durable Medical Equipment, Prosthetics, Orthotics and Supplies Competitive Bidding Program Bid Surety Bonds, State Licensure and Appeals Process for Breach of Contract Actions, Durable Medical Equipment, Prosthetics, Orthotics and Supplies Competitive Bidding Program and Fee Schedule Adjustments, Access to Care Issues for Durable Medical Equipment; and the Comprehensive End-Stage Renal Disease Care Model.''

DATES: This correction is effective on January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Julia Howard, (410) 786–8645, for issues related to DMEPOS CBP and bid surety bonds, state licensure, and the appeals process for breach of DMEPOS CBP contract actions. Stephanie Frilling, (410) 786–4507, for issues related to the ESRD QIP.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–26152 of November 4, 2016 (81 FR 77834) (hereinafter referred to as the CY 2017 ESRD PPS final rule) there are technical and typographical errors that are discussed in the ''Summary of Errors,'' and further identified and corrected in the ''Correction of Errors'' section below. The provisions in this correction notice are effective as if they had been included in the CY 2017 ESRD PPS final rule published in the **Federal Register** on November 4, 2016.

II. Summary of Errors

On page 77874, we inadvertently made technical errors with respect to the calculation of the performance standard values in Table 2, ''Improvement of Performance Standards Over Time.''

On page 77886, we inadvertently made technical errors with respect to the calculation based on the most recently available data of the Achievement Threshold and Performance Standard values that apply to the Kt/V Composite, Standardized Transfusion Ratio and Hypercalcemia measures, and the calculation based on the most recently available data of the Achievement Threshold, Benchmark and Performance Standard values that apply to the ICH CAHPS measure in Table 6, ''Finalized Numerical Values for the Performance Standards for the PY 2019 ESRD QIP Clinical Measures Using the Most Recently Available Data.'' We also inadvertently included values for the Achievement Threshold, Benchmark and Performance Standard for the Standardized Hospitalization Ratio Clinical Measure, which is not a measure that we have adopted for the PY 2019 program.

On page 77897, we inadvertently included values for the Standardized Hospitalization Ratio Clinical Measure, which is not a finalized PY 2019 ESRD QIP measure, in Table 12, ''PY 2020 Clinical Measure Including Facilities With at Least 11 Eligible Patients Per Measure.''

On page 77932 we made a technical error in our response to the first comment under ''1. Bid Surety Bond Requirement''. In our response, we stated ''While we acknowledge that there will be a number of entities that are required to make large expenditures in order to obtain a bid surety bond for each CBA in which they are submitting a bid, we anticipate that this revision on the bid surety bond amount from $100,000 to $50,000 will reduce that overall burden on all suppliers.'' We inadvertently included the term ''suppliers'' at the end of the sentence but the term should read ''bidders.''

On page 77933 in our response to the comment on why the bid surety bond was only required until January 1, 2019, we inadvertently included a ''1'' in the reference to the round of competition in 2019 in which the bid surety bond requirement commences. The reference should read ''Round 2019'' and not ''Round 1 2019.''

At the top of page 77934 in our discussion on ''Appeals Process for a DMEPOS Competitive Bidding Breach of Contract Action'' we repeated a typographical error from the proposed rule (81 FR 42849) by stating that we proposed removing ''§ 414.423(g)(2)(i)'' from the regulation. The correct citation in this discussion should read ''§ 414.422(g)(2)(i)'', consistent with the proposal to remove corrective action plan from the list of actions for a breach of contract in the regulation, as described in the preamble and regulation text of the proposed and final rules (81 FR 42849, 42878, and 81 FR 77934, 77967).

III. Waiver of Proposed Rulemaking, 60-Day Comment Period, and Delay of Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Act requires the Secretary to provide notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA, and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the notice and comment and delay in effective date. APA requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal rulemaking requirements for good cause if the agency makes a finding that the notice and comment process are impracticable, unnecessary, or contrary to the public interest. In addition, both section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) of the Act allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and an agency includes a statement of support.

In our view, this correcting document does not constitute rulemaking that would be subject to these requirements. This correcting document is simply correcting technical errors in the preamble and does not make substantive changes to the policies or payment methodologies that were adopted in the final rule, and therefore, it is unnecessary to follow the notice and comment procedure in this instance.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2017 ESRD PPS final rule or delaying the effective date would be contrary to the public interest because it is in the public's interest for dialysis facilities to receive appropriate payments in as timely a manner as possible, and to ensure that the CY 2017 ESRD PPS final rule accurately reflects our policies as of the date they take effect and are applicable. Further, such procedures would be unnecessary, because we are not altering the payment methodologies or policies. For these reasons, we believe we have good cause to waive the notice and comment and effective date requirements.

IV. Correction of Errors

In FR Doc. 2016–26152 of November 4, 2016 (81 FR 77834), we make the following corrections:

1. On page 77874, Table 2 is corrected to read as follows:

TABLE 2—IMPROVEMENT OF PERFORMANCE STANDARDS OVER TIME

Measure	PY 2015	PY 2016	PY 2017	PY 2018	PY 2019
Hemoglobin >12 g/dL	1%	0%	.....	.....	.....
Vascular Access Type:					
% Fistula	60%	62.3%	64.46%	65.94%	65.93%
% Catheter	13%	10.6%	9.92%	8.80%	9.19%
Kt/V:					
Adult Hemodialysis	93%	93.4%	96.89%	97.24%	.....
Adult Peritoneal Dialysis	84%	85.7%	87.10%	89.47%	.....
Pediatric Hemodialysis	93%	93%	94.44%	93.94%	.....
Pediatric Peritoneal Dialysis	.....	.....	.....	72.60%	.....
Hypercalcemia	.....	1.70%	1.30%	1.19%	1.85%
NHSN Bloodstream Infection SIR	.....	.....	.....	0.861	0.797
Standardized Readmission Ratio	.....	.....	0.998	0.998	0.998
Standardized Transfusion Ratio	.....	.....	.....	0.923	0.894

2. On page 77886, Table 6 is corrected to read as follows:

TABLE 6—FINALIZED NUMERICAL VALUES FOR THE PERFORMANCE STANDARDS FOR THE PY 2019 ESRD QIP CLINICAL MEASURES USING THE MOST RECENTLY AVAILABLE DATA

Measure	Achievement threshold	Benchmark	Performance standard
Vascular Access Type:			
%Fistula	53.66%	79.62%	65.93%
%Catheter	17.20%	2.95%	9.19%
Kt/V Composite	86.99%	97.74%	93.08%
Hypercalcemia	4.24%	0.32%	1.85%
Standardized Transfusion Ratio	1.488	0.421	0.901
Standardized Readmission Ratio	1.289	0.624	0.998
NHSN Bloodstream Infection	1.738	0	0.797
ICH CAHPS: Nephrologists' Communication and Caring	56.41%	77.06%	65.89%
ICH CAHPS: Quality of Dialysis Center Care and Operations	52.88%	71.21%	60.75%
ICH CAHPS: Providing Information to Patients	72.09%	85.55%	78.59%
ICH CAHPS: Overall Rating of Nephrologists	49.33%	76.57%	62.22%
ICH CAHPS: Overall Rating of Dialysis Center Staff	48.84%	77.42%	62.26%
ICH CAHPS: Overall Rating of the Dialysis Facility	51.18%	80.58%	65.13%

Data Sources: VAT measures: 2015 Medicare claims; SRR, STrR: 2015 Medicare claims; Kt/V: 2015 Medicare claims and 2015 CROWNWEB; Hypercalcemia: 2015 CROWNWeb; NHSN: CDC; CAHPS: 2015 ICH CAHPS surveys.

3. On page 77897, Table 12 is corrected to read as follows:

TABLE 12—PY 2020 CLINICAL MEASURES INCLUDING FACILITIES WITH AT LEAST 11 ELIGIBLE PATIENTS PER MEASURE

Measure	N	75th/25th Percentile	90th/10th Percentile	Std error	Statistically Indistinguishable	Truncated mean	Truncated SD	TCV	TCV's 0.10
Kt/V Delivered Dose above minimum ..	6210	96.0	98.0	0.093	No	92.5	4.20	0.05	Yes.
Fistula Use	5906	73.2	79.6	0.148	No	65.7	8.88	0.14	No.
Catheter Use	5921	5.43	2.89	0.093	No	[1] 90.1	5.16	<0.01	Yes.
Serum Calcium >10.2	6257	0.91	0.32	0.049	No	[1] 97.8	1.48	<0.01	Yes.
NHSN—SIR	5781	0.41	0.00	0.011	No	0.963	0.57	<0.01	Yes.
SRR	5739	0.82	0.64	0.004	No	0.995	0.21	<0.01	Yes.
STrR	5650	0.64	0.43	0.008	No	0.965	0.37	<0.01	Yes.
ICH CAHPS:									
Nephrologists communication and caring.	3349	71.8	77.1	0.159	No	65.7	7.11	0.11	No.
Quality of dialysis center care and operations.	3349	66.2	71.2	0.134	No	60.9	6.20	0.10	No.
Providing information to patients	3349	82.4	85.6	0.101	No	78.4	4.61	0.06	Yes.
Rating of Nephrologist	3349	69.9	76.6	0.204	No	62.0	9.29	0.15	No.
Rating of dialysis facility staff	3349	70.9	77.4	0.215	No	62.0	9.92	0.16	No.
Rating of dialysis center	3349	73.8	80.6	0.221	No	64.8	10.18	0.16	No.

[1] Truncated mean for percentage is reversed (100 percent – truncated mean) for measures where lower score = better performance.

4. On page 77932, third column, line 17, the word ''suppliers'' is corrected to read as ''bidders''.

5. On page 77933, first column, line 30, remove the number ''1'' before ''2019''.

6. On page 77934, first column, line 3, the citation ''§ 414.423(g)(2)(i)'' is corrected to read ''§ 414.422(g)(2)(i)''.

Dated: December 19, 2016.

Madhura Valverde,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2016–31019 Filed 12–22–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 21]

Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2017

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of determination.

SUMMARY: This notice of determination provides the FRA Administrator's minimum annual random drug and alcohol testing rates for calendar year 2017.

DATES: Effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, FRA Drug and Alcohol Program Manager, W33–310, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590 (telephone 202–493–6313); or Sam Noe, FRA Drug and Alcohol Program Specialist (telephone 615–719–2951).

SUPPLEMENTARY INFORMATION: For the next calendar year, FRA determines the minimum annual random drug testing rate and the minimum annual random alcohol testing rate for railroad employees covered by hours of service laws and regulations (covered service employees) based on the railroad industry data available for the two previous calendar years (for this Notice, calendar years 2014 and 2015). Railroad industry data submitted to FRA's Management Information System (MIS) shows the rail industry's random drug testing positive rate for covered service employees has continued to be below 1.0 percent for the applicable two calendar years. FRA's Administrator has therefore determined the minimum annual random drug testing rate for the period January 1, 2017, through December 31, 2017, will remain at 25 percent of covered service employees under § 219.602 of FRA's drug and alcohol rule (49 CFR part 219). In addition, because the industry-wide random alcohol testing violation rate for covered service employees has continued to be below 0.5 percent for the applicable two calendar years, the Administrator has determined the minimum random alcohol testing rate will remain at 10 percent of covered service employees for the period January 1, 2017, through December 31, 2017, under § 219.608. Because these rates represent minimums, railroads may conduct FRA random testing at higher rates.

In a June 10, 2016, final rule, FRA expanded the scope of part 219 to cover maintenance-of-way (MOW) employees (81 FR 37894). MOW employees will become subject to FRA random drug and alcohol testing on June 12, 2017, when the final rule takes effect. In 1994, when FRA, in concert with the other DOT modes, established a drug MIS system (58 FR 68232, December 23, 1993), FRA set its initial minimum random drug testing rate at 50 percent for covered employees because of the lack of data to gauge the extent of the drug abuse problem at that time. FRA set its minimum random alcohol testing rate for covered employees at 25 percent for the same reason. As its MIS data continued to show consistently low industry-wide drug and alcohol positive rates among covered employees, FRA lowered its minimum annual random drug and alcohol testing rates to their current respective rates of 25 and 10 percent.

Similarly, because FRA has no MIS data for MOW employees yet, the Administrator has determined that for the period June 12, 2017, through December 31, 2017, the minimum annual random drug testing rate will be set at 50 percent of MOW employees, and the minimum annual random alcohol testing rate will be set at 25 percent of MOW employees. As with covered employees, because these rates represent minimums, railroads may conduct FRA random testing of MOW employees at higher rates.

Issued in Washington, DC, on December 20, 2016.

Sarah E. Feinberg,

Administrator.

[FR Doc. 2016–31009 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 225

[FRA–2008–0136, Notice No. 9]

RIN 2130–ZA14

Monetary Threshold for Reporting Rail Equipment Accidents/Incidents for Calendar Year 2017

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This rule increases the rail equipment accident/incident monetary reporting threshold (reporting threshold) from $10,500 to $10,700 for railroad accidents/incidents involving property damage that occur during calendar year (CY) 2017 that FRA's accident/incident reporting regulations require railroads to report to the agency. This action is needed to ensure FRA's reporting requirements reflect cost increases that have occurred since FRA last published the reporting threshold in December 2015.

DATES: This final rule is effective January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Kebo Chen, Staff Director, U.S. Department of Transportation, Federal Railroad Administration, Office of Safety Analysis, RRS–22, Mail Stop 25, West Building 3rd Floor, Room W33–314, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–6079); or Gahan Christenson, Trial Attorney, U.S. Department of Transportation, Federal Railroad Administration, Office of Chief Counsel, RCC–10, Mail Stop 10, West Building 3rd Floor, Room W31–124, 1200 New Jersey Ave. SE., Washington, DC 20590 (telephone 202–493–1381).

SUPPLEMENTARY INFORMATION:

Background

A ''rail equipment accident/incident'' is a collision, derailment, fire, explosion, act of God, or other event involving the operation of railroad on-track equipment (standing or moving) that results in damages to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material, greater than the reporting threshold for the year in which the event occurs. 49 CFR 225.19(c). A railroad must report each rail equipment accident/incident to FRA using the Rail Equipment Accident/Incident Report (Form FRA F 6180.54). *See* 49 CFR 225.19(b), (c) and 225.21(a). Paragraphs (c) and (e) of 49 CFR 225.19 further provide that FRA will adjust the dollar figure that constitutes the reporting threshold, if necessary, every year under the procedures in appendix B to 49 CFR part 225 (Appendix B) to reflect any cost increases or decreases.

In addition to periodically reviewing and adjusting the reporting threshold under Appendix B, FRA periodically amends its method for calculating the threshold. In 49 U.S.C. 20901(b), Congress requires that FRA base the reporting threshold on publicly available information obtained from the Bureau of Labor Statistics (BLS), other objective government source, or be subject to notice and comment. In 1996, FRA adopted a new method for calculating the reporting threshold for rail equipment accidents/incidents. *See* 61 FR 60632, Nov. 29, 1996. In 2005, FRA again amended its method for calculating the reporting threshold because the BLS ceased collecting and publishing the railroad wage data FRA used in the calculation. Consequently, FRA substituted railroad employee wage data the Surface Transportation Board (STB) collects for the data BLS ceased to collect. *See* 70 FR 75414, Dec. 20, 2005. In a separate rulemaking, FRA intends to evaluate and amend, if appropriate, its method for calculating the reporting threshold and, as a result, the formula used to calculate the reporting threshold may change. FRA intends to reexamine its method for calculating the reporting threshold because new methodologies for calculating the threshold are available. FRA believes updating its methodology to include these advances will ensure the reporting threshold reflects changes in equipment and labor costs as accurately as possible.

New Reporting Threshold

Approximately one year has passed since FRA reviewed the reporting threshold. *See* 80 FR 80683, Dec. 28, 2015. Consequently, FRA has recalculated the reporting threshold under 49 CFR 225.19(c), based on increased costs for labor and increased costs for equipment. FRA has determined that the current reporting threshold of $10,500, which applies to rail equipment accidents/incidents that occur during CY 2016, should increase by $200 to $10,700 for rail equipment accidents/incidents occurring during CY 2017. The specific inputs to the equation set forth in Appendix B (*i.e.,* $Tnew = Tprior * [1 + 0.4(Wnew - Wprior)/Wprior + 0.6(Enew - Eprior)/100]$) are:

Tprior	*Wnew*	*Wprior*	*Enew*	*Eprior*
$10,500	$29.99942	$29.80388	203.33333	200.63333

Where: *Tnew* = New threshold; *Tprior* = Prior threshold (with reference to the threshold, ''prior'' refers to the previous threshold rounded to the nearest $100, as reported in the **Federal Register**); *Wnew* = New average hourly wage rate, in dollars; *Wprior* = Prior average hourly wage rate, in dollars; *Enew* = New equipment average Producer Price Index (PPI) value; *Eprior* = Prior equipment average PPI value. Using the above figures, the calculated new threshold, (*Tnew*) is $10,697.669, which is rounded to the nearest $100 for a final new reporting threshold of $10,700 for CY 2017.[1]

[1] On June 12, 2013, Union Pacific Railroad Company filed a revised 2nd Quarterly Report of Wage A&B Data (Form A Wage Statistics Summary—0100) for 2012 with the Surface Transportation Board, following the publication of the 2013 threshold. Based upon the revised data, the 2013 threshold would have been $10,000 ($Tnew = 9500*(1+0.4*(26.10 - 24.93)/24.93+0.6*(191.5 - 186.37)/100.00) = 9970.76$). The current method for calculating the current threshold requires using the prior threshold as published in the **Federal Register**. Even though the corrected threshold for 2013 would have been higher at $10,000, leading to a higher *Tprior* in the calculation for 2014, the end result for 2014 is still $10,500 using the current formula.

Notice and Comment Procedures

In this rule, FRA has recalculated the reporting threshold based on the formula discussed in detail and adopted, after notice and comment, in the final rule published December 20, 2005. *See* 70 FR 75414, Dec. 20, 2005. FRA finds both the current cost data inserted into this pre-existing formula and the original cost data that they replace were obtained from reliable Federal government sources. FRA finds this rule imposes no additional burden on any person, but rather is intended to provide a benefit by permitting the valid comparison of accident data over time.

Accordingly, finding that notice and comment procedures are either impracticable, unnecessary, or contrary to the public interest, FRA is proceeding directly to a final rule.

FRA regularly reviews and recalculates the reporting threshold using the formula published in Appendix B near the end of each CY. Therefore, any person affected by this rule should anticipate the on-going adjustment of the reporting threshold and has reasonable time to make any minor changes necessary to come into compliance with the reporting requirements. FRA attempts to use the most recent data available to calculate the updated reporting threshold prior to the next CY. FRA has found that issuing the rule no later than December of each CY and making the rule effective on January 1, of the next year, allows FRA to use the most up-to-date data when calculating the reporting threshold and to compile data that accurately reflects rising wages and equipment costs. As such, FRA finds that it has good cause to make this final rule effective January 1, 2017.

Regulatory Evaluation

Executive Orders 12866 and 13563 and DOT Regulatory Policies and Procedures

FRA evaluated this final rule under existing policies and procedures and determined it is non-significant under both Executive Orders 12866 and 13563, and DOT policies and procedures. *See* 44 FR 11034, Feb. 26, 1979.

Regulatory Flexibility Act

FRA developed this rule under Executive Order 13272 (''Proper Consideration of Small Entities in Agency Rulemaking'') and DOT's procedures and policies to promote compliance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to ensure potential impacts of rules on small entities are properly considered.

The Regulatory Flexibility Act requires an agency to review regulations to assess their impact on small entities, unless the Secretary certifies the rule will not have a significant economic impact on a substantial number of small entities. Under Section 312 of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), Federal agencies may adopt their own size standards for small entities in consultation with SBA and in consultation with public comment. Under that authority, FRA has published a final statement of agency policy formally establishing for FRA's regulatory purposes ''small entities'' as railroads, contractors, and hazardous materials shippers that meet the revenue requirements of a Class III railroad as set forth in 49 CFR 1201.1–1 ($20 million or less in inflation-adjusted annual revenues, and commuter railroads or small governmental jurisdictions that serve populations of 50,000 or less). *See* 49 CFR part 209, appendix C. FRA used this definition for this rulemaking.

About 743 of the approximately 792 railroads in the United States are considered small entities by FRA. FRA certifies that this final rule will have no significant economic impact on a substantial number of small entities. To the extent that this rule has any impact on small entities, the impact will be neutral or insignificant. The frequency of rail equipment accidents/incidents, and therefore also the frequency of required reporting, is generally proportional to the size of the railroad. A railroad employing thousands of employees and operating trains millions of miles is exposed to greater risks than one whose operation is substantially smaller. Small railroads may go for months at a time without having a reportable occurrence of any type, and even longer without having a rail equipment accident/incident. For example, FRA data indicate railroads reported 2,029 rail equipment accidents/incidents in 2011, with small railroads reporting 276 of them. Data for 2012 show railroads reported 1,765 rail equipment accidents/incidents, with small railroads reporting 254 of them. Data for 2013 show that 1,849 rail equipment accidents/incidents were reported, with small railroads reporting 271 of them. In 2014, 1,870 rail equipment accidents/incidents were reported, and small railroads reported 230 of them. In 2015, 1,912 rail equipment accidents/incidents were reported, with small railroads reporting 253 of them. On average over those five calendar years, small railroads reported about 14% (ranging from 12% to 15%) of the total number of rail equipment accidents/incidents. FRA notes that these data are accurate as of the date of issuance of this final rule, and are subject to minor changes due to additional reporting. Absent this rulemaking (*i.e.,* absent increasing the reporting threshold), the number of reportable accidents/incidents in CY 2017 would likely increase, as keeping the 2016 threshold in place would not allow it to keep pace with the increasing dollar amounts of wages and rail equipment repair costs. Therefore, this rule will be neutral in effect. Increasing the reporting threshold will slightly decrease the recordkeeping burden for railroads over time. Any recordkeeping burden will not be significant and will affect the large railroads more than the small railroads, due to the higher proportion of reportable rail equipment accidents/incidents experienced by large entities.

Furthermore, FRA has determined the RFA does not apply to this rulemaking. Given this rule merely updates the reporting threshold for CY 2017 using the formula developed through notice and comment rulemaking and published in Appendix B, FRA finds notice and public comment is unnecessary and would serve no public benefit. The Small Business Administration's *A Guide for Government Agencies: How to Comply with the Regulatory Flexibility Act* (2012, p.55), provides:

> If, under the APA or any rule of general applicability governing federal grants to state and local governments, the agency is required to publish a general notice of proposed rulemaking (NPRM), the RFA must be considered [citing 5 U.S.C. 604(a)] . . . . If an NPRM is not required, the RFA does not apply.

Because this rulemaking does not require a Notice of Proposed Rulemaking, the RFA does not apply.

Paperwork Reduction Act

There are no new or additional information collection requirements associated with this final rule. FRA's collection of accident/incident reporting and recordkeeping information is currently approved under OMB No. 2130–0500. Therefore, FRA is not required to provide an estimate of a public reporting burden in this document.

Federalism Implications

Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), requires FRA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, the agency may not issue a regulation with federalism implications that imposes substantial direct compliance costs and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or the agency consults

with State and local government officials early in the process of developing the regulation. Where a regulation has federalism implications and preempts State law, the agency seeks to consult with State and local officials in the process of developing the regulation.

FRA analyzed this final rule under the principles and criteria in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and the responsibilities among the various levels of government, as specified in Executive Order 13132. In addition, FRA determined this rule does not impose substantial direct compliance costs on State and local governments. Accordingly, FRA concluded the consultation and funding requirements of Executive Order 13132 do not apply and preparation of a federalism assessment is not required.

Environmental Impact

FRA evaluated this final rule under its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined this final rule is not a major FRA action (requiring the preparation of an environmental impact statement or environmental assessment) because it is categorically excluded from detailed environmental review under section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547, May 26, 1999. Section 4(c)(20) reads as follows:

(c) Actions categorically excluded. Certain classes of FRA actions have been determined to be categorically excluded from the requirements of these Procedures as they do not individually or cumulatively have a significant effect on the human environment. . . . The following classes of FRA actions are categorically excluded: . . . (20) Promulgation of railroad safety rules and policy statements that do not result in significantly increased emissions or air or water pollutants or noise or increased traffic congestion in any mode of transportation.

Consistent with section 4(c)(20) of FRA's Procedures, FRA concluded that no extraordinary circumstances exist with respect to this regulation that might trigger the need for a more detailed environmental review. As a result, FRA finds this rule is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Under Section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency ''shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law).'' Section 202 of the Act (2 U.S.C. 1532) further requires that before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement detailing the effect on State, local, and tribal governments and the private sector. This final rule will not result in the expenditure of more than $156,000,000 by the public sector in any one year. Thus, preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355, May 22, 2001. Under the Executive Order, a ''significant energy action'' is defined as any action by an agency (normally published in the **Federal Register**) that promulgates or is expected to lead to the promulgation of, a final rule or regulation (including a notice of inquiry, advance notice of proposed rulemaking, and notice of proposed rulemaking) that (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order, and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this rule under Executive Order 13211. FRA has determined this rule will not have a significant adverse effect on the supply, distribution, or use of energy, and, thus, is not a ''significant energy action'' under Executive Order 13211.

Executive Order 12898 (Environmental Justice)

Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, and DOT Order 5610.2(a) (91 FR 27534, May 10, 2012) require DOT agencies to achieve environmental justice as part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects, including interrelated social and economic effects, of their programs, policies, and activities on minority populations and low-income populations. The DOT Order instructs DOT agencies to address compliance with Executive Order 12898 and requirements within the DOT Order in rulemaking activities, as appropriate. FRA evaluated this final rule under Executive Order 12898 and the DOT Order and determined it would not cause disproportionately high and adverse human health and environmental effects on minority or low-income populations.

Executive Order 13175 (Tribal Consultation)

FRA evaluated this final rule under the principles and criteria in Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, dated November 6, 2000. This final rule will not have a substantial direct effect on one or more Indian tribes, will not impose substantial direct compliance costs on Indian tribal governments, and will not preempt tribal laws. Therefore, the funding and consultation requirements of Executive Order 13175 do not apply, and a tribal summary impact statement is not required.

Trade Impact

The Trade Agreements Act of 1979 (19 U.S.C. 2501 *et seq.*) prohibits Federal agencies from engaging in any standards setting or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. FRA assessed the potential effect of this final rule on foreign commerce and concluded its requirements are consistent with the Trade Agreements Act.

Privacy Act

Interested parties should be aware that anyone can search the electronic form of all written comments received

into any agency docket by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477–19478, Apr. 11, 2000) or you may visit *http://www.transportation.gov/privacy.*

List of Subjects in 49 CFR Part 225

Investigations, Penalties, Railroad safety, Reporting and recordkeeping requirements.

The Rule

In consideration of the foregoing, FRA amends part 225 of chapter II, subtitle B of title 49, Code of Federal Regulations, as follows:

PART 225—[AMENDED]

■ 1. The authority citation for part 225 continues to read as follows:

Authority: 49 U.S.C. 103, 322(a), 20103, 20107, 20901–02, 21301, 21302, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

■ 2. In § 225.19, revise the first sentence of paragraph (c), and paragraph (e) to read as follows:

§ 225.19 Primary groups of accidents/incidents.

* * * * *

(c) *Group II—Rail equipment.* Rail equipment accidents/incidents are collisions, derailments, fires, explosions, acts of God, and other events involving the operation of on-track equipment (standing or moving) that result in damages higher than the current reporting threshold (*i.e.,* $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012, $9,900 for calendar year 2013, $10,500 for calendar year 2014, $10,500 for calendar year 2015, $10,500 for calendar year 2016, and $10,700 for calendar year 2017) to railroad on-track equipment, signals, tracks, track structures, or roadbed, including labor costs and the costs for acquiring new equipment and material. * * *

* * * * *

(e) The reporting threshold is $6,700 for calendar years 2002 through 2005, $7,700 for calendar year 2006, $8,200 for calendar year 2007, $8,500 for calendar year 2008, $8,900 for calendar year 2009, $9,200 for calendar year 2010, $9,400 for calendar year 2011, $9,500 for calendar year 2012, $9,900 for calendar year 2013, $10,500 for calendar year 2014, $10,500 for calendar year 2015, $10,500 for calendar year 2016, and $10,700 for calendar year 2017. The procedure for determining the reporting threshold for calendar years 2006 and beyond appears as paragraphs 1–8 of appendix B to part 225.

* * * * *

Sarah E. Feinberg,

Administrator.

[FR Doc. 2016–30812 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 11

[Docket No. FWS–HQ–LE–2016–0045; FF09L00200–FX–LE18110900000]

RIN 1018–BB32

Civil Penalties; Inflation Adjustments for Civil Monetary Penalties

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Adoption of interim rule as final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service or we) is adopting, as a final rule, without change, an interim rule that revised our civil procedure regulations and increased civil monetary penalties for inflation.

DATES: Effective on December 23, 2016.

FOR FURTHER INFORMATION CONTACT: Paul Beiriger, Special Agent in Charge, Branch of Investigations, U.S. Fish and Wildlife Service, Office of Law Enforcement, (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

The regulations at 50 CFR part 11 provide uniform rules and procedures for the assessment of civil penalties resulting from violations of certain laws and regulations enforced by the Service.

On June 28, 2016, the Service published in the **Federal Register** an interim rule (81 FR 41862) that amended 50 CFR part 11, in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act; sec. 701 of Pub. L. 114–74) and Office of Management and Budget guidance, to adjust for inflation the statutory civil monetary penalties that may be assessed for violations of Service-administered statutes and their implementing regulations. We are required to adjust civil monetary penalties as necessary for inflation according to a formula specified in the Inflation Adjustment Act.

The interim rule became effective on July 28, 2016. We accepted public comments for 60 days on the interim rule, ending August 29, 2016. By that date, we did not receive any comments on the interim rule. Therefore, we are affirming the interim rule as a final rule, without change.

The interim rule is available at *http://www.regulations.gov* under Docket No. FWS–HQ–LE–2016–0045.

List of Subjects in 50 CFR Part 11

Administrative practice and procedure, Exports, Fish, Imports, Penalties, Plants, Transportation, Wildlife.

PART 11—CIVIL PROCEDURES

■ Accordingly, we are adopting as a final rule, without change, the interim rule amending 50 CFR part 11 that was published at 81 FR 41862 on June 28, 2016.

Dated: December 12, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–31038 Filed 12–22–16; 8:45 am]

BILLING CODE 4333–15–P

Proposed Rules

Federal Register
Vol. 81, No. 247
Friday, December 23, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2016–0270]

Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments'

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–1334, ''Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments.' '' This draft regulatory guide provides licensees and applicants with a method that the staff of the NRC considers acceptable for use in complying with the Commission's regulations on the process by which licensees may make changes to their facilities and procedures, as described in the safety analysis report, without prior NRC approval, under certain conditions.

DATES: Submit comments by February 21, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0270. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Brian Harris, Office of Nuclear Reactor Regulation, telephone: 301–415–2277; email: *Brian.Harris2@nrc.gov* and Mark Orr, Office of Nuclear Regulatory Research, telephone: 301–415–6003; email: *Mark.Orr@nrc.gov.* Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0270 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0270.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft regulatory guide is electronically available in ADAMS under Accession No. ML16089A381. The regulatory analysis for DG–1334 is available in ADAMS under Accession number ML16089A379.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0270 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a draft regulatory guide (DG–1334) in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The draft regulatory guide, entitled, ''Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments.' '' is a proposed revision temporarily identified by its task number, DG–1334. DG–1334 is proposed revision 1 of RG 1.187, ''Guidance for Implementation of 10 CFR 50.59, 'Changes, Tests, and Experiments.' '' The draft regulatory guide provides licensees and applicants with a method that the NRC staff considers acceptable for use in complying with the Commission's regulations on the process by which licensees may make changes to their facilities and procedures as described in

the safety analysis report, without prior NRC approval, under certain conditions. The NRC has also prepared a regulatory analysis (ADAMS Accession number ML16089A379) in support of DG–1334.

This draft regulatory guide clarifies potentially unclear statements in Section 4.3.8 of Nuclear Energy Institute document 96–07, Revision 1, ''Guidelines for 10 CFR 50.59 Implementation,'' (ADAMS Accession number ML003771157) which was endorsed in RG 1.187, Rev 0, (ADAMS Accession number ML003759710) as acceptable guidance for how to comply with NRC regulations in section 50.59 of title 10 of the *Code of Federal Regulations* (10 CFR). Because of the potentially unclear statements in Section 4.3.8 of NEI 96–07, licensees may misinterpret the definition governing the ''. . . departure from a method of evaluation . . .'' described in the plant's final safety analysis report (as updated).

The draft regulatory guide also adds clarification to statements in Section 4.3.5 of NEI 96–07, Revision 1, whereby licensees may misinterpret the last sentence in the second paragraph in Section 4.3.5 if considered in isolation of the statements earlier discussed in the paragraph.

III. Backfitting and Issue Finality

Draft regulatory guide DG–1334, if finalized as Regulatory Guide 1.187, Revision 1, would provide guidance on acceptable ways of determining whether licensees may make changes to their facilities and procedures as described in the safety analysis report, without prior NRC approval, under the change process established in 10 CFR 50.59. The draft regulatory guide, if finalized, would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) and is not otherwise inconsistent with the issue finality provisions in 10 CFR part 52, ''Licenses, Certifications and Approvals for Nuclear Power Plants.'' The subject of this draft regulatory guide, as described above, is an NRC-defined process which does not fall within the purview of subjects covered by either the Backfit Rule or the issue finality provision in 10 CFR part 52. Issuance of the draft regulatory guide, in final form, would not constitute backfitting, and no further consideration of backfitting is required in order to issue the draft or final regulatory guide in final form.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2016–30921 Filed 12–22–16; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL RESERVE SYSTEM

12 CFR Parts 217 and 225

[Docket No. R–1547; RIN 7100 AE–58

Risk-Based Capital and Other Regulatory Requirements for Activities of Financial Holding Companies Related to Physical Commodities and Risk-Based Capital Requirements for Merchant Banking Investments, Regulations Q and Y

AGENCY: Board of Governors of the Federal Reserve System (Board).

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: On September 30, 2016, the Board published in the **Federal Register** a notice of proposed rulemaking (NPR) to adopt additional limitations on physical commodity trading activities conducted by financial holding companies under complementary authority granted pursuant to section 4(k) of the Bank Holding Company Act and clarify certain existing limitations on those activities; amend the Board's risk-based capital requirements to better reflect the risks associated with a financial holding company's physical commodity activities; rescind the findings underlying the Board orders authorizing certain financial holding companies to engage in energy management services and energy tolling; remove copper from the list of metals that bank holding companies are permitted to own and store as an activity closely related to banking; and increase transparency regarding physical commodity activities of financial holding companies through more comprehensive regulatory reporting.

Due to the range and complexity of the issues addressed in the NPR, the public comment period has been extended until February 20, 2017. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

DATES: The comment period for the notice of proposed rulemaking published on September 23, 2016, (81 FR 67220) regarding risk-based capital and other regulatory requirements for activities of financial holding companies related to physical commodities and risk-based capital requirements for merchant banking investments is extended from December 22, 2016 to February 20, 2017.

ADDRESSES: You may submit comments by any of the methods identified in the NPR.[1] Please submit your comments using only one method.

FOR FURTHER INFORMATION CONTACT: Constance M. Horsley, Assistant Director, (202) 452–5239, Elizabeth MacDonald, Manager, (202) 475–6316, Kevin Tran, Supervisory Financial Analyst, (202) 452–2309, or Vanessa Davis, Supervisory Financial Analyst, (202) 475–6674, Division of Banking Supervision and Regulation; or Laurie Schaffer, Associate General Counsel, (202) 452–2277, Michael Waldron, Special Counsel, (202) 452–2798, Will Giles, Senior Counsel, (202) 452–3351, or Mary Watkins, Attorney, (202) 452–3722, Legal Division, Board of Governors of the Federal Reserve System, 20th and C Streets NW., Washington, DC 20551. For the hearing impaired only, Telecommunication Device for the Deaf (TDD), (202) 263–4869.

SUPPLEMENTARY INFORMATION: On September 30, 2016, the Board published in the **Federal Register** the NPR. The Board originally set the end of comment period as December 22, 2016, which is 90 days after the date the proposal was published on the Board's Web site and 83 days after the date the proposal was published in the **Federal Register**.

The Board has received comment letters requesting that the Board extend the comment period for the NPR.[2] In support of this request, commenters assert that the December 22, 2016 deadline does not provide sufficient time to thoroughly analyze the full impact of this complex and wide-ranging proposal. The commenters note that a variety of types of participants in physical commodities markets, such as mining companies, other upstream producers and municipally-owned natural gas districts, may be impacted by the multiple proposals contained in the Commodities NPR and that additional time is needed to understand those impacts and develop meaningful, constructive comments.

Due to the range and complexity of the issues addressed in the NPR, the public comment period has been

[1] *See* 81 FR 67220 (September 30, 2016).

[2] The Board has received requests from Barrick Gold of North America, the National Mining Association, and Clarke Mobile Counties Gas District and its affiliate, the Black Belt Energy Gas District, to extend the end of the comment period.

extended until February 20, 2017. This action will allow interested persons additional time to analyze the proposal and prepare their comments.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, December 20, 2016.

Robert deV. Frierson,

Secretary of the Board.

[FR Doc. 2016–30993 Filed 12–22–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. FAA–2015–2147; Notice No. 15–05]

RIN 2120–AK51

Transponder Requirement for Gliders; Withdrawal

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking (ANPRM); withdrawal.

SUMMARY: The FAA is withdrawing a previously published advance notice of proposed rulemaking that sought public comment from interested persons involving glider operations in the National Airspace System. The action responded to recommendations from members of Congress and the National Transportation Safety Board and was intended to gather information to determine whether the current glider exception from transponder equipage and use provides the appropriate level of safety in the National Airspace System. The FAA is withdrawing that action because the limited safety benefit gained does not justify the high cost of equipage.

DATES: This action becomes effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Patrick J. Moorman, Airspace Regulations Team, AJV–113, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8783; email: *patrick.moorman@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

On August 28, 2006, a Hawker 800XP aircraft [1] and a Schleicher ASW27–18 glider were involved in a non-fatal midair collision near Reno, Nevada. The collision occurred in flight about 42 nautical miles (NM) south-southeast of the Reno-Tahoe International Airport (RNO), at an altitude of about 16,000 feet (ft.) above mean sea level (MSL), and in an area where gliders are excepted from the transponder equipment requirements in Title 14, section 91.215(b), of the Code of Federal Regulations (14 CFR).[2] The glider was equipped with a transponder, but the transponder was not turned on at the time of the accident.

On March 31, 2008, the National Transportation Safety Board (NTSB) provided safety recommendations to the FAA resulting from an investigation of the accident.[3] The findings of the accident investigation address the limitations of the see-and-avoid concept in preventing midair collisions and, more specifically, the benefits of using transponders in gliders for collision avoidance. The NTSB recommended that the FAA remove the glider exceptions pertaining to the transponder equipment and use requirements, finding that ''transponders are critical to alerting pilots and controllers to the presence of nearby traffic so that collisions can be avoided.''

On June 16, 2015, the FAA published an Advance Notice of Proposed Rulemaking (ANPRM) to respond to recommendations from two members of Congress [4] and the NTSB. 80 FR 34346. The ANPRM requested comments on a proposed rulemaking that would require gliders operating in the National Airspace System (NAS) to be equipped with transponders. The FAA did not propose specific regulatory changes but rather sought public comment on the use of transponders in gliders operating within the excepted areas of § 91.215. The ANPRM also sought input on more recent alternatives to glider equipage including the use of Traffic Awareness Beacon System (TABS) [5] and Automatic Dependent Surveillance Broadcast (ADS–B) Out equipment.[6] The FAA asked for comments from the public and industry to aid in the development of a proposed rule and the analysis of its economic impact.

Overview of Withdrawal

Based on the information gathered from the ANPRM and a review of the current operating environment, the FAA finds that it does not have sufficient basis to move forward with rulemaking at this time. While the FAA has determined it is not warranted to move forward with a proposal to remove the glider exception in § 91.215, the FAA will continue to work with local glider communities to increase safety awareness. The FAA will also continue to consider surveillance system alternatives and to work with interested persons to mitigate the risk of aircraft collision with gliders. Further, the FAA recommends that all glider aircraft owners equip their gliders with a transponder meeting regulatory requirements, a rule-compliant ADS–B Out system, or a TABS device.

Comment Summary

The FAA received 231comments in response to its ANPRM. Of the 231 comments received, approximately 18 organizations and 213 individual or anonymous commenters responded. Approximately 161 comments were unfavorable (adverse), 52 comments were favorable, and 18 comments were

[1] The Hawker 800XP aircraft was equipped with a Traffic Alert and Collision Avoidance System (TCAS). TCAS is a family of airborne devices that function independently of the ground-based air traffic control (ATC) system, and provide collision avoidance protection for a broad spectrum of aircraft types. All TCAS systems provide some degree of collision threat alerting, and a traffic display.

[2] The exceptions to the rule allow aircraft that were originally certificated without an engine-driven electrical system, such as balloons and gliders, to be operated in the following areas without a transponder: within a 30 nautical mile radius (NMR) of the 36 listed airports listed in Appendix D to part 91 (Mode C veil), provided aircraft remain outside the Class A, B, or C airspace and are below the ceiling of the airspace designated for the Class B or C airport, or 10,000 feet MSL, whichever is lower; above 10,000 feet MSL; and in the airspace from the surface to 10,000 feet MSL within a 10 NMR of any airport listed in appendix D, excluding the airspace below 1,200 feet outside of the lateral boundaries of the surface area of the airspace designated for that airport.

[3] A–08–10 through 13, Safety Recommendations. National Transportation Safety Board, Washington, DC 20594, March 31, 2008. A copy of this letter has been placed in the docket. *www.regulations.gov* docket FAA–2005–2147. Note: while NTSB used the term ''exemption'' the correct term as it relates to this airspace is ''excepted.''

[4] The FAA received letters from Senator Harry Reid (D–NV) and Representative Mark E. Amodei (R–NV); Letters are posted to the docket at *www.regulations.gov,* docket no. FAA–2015–2147.

[5] TABS is a surveillance system derived from existing transponder and ADS–B requirements. It was developed to increase safety by providing a standard for a low cost surveillance solution for aircraft excepted from §§ 91.215 and 91.225. An aircraft equipped with TABS is visible to other aircraft equipped with collision avoidance systems such as Traffic Advisory System (TAS), Traffic Alert and Collision Avoidance System (TCAS) I, TCAS–II, and ADS–B In. However, a TABS-equipped aircraft is not displayed to controllers. The FAA published Technical Standard Order (TSO)–C199, the standard for TABS, on October 10, 2014.

[6] ADS–B is a satellite-based surveillance system that uses Global Positioning System (GPS) technology to determine an aircraft's location, airspeed, and other data, and broadcasts that information to a network of ground stations, which relays the data to air traffic control displays, and to nearby aircraft equipped to receive the data via ADS–B In.

neutral. Of the 18 organizations that commented, 14 responded unfavorably (adverse), 2 favorably, and 2 were neutral. Three comments received after the comment period closed were also considered.

The following organizations responded: Soaring Society of America (SSA), Aircraft Owners and Pilots Association (AOPA), Vintage Sailplane Association (VSA), Experimental Aircraft Association (EAA), Civil Air Patrol (CAP), National Transportation Safety Board (NTSB), American Association for Justice (AAJ), and approximately 11 local soaring clubs or groups. Individual and anonymous commenters were representative of all pilot types: glider, general aviation (GA), airline and military, many commenters holding multiple ratings, with glider and general aviation pilots representing the majority.

Individual and anonymous commenters in favor of removing the transponder exception were primarily concerned about safety, some relaying personal experiences not accompanied by supporting documentation, such as a near mid-air collision (NMAC) report.[7] Several commenters recommended the FAA consider alternatives to transponder equipage, including ADS–B,TABS, or FLARM.[8]

All comments are available for viewing in the rulemaking docket (FAA–2015–2147). To view comments, go to *http://www.regulations.gov* and insert the docket number.

Discussion of Comments

1. Safety Benefit of Transponders

Of the approximately 161 unfavorable (adverse) comments received, many addressed the high cost of transponder equipage and the limited safety benefit by requiring such equipage.

During the ANPRM process, the FAA also reviewed glider midair and NMAC reports at the local and national level. After further analysis of safety related statistics, the FAA found that nationally, from August 2005 through August 2015, the Aviation Safety Reporting System (ASRS) database reflects 1,841 reported NMAC for all airspace areas. Of these NMACs, 50 involve a glider and another aircraft type, or 2.72% of reported NMACs over a 10-year period for an average of 5NMACs per year. In 2008, the last year data was available for all aircraft categories, statistics show there were 236,519 active aircraft, including 1,914 gliders, or about 0.81% of the active fleet.

Nationally, the removal of the glider exception from § 91.215 would help to prevent those instances where a glider NMAC occurs with an aircraft equipped with a Traffic Alert and Collision Avoidance System (TCAS).[9] [10] However, instances where removal of the glider exception from § 91.215 help prevent a glider NMAC due to increased air traffic controller awareness are assumed negligible overall, because the operating areas for gliders are often in places with little or no radar coverage. Furthermore, because gliders can maneuver rapidly, glider flight paths are difficult for the Air Traffic Control (ATC) automation system to accurately project. Over the 10-year period reviewed, of the 50 reported NMACs involving a glider and another aircraft type, 7 involved a glider and part 121 or 135 air carriers required to have TCAS. Using this analysis, removal of the glider exception from § 91.215 has the potential to reduce the NMAC occurrences by about 0.70 occurrences per year, or about 2 NMACs every 3 years (0.38% of all reported NMACs per year over that period).

Assuming all of these NMACs would occur between gliders and air carrier aircraft,[11] this would represent an incremental NMAC hazard of approximately 3.8×10^{-8}/flight hour to the air carrier aircraft, based on air carrier flight hour data for years 2010–2014 published on the NTSB's Web site. This rate of occurrence is within the acceptable hazard level guidelines for a Hazardous failure condition (not greater than the order of 1×10^{-7}/flight hour) according to the FAA System Safety Handbook, Appendix B.[12]

Therefore, based on the nationwide rate of occurrence, safety risk data does not support a rule requiring glider operators to install a transponder device at this time. Furthermore, the number of gliders voluntarily equipping with collision avoidance systems has increased steadily. Per the General Aviation and Part 135 Activity Surveys, the number of gliders equipped with a transponder device has gone from 14% in 2006, to 24.3% in 2014, the last year this data was available.[13]

Locally in the airspace surrounding Reno, Nevada, the NTSB noted four TCAS Resolution Advisory (RA) events in the 30 days prior to the accident, each between a glider and a TCAS-equipped transport category aircraft operated under 14 CFR part 121.[14] For these RAs to occur, the glider involved in each RA would have to be flying with an operable transponder (turned on).

Although this data supports the value of transponders in avoiding collisions, since the accident, the FAA and local glider community have also taken several measures to mitigate the risk of midair collisions within and around Reno, NV. First, advisory information on the heavy glider activity unique to the local area was published in official FAA flight information publications including the Chart Supplement, Special Notices, and Standard Terminal Arrival Routes (STARs) for Reno/Tahoe International Airport after the event. Second, on October 29, 2010, a Letter of Agreement (LOA) was signed between representatives for the local glider

[7] An NMAC is an incident associated with the operation of an aircraft in which a possibility of a collision occurs as a result of proximity of less than 500 feet to another aircraft, or a report is received from flightcrew members stating that a collision hazard existed between two or more aircraft. A report does not necessarily involve the violation of regulations or error by the air traffic control system, nor does it necessarily represent an unsafe condition. The fact that flightcrew members initiate NMAC reports raises two important issues. First, to some degree the data likely will be subjective. This necessitates that considerable caution be exercised when evaluating individual NMAC reports. Second, it is most likely the number of NMAC reports filed will not represent the totality of such events.

[8] FLARM is an electronic system designed to alert pilots of potential collisions between aircraft. FLARM is approved by the European Aviation Safety Agency for fixed installation in certified aircraft. Aircraft equipped with FLARM (including a variant known as PowerFLARM that can receive transponder and ADS–B signals from other aircraft) are visible only to other FLARM-equipped aircraft. There is no FAA TSO for FLARM because FLARM uses proprietary technology rather than industry consensus standards.

[9] This assumes all gliders are equipped with a transponder.

[10] TCAS provides two types of advisories, a Traffic Advisory (TA) and a Resolution Advisory (RA). TCAS can provide both types of advisories using another aircraft's transponder signal. A TA provides an aural alert ''TRAFFIC, TRAFFIC'' to the flight crew and places the other aircraft on a cockpit display showing the other aircraft's position, altitude and movement relative to the TCAS-equipped aircraft. TCAS also computes the time to closest point of approach between the two aircraft. If this drops below a certain computed threshold, TCAS then provides a RA, which consists of aural commands and instrument cues to maneuver the aircraft vertically to avoid the threat.

[11] Air carrier aircraft are the fleet segment of greatest safety concern to the FAA for this contemplated rulemaking. These aircraft are required by regulation to be TCAS-equipped.

[12] Appendix B of the FAA System Safety Handbook defines a hazardous failure condition as one that reduces the capability of the system or the operator ability to cope with adverse conditions to the extent that there would be: Large reduction in safety margin or functional capability; Crew physical distress/excessive workload such that operators cannot be relied upon to perform required tasks accurately or completely; Serious or fatal injury to small number of occupants of aircraft (except operators); or Fatal injury to ground personnel and/or general public.

[13] Number of active gliders with transponders: 2014 GA Survey, Avionics Tables, Table AV.6. *https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/.*

[14] A–08–10 through 13, Safety Recommendations. National Transportation Safety Board, Washington, DC 20594, March 31, 2008. A copy of this letter is in the docket at *www.regulations.gov,* docket no. FAA–2015–2147.

community and ATC facilities having control over the airspace. The LOA establishes an area and procedures for glider operations within positive controlled airspace in the Reno area. By establishing this area and these procedures, the LOA enhances airspace awareness and communication among the Oakland Air Route Traffic Control Center, Northern California Terminal Radar Approach Control, and the Pacific Soaring Council. Additionally, the LOA outlines entry and exit procedures into the operating areas and identifies pilot responsibilities to increase communication and situational awareness in the Reno area.[15]

Finally, the local glider community has undertaken a successful education campaign to prevent further accidents. According to the SSA, ''Since the 2006 accident, the local glider community that flies near RNO has undertaken successfully to educate pilots on collision avoidance and to encourage the voluntary use of either FLARM or transponders. As a result of these voluntary efforts, the official ASRS database includes no new incidents with gliders not equipped with transponders in the RNO or MEV [Minden-Tahoe Airport] areas in [excepted] airspace since the release some 7 years ago of the NTSB report on the 2006 incident.'' [16]

The SSA, EAA, and several individual commenters opposing transponder equipage, noted that the glider involved in the 2006 Reno accident was equipped with a transponder, but at the time of the accident, the pilot operated the glider with the transponder turned off.[17] The FAA acknowledges that in the 2006 accident, if the glider transponder were turned on, the Hawker aircraft would have received TCAS advisories.

2. Estimating Glider Transponder Cost From Removal of Glider Exception

Approximately 138 commenters discussed the cost of requiring gliders to equip with transponders.[18] Of those 138 commenters discussing cost, there were just 20 comments that could be characterized as in favor of requiring gliders to equip with transponders to some degree.

Three commenters stated that transponders were inexpensive, but as shown below these commenters underestimated the cost of glider transponders as ''in the few hundred dollar range'' or ''less than $2000'' and/or ignored the cost of installation or assumed installation was easy. They did not address the concern that about half the glider population does not have an electrical system, which significantly increases the cost of transponder installation. These commenters were contradicted by more than 30 commenters who provided specific cost estimates for glider transponders and installation costs. Another commenter, in favor of removing the glider exception because he believed that the safety benefits justified the costs, conceded that transponders ''are indeed costly.''

The FAA estimates the cost of requiring gliders to equip with transponders to be about $5,000 per glider and more than $7 million for the glider fleet. Owing to a lack of reliable data, the glider (and fleet) cost estimates do not take into account the possible significant cost of instrument panel modification. There may also be significant additional cost for older gliders that no longer have manufacturer support because they may require a FAA Form 337 (Major Repair and Alteration) approval if there is no prior approval (Supplemental Type Certificate (STC) or other previously approved installation).

The fleet estimate assumes that (1) all active glider operators will want to operate in the currently excepted airspace and (2) the 990 inactive gliders (total glider population of 2781—1791 active gliders) in the fleet will deregister upon rule implementation.[19] The $7 million fleet figure would be an underestimation to the extent these two assumptions are incorrect. Details of the estimates of cost per glider and glider fleet cost are shown in Table 1.

TABLE 1—GLIDER TRANSPONDER UNIT COSTS

Item	Cost	Sources/notes
Transponder	$2,339	Cost based on the Trig TT21 as it appears to be the most popular glider transponder.
Cabling	146	*Aircraftspruce.com:* Trig TT21 including custom harness—$2485.
Antenna	169	*Cumulus-Soaring.com:* RAMI AV–74–1 Blade Style Transponder or DME Antenna: ''. . . like the AV–74—but with longer mounting studs—which is nice when trying to mount it through a glider fuselage.''
Battery charger	25	
Total Nonrecurring hardware	2,679	
Installation	1,300	Average of 32 ANPRM commenter estimates.
Total Nonrecurring Cost	3,979	
Batteries (every 2.5 years)	600	Battery choice based on comment by Philadelphia Glider Council: ''. . . one [LiFePO4]18AH or two-three 9 Ahs generally sufficient for 10 hrs of operation.'' *CumulusSoaring.com:* Bioenno Power BLF–1209 LiFePo4 Battery 12V, 9AHr $100, charger $25. Or BLF–1220 20AHr $205, charger $30. Duration based on ANPRM comments.
Biannual inspection	800	$200 per inspection. Based on ANPRM comments.

[15] The LOA is posted in the docket at *www.regulations.gov,* docket no. FAA–2015–2147.

[16] SSA comment letter posted in the docket at *www.regulations.gov,* docket no. FAA–2015–2147.

[17] 14 CFR 91.215(c) states: While in the airspace as specified in paragraph (b) of this section or in all controlled airspace, each person operating an aircraft equipped with an operable ATC transponder maintained in accordance with § 91.413 of this part shall operate the transponder, including Mode C equipment if installed, and shall reply on the appropriate code or as assigned by ATC. This collision occurred at approximately 16,000 feet MSL in Class E airspace (which extends upward from 14,500 feet MSL to flight level 180 throughout the National Airspace System).

[18] Most comments addressed the cost of transponder equipage. A few comments addressed the cost to install other equipment such as ADS–B, TABS, and FLARM. The FAA sought comment on these technologies in the ANPRM. These alternatives and others are discussed later in this notice.

[19] Total number of gliders and number of active gliders: 2014 GA Survey, Table 2.1.

TABLE 1—GLIDER TRANSPONDER UNIT COSTS—Continued

Item	Cost	Sources/notes
Total Recurring Costs	1,400	

The nonrecurring and recurring unit costs required to estimate the cost of a rule change eliminating the glider transponder exception are shown in Table 1.

The FAA estimates the costs of such a rule change over a ten-year period for the existing U.S. glider fleet. This estimation is shown in Table 2.[20] The cost of a rule change for new production of existing glider models and new certifications is not estimated owing to a lack of the necessary forecasts.

TABLE 2—TEN-YEAR COST OF REMOVING GLIDER TRANSPONDER EXCEPTION

Year	Item costs	Description	Non-recurring costs	PV recurring costs @7%[21]
0	$3,979	Hardware & Installation	$3,979	
1				
2	200	Bi-annual Inspection		$175
2.5	200	Battery Replacement		169
3				
4	200	Bi-annual Inspection		153
5	200	Battery Replacement		143
6	200	Bi-annual Inspection		133
7				
7.5	200	Battery Replacement		120
8	200	Bi-annual Inspection		116
9				
10				
Totals			3,979	1,009

Total number of active gliders	1791	Cost/glider	Total cost
Gliders with electrical systems[22]	699		
Gliders with transponders[23]	461		
Gliders without electrical systems	1092	400	436,800
Gliders without transponders	1330	4,988	6,633,798
Cost of rule removing glider exception			7,070,598

Note: Due to rounding, details may not add up to totals or multiply to products.

Based on the risk reduction data discussed in the previous section and the estimated costs of equipage listed in this section, the FAA finds that the degree of risk reduction that could be expected by requiring transponder equipage for gliders does not justify the cost of requiring such equipage.

3. Alternatives to Transponders

Several commenters called for ''low cost'' and ''affordable'' transponders (such as a portable transponder) and ADS–B, TABS, or FLARM equipment. The NTSB noted the FAA published a final rule on May 28, 2010, that added requirements for ADS–B Out equipage that, if combined with transponder usage, would result in increased traffic awareness and collision avoidance. The NTSB also commented in response to this ANPRM that TABS may be an acceptable alternative as it is detectable by both TCAS and ADS–B-In equipped aircraft.

Since the 2006 accident, technologies have developed and alternatives are available that have the potential to mitigate risk, such as TABS, FLARM, ADS–B, local LOA with ATC facilities, and ongoing outreach and education. Of the technological solutions identified here, the ones that offer the best potential to avoid collision with TCAS-equipped aircraft (besides transponder equipage) are TABS or a rule-compliant ADS–B Out system, because those systems make the glider visible to TCAS-equipped aircraft, ATC or both.

The TABS standard provides for a reduction in the transmission rate and allows for a ''non-aviation grade'' GPS engine, in order to drive unit cost down while still maintaining an acceptable level of service to be considered a client in the NAS, where collision avoidance and ADS–B systems coexist. There are currently no TSO authorization holders for TABS equipment. However, we are aware that certain manufacturers currently have TABS systems in development.

Some commenters recommended that the FAA allow use of portable

[20] The estimation takes into account an additional nonrecurring cost not shown in Table 1 of $400 for gliders without an electrical system.

[21] A discount rate of 7 percent is recommended by Office of Management & Budget, Circular A–94, ''Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs,'' October 29, 1992, p. 8.

[22] Number of active gliders with electrical systems gliders: 2014 GA Survey, Avionics Tables, Table AV.1. *https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/*.

[23] Number of active gliders with transponders: 2014 GA Survey, Avionics Tables, Table AV.6. *https://www.faa.gov/data_research/aviation_data_statistics/general_aviation/*.

transponders, stating they were lower cost than fixed transponder installations and relatively affordable. While portable transponders may meet the TSO performance requirements, they are not approved for use unless they are actually installed in the aircraft. A key reason for this is placement of the transponder antenna in the aircraft. If the transponder antenna is not placed correctly, the aircraft may not be electronically detectable to other aircraft or ATC.

Other commenters recommended that the FAA encourage equipage of FLARM systems. In this regard, the FAA notes that a variant of FLARM, known as PowerFLARM, will make a transponder or ADS–B Out equipped aircraft detectable to the PowerFLARM-equipped aircraft (such as a glider). However, a glider that is equipped with any version of FLARM will not be electronically detectable to the other aircraft unless both aircraft are FLARM equipped. In view of these factors, the FAA concludes that FLARM systems may provide a safety benefit (particularly for avoidance of collisions between gliders, and for PowerFLARM equipped gliders, some benefit for avoidance of collisions with powered aircraft). However, the FAA does not view FLARM (including PowerFLARM) as the most effective system to support collision avoidance with powered aircraft since a FLARM system may not make the glider detectable to the aircraft that must give way. Transponders, TABS, and ADS–B Out offer better protection against collisions with powered aircraft because those systems aid visual acquisition of the glider by the powered aircraft flightcrew, consistent with right of way rules.[24]

The FAA will continue to consider surveillance system alternatives for gliders for their feasibility and potential to improve safety.

4. Other Comments

Several commenters were in favor of removing the current glider exception for certain high-density airspace areas. One commenter, otherwise strongly in favor of removing the glider exception, suggested an exception for gliders involved in training below 5,000 feet above ground level (AGL). The FAA has determined not to propose any changes to the rules for specific airspace areas because the accident and incident history cited in the NTSB recommendation has occurred predominantly around one specific airspace area, Reno, NV. The FAA has determined that the post accident mitigations for the Reno area discussed previously in this notice mitigate the risk for that specific airspace.

Another commenter stated, ''the FAA should make clear that installing a transponder, encoder, antenna, an extra battery or batteries and possible solar panels are all considered 'minor modifications' which can be signed off by the installing technician based on his judgment.'' This commenter and several others, in opposition of the removal of the glider exception, also called for exceptions for older gliders. The FAA finds that rulemaking is not necessary at this time for any gliders, but points to current guidance available to assist in installation and approval of transponder systems in gliders and sailplanes for operators wishing to voluntarily equip.[25]

The AAJ listed glider color, construction materials, and slender profiles as contributing factors to lack of pilot visibility or radar detection and further identified Instrument Flight Rule congested areas as concerns of undeniable risk, especially the parameters of Class B airspace. These sentiments were largely shared amongst both adverse and favorable commenters, offering similar solutions or variations thereof. The FAA has discussed its determination regarding specific airspace areas above. With regard to the other comments identified here, the FAA's decision in this notice includes consideration of those comments.

Reason for Withdrawal

After consideration of all comments received, the FAA is withdrawing Notice No. 15–05. The FAA finds that the high cost of transponder equipage and the limited safety benefit that is likely to result from requiring such equipage do not support rulemaking at this time. Additionally, as discussed above, the FAA has determined that a proposal to require gliders to equip with ''low-cost'' alternatives to transponders is not supportable at this time.

NTSB safety recommendations, resulting from the 2006 midair collision with a glider, indicated that although the glider was equipped with a transponder, the transponder was turned off. After further analysis of safety-related statistics over a 10-year period (August 2005–August 2015) the ASRS database reflects 1841 reported NMAC for all airspace areas. The FAA found data that indicates that removal of the glider exception from § 91.215 would have the potential to reduce the NMAC occurrences by about 0.70 occurrences per year, or about 2 NMACs every 3 years (0.38% of all reported NMACs per year over that period).

Conclusion

When further testing, research, and conclusive data is available that reflect alternative mitigations, a broader, more harmonized proposal may better serve the public interest. Withdrawal of Notice No. 15–05 does not preclude the FAA from issuing another notice on the subject matter in the future or committing the agency to any future course of action. The agency will make any necessary changes to the regulations through a notice of proposed rulemaking (NPRM) with the opportunity for public comment.

Although the FAA has determined that a regulatory course of action is not warranted at this time, the FAA will continue to work with local glider communities, encourage the voluntary equipage of transponders in gliders and encourage the use of TABS. The FAA continues to recommend that all glider aircraft owners equip their gliders with a transponder meeting the requirements of § 91.215(a), a rule-compliant ADS–B Out system, or a TABS device. In consideration of the above factors, the FAA withdraws Notice No. 15–05, published in 80 FR 34346, on June 16, 2015.

Issued under authority provided by 49 U.S.C. 106(f), 44701(a), and 40103 in Washington, DC, on December 16, 2016.

Gary A. Norek,

Deputy Director, Airspace Services.

[FR Doc. 2016–30910 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–13–P

[24] Section 91.113(d)(2) states that ''A glider has the right of way over powered parachute, weight-shift-aircraft, airplane, or rotorcraft.''

[25] Information for Operators (InFO) 09009, Installation and Approval of Transponder Systems in Gliders/Sailplanes, dated June 10, 2009.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2016–0373; FRL–9957–19–Region 3]

Air Plan Approval; WV; Infrastructure Requirements for the 2012 Fine Particulate Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a state implementation plan (SIP) revision submittal from the State of West Virginia pursuant to the Clean Air Act (CAA). Whenever new or revised

national ambient air quality standards (NAAQS) are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements. West Virginia has made a submittal addressing the infrastructure requirements for the 2012 fine particulate matter ($PM_{2.5}$) NAAQS. This action proposes to approve portions of this submittal.

DATES: Written comments must be received on or before January 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R03–OAR–2016–0373 at *http://www.regulations.gov,* or via email to *pino.maria@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* For either manner of submission, EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be confidential business information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For 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: Ellen Schmitt, (215) 814–5787, or by email at *schmitt.ellen@epa.gov.*

SUPPLEMENTARY INFORMATION: On November 17, 2015, the State of West Virginia through the West Virginia Department of Environmental Protection (WVDEP) submitted a revision to its SIP to satisfy the requirements of section 110(a)(2) of the CAA for the 2012 $PM_{2.5}$ NAAQS.

I. Background

On July 18, 1997, EPA promulgated a new 24-hour and a new annual NAAQS for $PM_{2.5}$ (62 FR 38652). On October 17, 2006, EPA revised the standards for $PM_{2.5}$, tightening the 24-hour $PM_{2.5}$ standard from 65 micrograms per cubic meter ($\mu g/m^3$) to 35 $\mu g/m^3$, and retaining the annual $PM_{2.5}$ standard at 15 $\mu g/m^3$ (71 FR 61144). Subsequently, on December 14, 2012, EPA revised the level of the health based (primary) annual $PM_{2.5}$ standard to 12 $\mu g/m^3$. *See* 78 FR 3086 (January 15, 2013).[1]

Pursuant to section 110(a)(1) of the CAA, states are required to submit SIP submissions meeting the applicable requirements of section 110(a)(2) within three years after promulgation of a new or revised NAAQS or within such shorter period as EPA may prescribe. Section 110(a)(2) requires states to address basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS. Section 110(a) imposes the obligation upon states to make a SIP submission to EPA for a new or revised NAAQS, but the contents of that submission may vary depending upon the facts and circumstances. In particular, the data and analytical tools available at the time the state develops and submits the SIP submission for a new or revised NAAQS affect the content of the submission. The content of such SIP submission may also vary depending upon what provisions the state's existing SIP already contains.

More specifically, section 110(a)(1) provides the procedural and timing requirements for SIP submissions. Section 110(a)(2) lists specific elements that states must meet for infrastructure SIP requirements related to a newly established or revised NAAQS. As mentioned earlier, these requirements include basic SIP elements such as requirements for monitoring, basic program requirements, and legal authority that are designed to assure attainment and maintenance of the NAAQS.

II. Summary of State Submittal

On November 17, 2015, West Virginia provided a submittal to satisfy section 110(a)(2) requirements of the CAA for the 2012 $PM_{2.5}$ NAAQS, which is the subject of this proposed rulemaking. This submittal addressed the following infrastructure elements or portions thereof, which EPA is proposing to approve: Section 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. A detailed summary of EPA's review and rationale for approving West Virginia's submittal may be found in the Technical Support Document (TSD) for this rulemaking action which is available on line at *www.regulations.gov,* Docket ID Number EPA–R03–OAR–2016–0373. This rulemaking action does not include any proposed action on section 110(a)(2)(I) of the CAA which pertains to the nonattainment requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process.

At this time, EPA is not proposing action on section 110(a)(2)(D)(i)(I) regarding the interstate transport of emissions, nor is the Agency proposing action on section 110(a)(2)(D)(i)(II) relating to visibility protection. EPA intends to take later separate action on these portions of West Virginia's submittal.

III. Proposed Action

EPA is proposing to approve the following elements or portions thereof of West Virginia's November 17, 2015 SIP revision: Section 110(a)(2)(A), (B), (C), (D)(i)(II) (prevention of significant deterioration), (D)(ii), (E), (F), (G), (H), (J), (K), (L), and (M) of the CAA. West Virginia's SIP revision provides the basic program elements specified in section 110(a)(2) of the CAA necessary to implement, maintain, and enforce the 2012 $PM_{2.5}$ NAAQS. This proposed rulemaking action does not include action on section 110(a)(2)(I) which pertains to the nonattainment planning requirements of part D, title I of the CAA, because this element is not required to be submitted by the 3-year submission deadline of section 110(a)(1) of the CAA, and will be addressed in a separate process.

EPA will take later separate action on section (D)(i)(I) (interstate transport of emissions) and on section (D)(i)(II) (visibility protection) for the 2012 $PM_{2.5}$ NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the

[1] In EPA's 2012 $PM_{2.5}$ NAAQS revision, EPA left unchanged the existing welfare (secondary) standards for $PM_{2.5}$ to address PM related effects such as visibility impairment, ecological effects, damage to materials and climate impacts. This includes an annual secondary standard of 15 $\mu g/m^3$ and a 24-hour standard of 35 $\mu g/m^3$.

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

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

In addition, this proposed rule, pertaining to West Virginia's section 110(a)(2) infrastructure requirements for the 2012 $PM_{2.5}$ NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

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

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

Dated: December 1, 2016.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2016–30882 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2016–0583; FRL–9957–32–Region 4]

Air Plan Approval; Air Plan Approval and Air Quality Designation; GA; Redesignation of the Atlanta, Georgia 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 18, 2016, the State of Georgia, through the Georgia Environmental Protection Division (GA EPD) of the Department of Natural Resources, submitted a request for the Environmental Protection Agency (EPA) to redesignate the Atlanta, Georgia 2008 8-hour ozone nonattainment area (hereafter referred to as the ''Atlanta Area'' or ''Area'') to attainment for the 2008 8-hour ozone National Ambient Air Quality Standards (NAAQS) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA is proposing to approve the State's plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOC) for the years 2014 and 2030 for the Area, and incorporate it into the SIP, and to redesignate the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy determination for the MVEBs for the Area.

DATES: Comments must be received on or before January 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2016–0583 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Jane Spann, Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Spann can be reached by phone at (404) 562–9029 or via electronic mail at *spann.jane@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What are the actions EPA is proposing to take?

EPA is proposing to take the following separate but related actions: (1) To approve Georgia's plan for maintaining the 2008 8-hour ozone NAAQS (maintenance plan), including the associated MVEBs for the Atlanta Area, and incorporate it into the SIP, and (2) to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA's adequacy

determination for the MVEBs for the Atlanta Area. The Atlanta Area consists of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia. These proposed actions are summarized below and described in greater detail throughout this notice of proposed rulemaking.

EPA is proposing to approve Georgia's maintenance plan for the Atlanta Area as meeting the requirements of section 175A (such approval being one of the CAA criteria for redesignation to attainment status) and incorporate it into the SIP. The maintenance plan is designed to keep the Atlanta Area in attainment of the 2008 8-hour ozone NAAQS through 2030. The maintenance plan includes 2014 and 2030 MVEBs for NO_X and VOC for the Atlanta Area for transportation conformity purposes. EPA is proposing to approve these MVEBs and incorporate them into the SIP.

EPA also proposes to determine that the Atlanta Area has met the requirements for redesignation under section 107(d)(3)(E) of the CAA. Accordingly, in this action, EPA is proposing to approve a request to change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties in Georgia, as found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS.

EPA is also notifying the public of the status of EPA's adequacy process MVEBs for the Atlanta Area. The Adequacy comment period began on September 2, 2016, with EPA's posting of the availability of Georgia's submissions on EPA's Adequacy Web site (*https://www.epa.gov/state-and-local-transportation/state-implementation-plans-sip-submissions-currently-under-epa*). The Adequacy comment period for these MVEBs closed on October 3, 2016. No comments, adverse or otherwise, were received during the Adequacy comment period. Please see section VII of this proposed rulemaking for further explanation of this process and for more details on the MVEBs.

In summary, this notice of proposed rulemaking is in response to Georgia's July 18, 2016, redesignation request and associated SIP submission that address the specific issues summarized above and the necessary elements described in section 107(d)(3)(E) of the CAA for redesignation of the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS.

II. What is the background for EPA's proposed actions?

On March 12, 2008, EPA revised both the primary and secondary NAAQS for ozone to a level of 0.075 parts per million (ppm) to provide increased protection of public health and the environment. *See* 73 FR 16436 (March 27, 2008). The 2008 ozone NAAQS retains the same general form and averaging time as the 0.08 ppm NAAQS set in 1997, but is set at a more protective level. Under EPA's regulations at 40 CFR part 50, the 2008 8-hour ozone NAAQS is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentrations is less than or equal to 0.075 ppm. *See* 40 CFR 50.15.

Effective July 20, 2012, EPA designated any area that was violating the 2008 8-hour ozone NAAQS based on the three most recent years (2008–2010) of air monitoring data as a nonattainment area. *See* 77 FR 30088 (May 21, 2012). The Atlanta Area was designated as a marginal ozone nonattainment area. *See* 40 CFR 81.311. Areas that were designated as marginal ozone nonattainment areas were required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2015, based on 2012–2014 monitoring data. The Atlanta Area did not attain the 2008 8-hour ozone NAAQS by July 20, 2015, and therefore on May 4, 2016, EPA published a final rule reclassifying the Atlanta Area from a marginal nonattainment area to a moderate nonattainment area for the 2008 8-hour ozone standard. *See* 81 FR 26697 (May 4, 2016). Moderate areas are required to attain the 2008 8-hour ozone NAAQS no later than July 20, 2018, six years after the effective date of the initial nonattainment designations. *See* 40 CFR 51.1103.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015. *See* 81 FR 45419. Under the provisions of EPA's ozone implementation rule for the 2008 8-hour ozone NAAQS (40 CFR part 51, subpart AA), if EPA issues a determination that an area is attaining the relevant standard, also known as a Clean Data Determination, the area's obligations to submit an attainment demonstration and associated reasonably available control measures (RACM), reasonable further progress plan (RFP), contingency measures, and other planning SIPs related to attainment of the 2008 8-hour ozone NAAQS are suspended until EPA: (i) Redesignates the area to attainment for the standard or approves a redesignation substitute, at which time those requirements no longer apply; or (ii) EPA determines that the area has violated the standard, at which time the area is again required to submit such plans. *See* 40 CFR 51.1118. While these requirements are suspended, EPA is not precluded from acting upon these elements at any time if submitted to EPA for review and approval.

An attainment determination is not equivalent to a redesignation under section 107(d)(3) of the CAA. Additionally, the determination of attainment is separate from, and does not influence or otherwise affect, any future designation determination or requirements for the Atlanta Area based on any new or revised ozone NAAQS, and the determination of attainment remains in effect regardless of whether EPA designates this Area as a nonattainment area for purposes of any new or revised ozone NAAQS.

III. What are the criteria for redesignation?

The CAA provides the requirements for redesignating a nonattainment area to attainment. Specifically, section 107(d)(3)(E) of the CAA allows for redesignation providing that: (1) The Administrator determines that the area has attained the applicable NAAQS; (2) the Administrator has fully approved the applicable implementation plan for the area under section 110(k); (3) the Administrator determines that the improvement in air quality is due to permanent and enforceable reductions in emissions resulting from implementation of the applicable SIP and applicable federal air pollutant control regulations and other permanent and enforceable reductions; (4) the Administrator has fully approved a maintenance plan for the area as meeting the requirements of section 175A; and (5) the state containing such area has met all requirements applicable to the area for purposes of redesignation under section 110 and part D of the CAA.

On April 16, 1992, EPA provided guidance on redesignation in the General Preamble for the Implementation of title I of the CAA Amendments of 1990 (57 FR 13498), and supplemented this guidance on April 28, 1992 (57 FR 18070). EPA has provided further guidance on processing redesignation requests in the following documents:

1. ''Ozone and Carbon Monoxide Design Value Calculations,'' Memorandum from Bill

Laxton, Director, Technical Support Division, June 18, 1990;

2. ''Maintenance Plans for Redesignation of Ozone and Carbon Monoxide Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, April 30, 1992;

3. ''Contingency Measures for Ozone and Carbon Monoxide (CO) Redesignations,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, June 1, 1992;

4. ''Procedures for Processing Requests to Redesignate Areas to Attainment,'' Memorandum from John Calcagni, Director, Air Quality Management Division, September 4, 1992 (hereinafter referred to as the ''Calcagni Memorandum'');

5. ''State Implementation Plan (SIP) Actions Submitted in Response to Clean Air Act (CAA) Deadlines,'' Memorandum from John Calcagni, Director, Air Quality Management Division, October 28, 1992;

6. ''Technical Support Documents (TSDs) for Redesignation of Ozone and Carbon Monoxide (CO) Nonattainment Areas,'' Memorandum from G. T. Helms, Chief, Ozone/Carbon Monoxide Programs Branch, August 17, 1993;

7. ''State Implementation Plan (SIP) Requirements for Areas Submitting Requests for Redesignation to Attainment of the Ozone and Carbon Monoxide (CO) National Ambient Air Quality Standards (NAAQS) On or After November 15, 1992,'' Memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation, September 17, 1993 (hereinafter referred to as the ''Shapiro Memorandum'');

8. ''Use of Actual Emissions in Maintenance Demonstrations for Ozone and CO Nonattainment Areas,'' Memorandum from D. Kent Berry, Acting Director, Air Quality Management Division, November 30, 1993;

9. ''Part D New Source Review (Part D NSR) Requirements for Areas Requesting Redesignation to Attainment,'' Memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation, October 14, 1994 (hereinafter referred to as the ''Nichols Memorandum''); and

10. ''Reasonable Further Progress, Attainment Demonstration, and Related Requirements for Ozone Nonattainment Areas Meeting the Ozone National Ambient Air Quality Standard,'' Memorandum from John S. Seitz, Director, Office of Air Quality Planning and Standards, May 10, 1995.

IV. Why is EPA proposing these actions?

On July 18, 2016, Georgia requested that EPA redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS and approve the associated SIP revision submitted on the same date containing a maintenance plan for the Area. EPA's evaluation indicates that the Atlanta Area meets the requirements for redesignation as set forth in CAA section 107(d)(3)(E), including the maintenance plan requirements under CAA section 175A and associated MVEBs. As a result of these proposed findings, EPA is proposing to take the actions summarized in section I of this notice.

V. What is EPA's analysis of the redesignation request and July 18, 2016, SIP submission?

As stated above, in accordance with the CAA, EPA proposes to approve the 2008 8-hour ozone NAAQS maintenance plan, including the associated MVEBs, and incorporate it into the Georgia SIP; and redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS. The five redesignation criteria provided under CAA section 107(d)(3)(E) are discussed in greater detail for the Area in the following paragraphs of this section.

Criteria (1)—The Atlanta GA Area Has Attained the 2008 8-Hour Ozone NAAQS

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has attained the applicable NAAQS. *See* CAA section 107(d)(3)(E)(i). For ozone, an area may be considered to be attaining the 2008 8-hour ozone NAAQS if it meets the 2008 8-hour ozone NAAQS, as determined in accordance with 40 CFR 50.15 and Appendix P of part 50, based on three complete, consecutive calendar years of quality-assured air quality monitoring data. To attain the NAAQS, the 3-year average of the fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area over each year must not exceed 0.075 ppm. Based on the data handling and reporting convention described in 40 CFR part 50, Appendix P, the NAAQS are attained if the design value is 0.075 ppm or below. The data must be collected and quality-assured in accordance with 40 CFR part 58 and recorded in EPA's Air Quality System (AQS). The monitors generally should have remained at the same location for the duration of the monitoring period required for demonstrating attainment.

On July 14, 2016, EPA determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS. *See* 81 FR 45419. In that action, EPA reviewed complete, quality-assured, and certified ozone monitoring data from monitoring stations in the Atlanta Area for the 2008 8-hour ozone NAAQS for 2013 through 2015 and determined that the design values for each monitor in the Area are less than the standard of 0.075 ppm for that time period. The fourth-highest 8-hour ozone values at each monitor for 2013, 2014, and 2015 and the 3-year averages of these values (*i.e.,* design values), are summarized in Table 2, below.

TABLE 2—2013–2015 DESIGN VALUE CONCENTRATIONS FOR THE ATLANTA AREA

[ppm]

Location (county)	Monitoring station	4th Highest 8-hour ozone value			3-Year design values
		2013	2014	2015	2013–2015
Cobb	GA National Guard, McCollum Pkwy (13–067–0003)	0.067	0.063	0.066	0.066
Coweta	University of W. Georgia at Newnan (13–077–0002)	0.053	0.067	0.066	0.062
DeKalb	2390–B Wildcat Road Decatur (13–089–0002)	0.062	0.070	0.071	0.067
Douglas	Douglas Co. Water Auth. W. Strickland St. (13–097–0004)	0.063	0.065	0.070	0.066
Gwinnett	Gwinnett Tech, 5150 Sugarloaf Pkwy. (13–135–0002)	0.069	0.068	0.071	0.069
Henry	Henry County Extension Office (13–151–0002)	0.070	0.075	0.070	0.071
Paulding	Yorkville, King Farm (13–223–0003)	0.062	0.059	0.065	0.062
Rockdale	Conyers Monastery, 2625 GA Hwy. 212 (13–247–0001)	0.071	0.079	0.068	0.072
Fulton	Confederate Ave., Atlanta (13–121–0055)	0.069	0.073	0.077	0.073

The 3-year design value for 2013–2015 for the Atlanta Area is 0.073 ppm,[1] which meets the NAAQS.

For this proposed action, EPA has reviewed 2016 preliminary monitoring data for the Area and proposes to find that the preliminary data does not indicate a violation of the NAAQS.[2] EPA will not take final action to approve the redesignation if the 3-year design value exceeds the NAAQS prior to EPA finalizing the redesignation. As discussed in more detail below, Georgia has committed to continue monitoring in this Area in accordance with 40 CFR part 58.

Criteria (2)—Georgia Has a Fully Approved SIP Under Section 110(k) for the Atlanta Area; and Criteria (5)—Georgia Has Met All Applicable Requirements Under Section 110 and Part D of Title I of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the state has met all applicable requirements under section 110 and part D of title I of the CAA (CAA section 107(d)(3)(E)(v)) and that the state has a fully approved SIP under section 110(k) for the area (CAA section 107(d)(3)(E)(ii)). EPA proposes to find that Georgia has met all applicable SIP requirements for the Atlanta Area under section 110 of the CAA (general SIP requirements) for purposes of redesignation. Additionally, EPA proposes to find that Georgia has met all applicable SIP requirements for purposes of redesignation under part D of title I of the CAA in accordance with section 107(d)(3)(E)(v) and proposes to determine that the SIP is fully approved with respect to all requirements applicable for purposes of redesignation in accordance with section 107(d)(3)(E)(ii). In making these proposed determinations, EPA ascertained which requirements are applicable to the Area and, if applicable, that they are fully approved under section 110(k). SIPs must be fully approved only with respect to requirements that were due prior to submittal of the complete redesignation request.

a. The Atlanta Area Has Met All Applicable Requirements Under Section 110 and Part D of the CAA

General SIP requirements. General SIP elements and requirements are delineated in section 110(a)(2) of title I, part A of the CAA. These requirements include, but are not limited to, the following: Submittal of a SIP that has been adopted by the state after reasonable public notice and hearing; provisions for establishment and operation of appropriate procedures needed to monitor ambient air quality; implementation of a source permit program; provisions for the implementation of part C requirements (Prevention of Significant Deterioration (PSD)) and provisions for the implementation of part D requirements (NSR permit programs); provisions for air pollution modeling; and provisions for public and local agency participation in planning and emission control rule development.

Section 110(a)(2)(D) requires that SIPs contain certain measures to prevent sources in a state from significantly contributing to air quality problems in another state. To implement this provision, EPA has required certain states to establish programs to address the interstate transport of air pollutants. The section 110(a)(2)(D) requirements for a state are not linked with a particular nonattainment area's designation and classification in that state. EPA believes that the requirements linked with a particular nonattainment area's designation and classifications are the relevant measures to evaluate in reviewing a redesignation request. The transport SIP submittal requirements, where applicable, continue to apply to a state regardless of the designation of any one particular area in the state. Thus, EPA does not believe that the CAA's interstate transport requirements should be construed to be applicable requirements for purposes of redesignation.

In addition, EPA believes other section 110 elements that are neither connected with nonattainment plan submissions nor linked with an area's attainment status are not applicable requirements for purposes of redesignation. The area will still be subject to these requirements after the area is redesignated. The section 110 and part D requirements which are linked with a particular area's designation and classification are the relevant measures to evaluate in reviewing a redesignation request. This approach is consistent with EPA's existing policy on applicability (*i.e.,* for redesignations) of conformity and oxygenated fuels requirements, as well as with section 184 ozone transport requirements. *See* Reading, Pennsylvania, proposed and final rulemakings (61 FR 53174–53176, October 10, 1996), (62 FR 24826, May 7, 2008); Cleveland-Akron-Loraine, Ohio, final rulemaking (61 FR 20458, May 7, 1996); and Tampa, Florida, final rulemaking at (60 FR 62748, December 7, 1995). *See also* the discussion on this issue in the Cincinnati, Ohio, redesignation (65 FR 37890, June 19, 2000), and in the Pittsburgh, Pennsylvania, redesignation (66 FR 50399, October 19, 2001).

Title I, Part D, applicable SIP requirements. Section 172(c) of the CAA sets forth the basic requirements of attainment plans for nonattainment areas that are required to submit them pursuant to section 172(b). Subpart 2 of part D, which includes section 182 of the CAA, establishes specific requirements for ozone nonattainment areas depending on the area's nonattainment classification. As provided in Subpart 2, a marginal ozone nonattainment area must submit an emissions inventory that complies with section 172(c)(3), but the specific requirements of section 182(a) apply in lieu of the demonstration of attainment (and contingency measures) required by section 172(c). *See* 42 U.S.C. 7511a(a). A moderate area must meet the marginal area requirements of section 182(a) and additional requirements specific to moderate (and higher) areas under section 182(b). A thorough discussion of the requirements contained in sections 172(c) and 182 can be found in the General Preamble for Implementation of Title I (57 FR 13498).

Under its longstanding interpretation of the CAA, EPA has interpreted section 107(d)(3)(E) to mean, as a threshold matter, that the part D provisions which are ''applicable'' and which must be approved in order for EPA to redesignate an area include only those which came due prior to a state's submittal of a complete redesignation request. *See* Calcagni Memorandum. *See also* Shapiro Memorandum; Final Redesignation of Detroit-Ann Arbor, (60 FR 12459, 12465–66, March 7, 1995); Final Redesignation of St. Louis, Missouri, (68 FR 25418, 25424–27, May 12, 2003); *Sierra Club* v. *EPA,* 375 F.3d 537, 541 (7th Cir. 2004) (upholding EPA's redesignation rulemaking applying this interpretation and expressly rejecting Sierra Club's view that the meaning of ''applicable'' under the statute is '''whatever should have been in the plan at the time of attainment' rather than whatever actually was in the plan and already implemented or due at the time of attainment''').[3] For the Atlanta Area, no

[1] The design value for an area is the highest 3-year average of the annual fourth-highest daily maximum 8-hour concentration recorded at any monitor in the area.

[2] This preliminary data is available at EPA's air data Web site: *http://aqsdr1.epa.gov/aqsweb/aqstmp/airdata/.*

[3] Applicable requirements of the CAA that come due subsequent to the area's submittal of a complete redesignation request remain applicable until a

section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore these requirements are not applicable for the purposes of redesignation.[4] In addition, as discussed below, several of the Part D requirements under 182(a) and 182(b) are otherwise not applicable for the purposes of redesignation and several of the requirements have already been satisfied by the State.

Section 182(a) Requirements. Section 182(a)(1) requires states to submit a comprehensive, accurate, and current inventory of actual emissions from sources of VOC and NO_X emitted within the boundaries of the ozone nonattainment area. This inventory submission was due on July 20, 2015, for the Atlanta Area. Georgia provided an emissions inventory for the Area to EPA in a February 6, 2015, SIP submission, and EPA approved the emissions inventory in an action published on August 11, 2015. *See* 80 FR 48036.

Under section 182(a)(2)(A), states with ozone nonattainment areas that were designated prior to the enactment of the 1990 CAA amendments were required to submit, within six months of classification, all rules and corrections to existing VOC reasonably available control technology (RACT) rules that were required under section 172(b)(3) of the CAA (and related guidance) prior to the 1990 CAA amendments. The Area is not subject to the section 182(a)(2) RACT ''fix up'' requirement for the 2008 ozone NAAQS because it was designated as nonattainment for this standard after the enactment of the 1990 CAA amendments. Furthermore, the State complied with this requirement under the 1-hour ozone NAAQS. *See* 57 FR 46780 (October 13, 1992).

Section 182(a)(2)(B) requires each state with a marginal or higher ozone nonattainment area classification that implemented, or was required to implement, an inspection and maintenance (I/M) program prior to the 1990 CAA amendments to submit a SIP revision providing for an I/M program no less stringent than that required prior to the 1990 amendments or already in the SIP at the time of the amendments, whichever is more stringent. The Atlanta Area is not subject to the section 182(a)(2)(B) requirement because the Area was designated as nonattainment for the 2008 8-hour ozone standard after the enactment of the 1990 CAA amendments. As discussed below in the section addressing section 182(b) requirements, Georgia has an I/M program that meets its past I/M obligations under section 182(c)(3) for its severe classification under the 1990 1-hour ozone NAAQS.

Regarding the permitting and offset requirements of section 182(a)(2)(C) and section 182(a)(4), Georgia currently has a fully approved part D NSR program in place. However, EPA has determined that areas being redesignated need not comply with the requirement that a NSR program be approved prior to redesignation, provided that the area demonstrates maintenance of the NAAQS without part D NSR, because PSD requirements will apply after redesignation. A more detailed rationale for this view is described in the Nichols Memorandum. Georgia's PSD program will become applicable in the Atlanta Area upon redesignation to attainment.

Section 182(a)(3) requires states to submit periodic inventories and emissions statements. Section 182(a)(3)(A) requires states to submit a periodic inventory every three years. As discussed below in the section of this notice titled *Verification of Continued Attainment,* the State will continue to update its emissions inventory at least once every three years. Under section 182(a)(3)(B), each state with an ozone nonattainment area must submit a SIP revision requiring emissions statements to be submitted to the state by certain sources within that nonattainment area. Georgia provided a SIP revision to EPA on February 6, 2015, addressing the section 182(a)(3)(B) emissions statements requirement, and on August 11, 2015, EPA published a direct final rule approving this SIP revision. *See* 80 FR 48036 (August 11, 2015).

Section 182(b) Requirements. Section 182(b) of the CAA, found in subpart 2 of part D, establishes additional requirements for moderate (and higher) ozone nonattainment areas. As noted above, no section 182(b) Part D moderate nonattainment area requirements for the 2008 8-hour ozone standard were due at the time that Georgia submitted its redesignation request on July 18, 2016; therefore, these requirements are not applicable for the purposes of redesignation.

The RFP plan requirements under section 182(b)(1) are defined as progress that must be made toward attainment for the 2008 8-hour ozone NAAQS. These requirements are not relevant for purposes of redesignation because EPA has determined that the Atlanta Area attained of the 2008 8-hour ozone NAAQS. *See* 57 FR 13564.

Section 182(b)(2) of the CAA requires states with areas designated as moderate (or higher) nonattainment areas for the ozone NAAQS to submit a SIP revision to require RACT for all major VOC and NO_X sources and for each category of VOC sources in the Area covered by a Control Techniques Guidelines (CTG) document. The CTGs established by EPA are guidance to the states and provide recommendations only. A state can develop its own strategy for what constitutes RACT for the various CTG categories, and EPA will review that strategy in the context of the SIP process and determine whether it meets the RACT requirements of the CAA and its implementing regulations. If no major sources of VOC or NO_X emissions (which should be considered separately) or no sources in a particular source category exist in an applicable nonattainment area, a state may submit a negative declaration for that category. In the past, Georgia has met previous RACT requirements. EPA approved Georgia's RACT submittals, for the 1997 ozone NAAQS, on September 28, 2012. *See* 77 FR 59554.

The section 182(b)(3) gasoline vapor recovery requirements once applied in all moderate (and higher) ozone nonattainment areas. However, under section 202(a)(6) of the CAA the requirements of section 182(b)(3) no longer apply in moderate ozone nonattainment areas because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. *See* 59 FR 16262; 40 CFR parts 86, 88, and 600.

Section 182(b)(4) of the CAA requires states with areas designated as moderate (or higher) nonattainment for the ozone NAAQS to submit SIPs requiring inspection and maintenance of vehicles (I/M). In 1991, EPA classified a 13-county area in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1990 1-hour ozone NAAQS, triggering the requirement for the State to establish an enhanced I/M program for this 13-county area.[5] EPA fully approved this program into the SIP in January 2000. *See* 65 FR 4133 (January 26, 2000).

Section 182(b)(5) of the CAA requires that for purposes of satisfying the general emission offset requirement, the ratio of total emission reductions to total increase emissions shall be at least 1.15 to 1. Georgia currently requires these

redesignation is approved, but are not required as a prerequisite to redesignation. *See* Calcagni Memorandum; CAA section 175A(c).

[5] On November 6, 1991, EPA designated and classified the following counties in and around the Atlanta, Georgia, metropolitan area as a serious ozone nonattainment area for the 1-hour ozone NAAQS: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. *See* 56 FR 56694.

offsets in its SIP-approved state regulations, Georgia Rule 391–3–1–.03(8)(c)(13) and (14).

Section 176 Conformity Requirements. Section 176(c) of the CAA requires states to establish criteria and procedures to ensure that federally supported or funded projects conform to the air quality planning goals in the applicable SIP. The requirement to determine conformity applies to transportation plans, programs, and projects that are developed, funded, or approved under title 23 of the United States Code (U.S.C.) and the Federal Transit Act (transportation conformity) as well as to all other federally supported or funded projects (general conformity). State transportation conformity SIP revisions must be consistent with federal conformity regulations relating to consultation, enforcement, and enforceability that EPA promulgated pursuant to its authority under the CAA.

EPA interprets the conformity SIP requirements [6] as not applying for purposes of evaluating a redesignation request under section 107(d) because state conformity rules are still required after redesignation and federal conformity rules apply where state rules have not been approved. *See Wall* v. *EPA,* 265 F.3d 426 (6th Cir. 2001) (upholding this interpretation); *see also* 60 FR 62748 (December 7, 1995) (redesignation of Tampa, Florida). Nonetheless, Georgia has an approved conformity SIP for the Atlanta Area. *See* 77 FR 35866 (June 15, 2012).

Thus, for the reasons discussed above, EPA proposes that the Atlanta Area has satisfied all applicable requirements for purposes of redesignation under section 110 and part D of title I of the CAA.

b. The Atlanta Area Has a Fully Approved Applicable SIP Under Section 110(k) of the CAA

EPA has fully approved the applicable Georgia SIP for the Atlanta Area under section 110(k) of the CAA for all requirements applicable for purposes of redesignation. EPA may rely on prior SIP approvals in approving a redesignation request (*see* Calcagni Memorandum at p. 3; *Southwestern Pennsylvania Growth Alliance* v. *Browner,* 144 F.3d 984, 989–90 (6th Cir. 1998); *Wall,* 265 F.3d 426) plus any additional measures it may approve in conjunction with a redesignation action (*see* 68 FR 25426 (May 12, 2003) and citations therein). Georgia has adopted and submitted, and EPA has fully approved at various times, provisions addressing various SIP elements applicable for the ozone NAAQS. *See* 80 FR 61109 (October 9, 2015) and 81 FR 65899 (September 26, 2016).

As discussed above, EPA believes that the section 110 elements that are neither connected with nonattainment plan submissions, nor linked to an area's nonattainment status, are not applicable requirements for purposes of redesignation and believes that Georgia has met all part D requirements applicable for purposes of this redesignation.

Criteria (3)—The Air Quality Improvement in the Atlanta Area Is Due to Permanent and Enforceable Reductions in Emissions Resulting From Implementation of the SIP and Applicable Federal Air Pollution Control Regulations and Other Permanent and Enforceable Reductions

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the air quality improvement in the area is due to permanent and enforceable reductions in emissions resulting from implementation of the SIP, applicable federal air pollution control regulations, and other permanent and enforceable reductions. *See* CAA section 107(d)(3)(E)(iii). EPA has preliminarily determined that Georgia has demonstrated that the observed air quality improvement in the Atlanta Area is due to permanent and enforceable reductions in emissions resulting from federal measures and from state measures adopted into the SIP and is not the result of unusually favorable weather conditions.[7]

State measures adopted into the SIP and federal measures enacted in recent years have resulted in permanent emission reductions. The SIP-approved state measures, some of which implement federal requirements, that have been implemented to date and identified by Georgia include: Georgia Rule 391–3–1–.02(2)(yy)—Emissions of Nitrogen Oxides; Georgia Rule 391–3–1–.02(2)(jjj)—NO_X from EGUs; Georgia Rule 391–3–1–.02(2)(lll)—NO_X from Fuel Burning Equipment; Georgia Rule 391–3–1–.02(2)(nnn)—NO_X from Stationary Gas Turbines; Georgia Rule 391–3–1–.02(2)(rrr)—NO_X from Small Fuel Burning Equipment; and Georgia Rule Chapter 391–3–20—Enhanced Inspection and Maintenance.

Georgia Rule 391–3–1–.02(2) contains provisions that target emission reductions necessary for ozone reduction. Those provisions that are approved into the federally-approved SIP and are therefore federally enforceable include:

Rule 391–3–1–.02(2)(yy)—this rule requires a case-by-case RACT determination for sources of NO_X emissions with the potential to emit more than 25 tons of NO_X per year in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties and for sources that have the potential to emit more than 100 tons of NO_X per year in Barrow, Bartow, Carroll, Hall, Newton, Spalding, and Walton counties.

Rule 391–3–1–.02(2)(jjj)—this rule regulates NO_X emissions from coal-fired external combustion devices that generate steam for electricity generation. This rule established a NO_X emission standard of 0.13 pounds per million British Thermal Unit (lb/MMBtu) from May 1 through September 30 (starting in 2003) averaged across affected sources in Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Floyd, Forsyth, Fulton, Gwinnett, Heard, Henry, Paulding, and Rockdale counties.

Rule 391–3–1–.02(2)(lll)—this rule applies to fuel-burning equipment with maximum design heat input capacities greater than or equal to 10 million British Thermal Units per hour (MMBtu/hr) and less than or equal to 250 MMBtu/hr in 45 counties, including the counties in the Atlanta Area. It established a compliance date for the ozone standard beginning on May 1, 2000, and it affects all fuel burning equipment installed from that date forward. This rule also affects future possible emissions for new or modified sources by requiring the operation of equipment during the control season to meet emission limits based on the use of natural gas.

Rule 391–3–1–.02(2)(nnn)—this rule establishes ozone season NO_X emissions limits for stationary gas turbines greater than 25 MW in 45 counties in and around the Atlanta Area. This rule requires combustion turbines permitted on or after April 1, 2000, to emit no more than 6 ppm NO_X at 15 percent oxygen during the period of May 1 through September 30 of each year. This

[6] CAA section 176(c)(4)(E) requires states to submit revisions to their SIPs to reflect certain federal criteria and procedures for determining transportation conformity. Transportation conformity SIPs are different from the MVEBs that are established in control strategy SIPs and maintenance plans.

[7] Georgia provided average temperature and precipitation data for May through September in Atlanta, Georgia, from 1930 through 2015. Based on this information, the average temperature and precipitation in 2013 fluctuates around the average meteorological conditions; the years 2014 and 2015 were hotter than the 1930–2000 average temperature; and precipitation in 2014 was less than the the 1930–2000 average. See section 2.3 of the State's redesignation request and SIP revision for further meteorological information.

period falls within the broader ozone season.

Rule 391–3–1–.02(2)(rrr)—this is a RACT rule for small fuel-burning equipment. It requires that, in order to reduce NO_X, an annual tune-up and the burning of natural gas, liquefied petroleum gas, or propane be conducted on individual fuel burning equipment in the Atlanta Area that is not subject to Rule 391–3–1–.02(2)(jjj) or 391–3–1–.02(2)(lll), during ozone season. This includes individual fuel-burning equipment located at facilities in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, or Rockdale County with NO_X emissions exceeding 25 tons per year and at facilities in Barrow, Bartow, Carroll, Hall, Newton, Spalding or Walton County with NO_X emissions exceeding 100 tons per year; the individual fuel-burning equipment has potential emissions of NO_X equal to or exceeding 1 ton per year; and the individual fuel-burning equipment either has a maximum design heat input capacity of less than 100 million BTU per hour or less than 10 million BTU per hour, depending on when it was installed.

Rule Chapter 391–3–20—Enhanced Inspection and Maintenance (Vehicle Emissions I/M Program)—As discussed above, EPA fully approved the State's enhanced I/M program and adopted it into the SIP in January 2000. *See* 65 FR 4133 (January 26, 2000). The program applies to Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, all of which are located in the Atlanta Area.

Federal measures enacted in recent years have also resulted in permanent emission reductions in the Atlanta Area. The federal measures that have been implemented include the following:

Clean Air Interstate Rule (CAIR)/ Cross-State Air Pollution Rule (CSAPR). CAIR created regional cap-and-trade programs to reduce SO_2 and NO_X emissions in 28 eastern states, including Georgia, that contributed to downwind nonattainment and maintenance of the 1997 8-hour ozone NAAQS and the 1997 $PM_{2.5}$ NAAQS. *See* 70 FR 25162 (May 12, 2005). In 2008, the United States Court of Appeals for the District of Columbia Circuit (D.C. Circuit) initially vacated CAIR in *North Carolina* v. *EPA,* 531 F.3d 896 (D.C. Cir. 2008), but ultimately remanded the rule to EPA without vacatur in *North Carolina* v. *EPA,* 550 F.3d 1176, 1178 (D.C. Cir. 2008) to preserve the environmental benefits provided by CAIR. On August 8, 2011 (76 FR 48208), acting on the D.C. Circuit's remand, EPA promulgated CSAPR to replace CAIR and thus to address the interstate transport of emissions contributing to nonattainment and interfering with maintenance of the two air quality standards covered by CAIR as well as the 2006 $PM_{2.5}$ NAAQS. CSAPR requires substantial reductions of SO_2 and NO_X emissions from electric generating units (EGUs) in 28 states in the Eastern United States.

Numerous parties filed petitions for review of CSAPR, and on August 21, 2012, the D.C. Circuit vacated and remanded CSAPR to EPA. *EME Homer City Generation, L.P.* v. *EPA,* 696 F.3d 7, 38 (D.C. Cir. 2012). The United States Supreme Court reversed the D.C. Circuit's decision on April 29, 2014, and remanded the case to the D.C. Circuit to resolve remaining issues in accordance with the high court's ruling. *EPA* v. *EME Homer City Generation, L.P.,* 134 S. Ct. 1584 (2014). On remand, the D.C. Circuit affirmed CSAPR in most respects, but invalidated without vacating some of the Phase 2 SO_2 and ozone-season NO_X CSAPR budgets as to a number of states. *EME Homer City Generation, L.P.* v. *EPA,* 795 F.3d 118 (D.C. Cir. 2015).[8] This litigation ultimately delayed implementation of CSAPR for three years, from January 1, 2012, when CSAPR's cap-and-trade programs were originally scheduled to replace the CAIR cap-and-trade programs, to January 1, 2015. Thus, the rule's Phase 2 budgets were originally promulgated to begin on January 1, 2014, and are now scheduled to begin on January 1, 2017.

On September 17, 2016, EPA finalized an update to the CSAPR ozone season program. *See* 81 FR 74504 (October 26, 2016). The update addresses summertime transport of ozone pollution in the eastern United States that crosses state lines to help downwind states and communities meet and maintain the 2008 8-hour ozone NAAQS and addresses the remanded Phase 2 ozone season NO_X budgets. The update withdraws these remanded NO_X budgets, sets new Phase 2 CSAPR ozone season NO_X emissions budgets for eight of the eleven states with remanded budgets, and removes the other three states from the CSAPR ozone season NO_X trading program.[9]

Tier 2 vehicle and fuel standards. Implementation began in 2004 and as newer, cleaner cars enter the national fleet, these standards continue to significantly reduce NO_X emissions.[10] The standards require all passenger vehicles in any manufacturer's fleet to meet an average standard of 0.07 grams of NO_X per mile. Additionally, in January 2006, the sulfur content of gasoline was required to be on average 30 ppm which assists in lowering the NO_X emissions. EPA expects that these standards will reduce NO_X emissions from vehicles by approximately 74 percent by 2030, translating to nearly 3 million tons annually by 2030.[11]

Large non-road diesel engines rule. This rule was promulgated in 2004 and was phased in between 2008 through 2014. This rule reduces the sulfur content in the nonroad diesel fuel and reduces NO_X, VOC, particulate matter, and carbon monoxide emissions. This rule applies to diesel engines and fuel used in industries such as construction, agriculture, and mining. It is estimated that compliance with this rule will cut NO_X emissions from non-road diesel engines by up to 90 percent nationwide.

Medium and Heavy-Duty Vehicle Fuel Consumption and GHG Standards. These standards have and will continue to reduce greenhouse gas emissions and increase fuel efficiency for model year 2014 through 2018 semi-trucks, heavy-duty pickup trucks and vans, and vocational vehicles. These standards require on-road vehicles to achieve a 7 percent to 20 percent reduction in CO_2 emissions and fuel consumption by

[8] The remanded budgets include the Phase 2 sulfur dioxide (SO_2) budgets for Georgia. On May 26, 2016, Georgia submitted a commitment letter to provide a SIP revision that adopts provisions for participation in the CSAPR annual NO_X and annual SO_2 trading programs, including annual NO_X and annual SO_2 budgets that are at least as stringent as the budgets codified for Georgia at 40 CFR 97.710(a) (SO_2 Group 2 trading budgets) and 40 CFR 97.410(a) (NO_X Annual trading budgets). This commitment letter formed the basis for EPA's conditional approval of the visibility transport element of several infrastructure SIP submittals from the State. *See* 81 FR 65899 (September 26, 2016). SO_2 is not an ozone precursor; therefore, SO_2 reductions under CSAPR do not impact ozone air quality.

[9] *See* 81 FR 74504 for further discussion. Georgia has an ongoing original CSAPR NO_X ozone season FIP requirement with respect to the 1997 ozone NAAQS, but EPA has found that is does not contribute to interstate transport with respect to the 2008 ozone NAAQS. EPA did not reopen comment on Georgia's interstate transport obligation with respect to the 1997 ozone NAAQS in the rulemaking for the CSAPR update rule, so Georgia's original CSAPR NO_X ozone season requirements (including its emission budget) continue unchanged. *See* 81 FR 74506. The air quality modeling for the CSAPR update rule did not identify the Atlanta Area as an attainment or maintenance receptor for the 2008 8-hour ozone NAAQS. *See https://www3.epa.gov/airmarkets/CSAPRU/AQ%20Modeling%20TSD%20Final%20CSAPR%20Update.pdf.*

[10] Georgia also identified Tier 3 Motor Vehicle Emissions and Fuel Standards as a federal measure. EPA issued this rule in April 28, 2014, which applies to light duty passenger cars and trucks. EPA promulgated this rule to reduce air pollution from new passenger cars and trucks beginning in 2017. Tier 3 emission standards will lower sulfur content of gasoline and lower the emissions standards.

[11] EPA, Regulatory Announcement, EPA420–F–99–051 (December 1999), available at: *http://www.epa.gov/tier2/documents/f99051.pdf.*

2018. The decrease in fuel consumption will result in a 7 percent to 20 percent decrease in NO_X emissions.

Heavy-duty gasoline and diesel highway vehicle standards. EPA issued this rule in January 2001 (66 FR 5002). This rule includes standards limiting the sulfur content of diesel fuel, which went into effect in 2004. A second phase took effect in 2007, which further reduced the highway diesel fuel sulfur content to 15 ppm, leading to additional reductions in combustion NO_X and VOC emissions. EPA expects that this rule will achieve a 95 percent reduction in NO_X emissions from diesel trucks and buses and will reduce NO_X emissions by 2.6 million tons by 2030 when the heavy-duty vehicle fleet is completely replaced with newer heavy-duty vehicles that comply with these emission standards.[12]

Nonroad spark-ignition engines and recreational engines standards. The nonroad spark-ignition and recreational engine standards, effective in July 2003, regulate NO_X, hydrocarbons, and carbon monoxide from groups of previously unregulated nonroad engines. These engine standards apply to large spark-ignition engines (*e.g.,* forklifts and airport ground service equipment), recreational vehicles (*e.g.,* off-highway motorcycles and all-terrain-vehicles), and recreational marine diesel engines sold in the United States and imported after the effective date of these standards. When all of the nonroad spark-ignition and recreational engine standards are fully implemented, an overall 72 percent reduction in hydrocarbons, 80 percent reduction in NO_X, and 56 percent reduction in carbon monoxide emissions are expected by 2020. These controls reduce ambient concentrations of ozone, carbon monoxide, and fine particulate matter.

National program for greenhouse gas (GHG) emissions and fuel economy standards. The federal GHG and fuel economy standards apply to light-duty cars and trucks in model years 2012–2016 (phase 1) and 2017–2025 (phase 2). The final standards are projected to result in an average industry fleet-wide level of 163 grams/mile of carbon dioxide which is equivalent to 54.5 miles per gallon if achieved exclusively through fuel economy improvements. The fuel economy standards result in less fuel being consumed, and therefore less NO_X emissions released.

Boiler and Reciprocating Internal Combustion Engine (RICE) National Emissions Standards for Hazardous Air Pollutants (NESHAP). The NESHAP for industrial, commercial, and institutional boilers and the NESHAP for RICE are projected to reduce VOC emissions. The former applies to boiler and process heaters located at major sources of hazardous air pollutants (HAPs) that burn natural gas, fuel oil, coal, biomass, refinery gas, or other gas and had a compliance deadline of January 31, 2016. The latter applies to existing, new, or reconstructed stationary RICE located at major or area sources of HAPs, excluding stationary RICE being tested at a stationary RICE test cell, and has various compliance dates from August 16, 2004, to October 19, 2013, depending on the type of source.

Utility Mercury Air Toxics Standards (MATS) and New Source Performance Standards (NSPS). The MATS for coal and oil-fired electric generation units (EGU) and the NSPS for fossil-fuel-fired electric utility steam generating units were published on February 16, 2012 (77 FR 9304). The purpose is to reduce mercury and other toxic air pollutant emissions from coal and oil-fired EGUs, 25 megawatts or more, that generate electricity for sale and distribution through the national electric grid to the public. The NSPS has revised emission standards for NO_X, SO_2, and particulate matter (PM) that apply to new coal and oil-fired power plants. The MATS compliance date for existing sources was April 16, 2015. However, all coal fired EGUs in Georgia received a one-year compliance extension. MATS rule is expected to reduce NO_X and SO_2 emissions as well as emissions of mercury and other air toxics.

EPA proposes to find that the improvements in air quality in the Atlanta Area are due to real, permanent and enforceable reductions in NO_X and VOC emissions resulting from the federal and SIP-approved state measures discussed above.

Criteria (4)—The Atlanta Area Has a Fully Approved Maintenance Plan Pursuant to Section 175A of the CAA

For redesignating a nonattainment area to attainment, the CAA requires EPA to determine that the area has a fully approved maintenance plan pursuant to section 175A of the CAA (CAA section 107(d)(3)(E)(iv)). In conjunction with its request to redesignate the Atlanta Area to attainment for the 2008 8-hour ozone NAAQS, Georgia submitted a SIP revision to provide for the maintenance of the 2008 8-hour ozone NAAQS for at least 10 years after the effective date of redesignation to attainment. EPA has made the preliminary determination that this maintenance plan meets the requirements for approval under section 175A of the CAA.

a. What is required in a maintenance plan?

Section 175A of the CAA sets forth the elements of a maintenance plan for areas seeking redesignation from nonattainment to attainment. Under section 175A, the plan must demonstrate continued attainment of the applicable NAAQS for at least 10 years after the Administrator approves a redesignation to attainment. Eight years after the redesignation, the state must submit a revised maintenance plan which demonstrates that attainment will continue to be maintained for the remainder of the 20-year period following the initial 10-year period. To address the possibility of future NAAQS violations, the maintenance plan must contain contingency measures as EPA deems necessary to assure prompt correction of any future 2008 8-hour ozone violations. The Calcagni Memorandum provides further guidance on the content of a maintenance plan, explaining that a maintenance plan should address five requirements: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. As is discussed more fully below, EPA has preliminarily determined that Georgia's maintenance plan includes all the necessary components and is thus proposing to approve it as a revision to the Georgia SIP.

b. Attainment Emissions Inventory

As discussed above, EPA has determined that the Atlanta Area attained the 2008 8-hour ozone NAAQS based on quality-assured monitoring data for the 3-year period from 2013–2015. *See* 81 FR 45419. Georgia selected 2014 as the base year (*i.e.,* attainment emissions inventory year) for developing a comprehensive emissions inventory for NO_X and VOC, for which projected emissions could be developed for 2018, 2022, and 2026. The attainment inventory identifies a level of emissions in the Area that is sufficient to attain the 2008 8-hour ozone NAAQS. Georgia began development of the attainment inventory by first generating a baseline emissions inventory for the Area. The 2014 base year emissions were projected to 2030 for EGU point sources, non-EGU point sources, area sources, fires (both agricultural burning and land clearing, and wildfire and prescribed burning), non-road mobile sources, and on-road mobile sources. The State projected summer day emission inventories using projected rates of growth in population, traffic, economic activity, and other

[12] 66 FR 5002, 5012 (January 18, 2001).

parameters. In addition to comparing the final year of the plan (2030) to the base year (2014), Georgia compared interim years to the baseline to demonstrate that these years are also expected to show continued maintenance of the 2008 8-hour ozone standard.

The emissions inventory is composed of four major types of sources: Point, non-point, on-road mobile, and non-road mobile. Complete descriptions of how the State developed these inventories are located in Appendix A of the July 18, 2016, SIP submittal.

Point Sources

Georgia provided point source emissions for EGU and non-EGU stationary sources with emissions equal to or exceeding 25 tons per year of VOC or NO_X in Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale counties, and equal to or exceeding 100 tons per year of VOC or NO_X in Bartow and Newton counties.

EGU point source emissions for the three power plants in the Area (Plant Bowen, Plant McDonough/Atkinson, and Plant Yates) are tabulated from data collected from Georgia Power during the 2014 emission data collection process.[13] Georgia projected 2030 NO_X and VOC emissions for two of the EGUs, Plant Bowen and Plant McDonough/Atkinson, from 2014 emissions using growth factors based on fuel consumption. At Plant Yates, five units were retired in 2015 and two units were converted from coal to natural gas boilers in 2015, and in the future, this facility is planned to be run as a peaking unit with a capacity factor of approximately 25 percent. Therefore, Georgia projected 2030 NO_X emissions using the plant's projected usage, a nominal heat rate of 12 MMBtu/MWh, and the measured NO_X emission rates after it was converted to natural gas. Georgia projected 2030 VOC emissions at the plant using maximum measured emission rates for May and June of 2015.

For non-EGU emissions, Georgia calculated summer day emissions for the 2014 and 2030 inventories using 2014 NO_X and VOC emissions submitted by facilities during the 2014 GA EPD emission data collection process. The basis for Georgia's no-growth assumption for non-EGU point source emissions from 2014–2030 is discussed in the SIP submittal.

Non-Point Sources

GA EPD based its 2014 area source emissions on its 2014 Air Emissions Reporting Requirements (AERR) submittal.[14] [15] For certain area source sectors, GA EPD used EPA draft 2014 emission estimates [16] and for other source sectors for which EPA does not have draft 2014 estimates, GA EPD estimated 2014 area emissions using the average of 2011 and 2017 emissions from EPA's 2011 emissions modeling platform v6.2.[17] GA EPD multiplied 2014 area source emissions with growth factors to estimate 2030 area source emissions. These growth factors were calculated using 2011, 2017, and 2025 emissions in EPA's 2011 modeling platform v6.2.

GA EPD developed 2014 agricultural burning and land clearing emissions using 2014 burning records from the Georgia Forestry Commission (GFC) and EPA agricultural burning emission factors.[18] GA EPD used 2014 burning records from GFC and military bases to determine 2014 wildfire and prescribed burning emissions. GA EPD assumed that emissions from agricultural burning, land clearing, wildfire, and prescribed burning remained constant from 2014–2030.

On-Road Sources

The Atlanta Regional Commission developed 2014 and 2030 on-road mobile source emissions using EPA's MOVES2014a mobile source emissions model. GA EPD used best available local data for model inputs such as vehicle population, vehicle miles traveled (VMT), road type distribution, average speed distribution, starts, ramp fractions, age distributions, I/M inputs, and fuel properties. The model was run separately for two different groups of nonattainment counties because of differences in I/M program and Stage II refueling requirements. The first group consisted of the following 13 counties with Stage II refueling in place through 2015 [19] and I/M programs: Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Paulding, and Rockdale. The second group consisted of the following counties without I/M programs or Stage II refueling: Bartow and Newton.

Non-Road Sources

Some non-road mobile emissions in the U.S. are from the non-road equipment segment (*i.e.,* agricultural equipment, construction equipment, lawn and garden equipment, and recreational vehicles, such as boats and jet-skis). Georgia calculated 2014 and 2030 emissions from non-road sources other than marine, aircraft, and locomotives using the NONROAD portion of EPA's MOVES2014a model.[20] MOVES2014a defaults were used with 2014 meteorological data based on Atlanta Hartsfield Jackson International Airport meteorological data. Fuel properties reflected the current Georgia gasoline.[21]

For 2014 locomotive emissions, Georgia used 2011 emissions obtained from 2011 emissions modeling platform v6.2 [22] because locomotive fuel consumption changed little from 2011 to 2014. Georgia projected 2030 locomotive emissions from 2014 emissions using growth and control factors. Summer day and annual emissions for 2014 and 2030 from aircraft at Atlanta Hartsfield Jackson International Airport were provided by

[13] Georgia's emission data collection process is discussed at *http://epd.georgia.gov/air/emissions-inventory-system-eis.*

[14] The area source inventory was developed with the February 16, 2016, draft National Emissions Inventory for 2014 (2014 NEI) for all available source categories. Georgia EPD provided estimates for remaining area source categories not yet included in the draft 2014 NEI, which served as the basis for Georgia's required submittal for NEI development. The 2014 NEI is discussed further at *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[15] EPA's AERR, set forth at Subpart A to 40 CFR part 51, specifies that a state must submit triennial reports of annual (12-month) emissions for all sources and every-year reports of annual emissions of criteria air pollutants and their precursors for all major sources as well as annual emissions reporting from certain larger sources, as outlined in Appendix A to Subpart A. These submittals serve to help develop the national emissions inventory that EPA compiles and publishes triennially. The AERR includes specific reporting thresholds for point sources in attainment and nonattainment areas allows for general estimates for non-point sources.

[16] *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[17] Information regarding the 2011 emissions modeling platform v6.2 is located at *https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms.*

[18] These emissions factors are available at *https://www.epa.gov/air-emissions-inventories/2014-national-emissions-inventory-nei-documentation.*

[19] As discussed above, Stage II controls are no longer required because EPA promulgated onboard refueling vapor recovery standards on April 6, 1994. See 59 FR 16262; 40 CFR parts 86, 88, and 600. On January 22, 2015, Georgia submitted a SIP revision to remove Stage II requirements from their SIP, and EPA approved this revision on September 25, 2015. *See* 80 FR 57729.

[20] Georgia used the version of MOVES2014a released by EPA on November 4, 2015. More information on the MOVES2014a model is available at *https://www.epa.gov/moves/moves2014a-latest-version-motor-vehicle-emission-simulator-moves.*

[21] Many of the counties in the Atlanta Area must use gasoline with a reduced Reid Vapor Pressure (RVP) of 7.8 pounds per square inch during some of the summer months. This reduced RVP reduces VOC emissions. For further information on RVP, see *https://www.epa.gov/gasoline-standards/gasoline-reid-vapor-pressure.*

[22] *https://www.epa.gov/air-emissions-modeling/2011-version-6-air-emissions-modeling-platforms.*

KB Environmental Sciences on behalf of the City of Atlanta Department of Aviation and included in Appendix A–9 of the SIP submittal. Other aircraft emissions were projected from the 2011 emissions modeling platform v6.2 for 2014 and were projected for 2030 using growth factors. These growth factors were based on landing and take-off operation projections available from the Federal Aviation Administration's Terminal Area Forecasts. Growth rates for military aircraft stayed at 2011 levels. Georgia did not include marine emissions in the inventory because no commercial marine vessels operate in the Atlanta Area.

The 2014 base year inventory for the Area, as well as the projected inventories for other years, were developed consistent with EPA guidance and are summarized in Tables 2 through 6 of the following subsection discussing the maintenance demonstration.

c. Maintenance Demonstration

The maintenance plan associated with the redesignation request includes a maintenance demonstration that:

(i) Shows compliance with and maintenance of the 2008 8-hour ozone NAAQS by providing information to support the demonstration that current and future emissions of NO_X and VOC remain at or below 2014 emissions levels.

(ii) Uses 2014 as the attainment year and includes future emissions inventory projections for 2018, 2022, 2026, and 2030. The 2022 emissions were calculated by linear interpolation between 2014 and 2030; 2018 emissions were calculated by linear interpolation between 2014 and 2022; and 2026 emissions were calculated by linear interpolation between 2022 and 2030.

(iii) Identifies an ''out year'' at least 10 years after the time necessary for EPA to review and approve the maintenance plan. Per 40 CFR part 93, NO_X and VOC MVEBs were established for the last year (2030) of the maintenance plan as well as for an interim year 2014 (see section VI below).

(iv) Provides actual (2014) and projected emissions inventories, in tons per summer day (tpsd), for the Atlanta Area, as shown in Tables 3 and 4, below.

TABLE 3—ACTUAL AND PROJECTED AVERAGE SUMMER DAY NO_X EMISSIONS FOR THE ATLANTA AREA

[Tons per summer day (tpsd)]

Sector	2014	2018	2022	2026	2030
Point	31.36	31.11	30.85	30.60	30.34
Non-point	4.88	4.93	4.97	5.02	5.06
Non-road	76.69	69.99	63.29	56.59	49.89
On-road	170.15	137.01	103.86	70.72	37.57
Total	283.09	243.03	202.98	162.92	122.86

TABLE 4—ACTUAL AND PROJECTED AVERAGE SUMMER DAY VOC EMISSIONS FOR THE ATLANTA AREA

[tpsd]

Sector	2014	2018	2022	2026	2030
Point	11.24	11.25	11.26	11.27	11.28
Non-point	119.89	118.52	117.16	115.79	114.42
Non-road	53.38	53.11	52.83	52.56	52.28
On-road	81.76	69.49	57.22	44.94	32.67
Total	266.25	252.35	238.45	224.54	210.64

Tables 3 and 4 summarize the 2014 and future projected emissions of NO_X and VOC in the Atlanta Area. In situations where local emissions are the primary contributor to nonattainment, such as the Atlanta Area, if the future projected emissions in the nonattainment area remain at or below the baseline emissions in the nonattainment area, then the related ambient air quality standard should not be exceeded in the future. Georgia has projected emissions as described previously and determined that emissions in the Atlanta Area will remain below those in the attainment year inventory for the duration of the maintenance plan.

As discussed in section VI of this proposed rulemaking, below, a safety margin is the difference between the attainment level of emissions (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The attainment level of emissions is the level of emissions during one of the years in which the area met the NAAQS. Georgia selected 2014 as the attainment emissions inventory year for the Atlanta Area and calculated safety margins for 2030 as shown in Table 5, below.

TABLE 5—SAFETY MARGINS FOR THE ATLANTA AREA

Year	VOC (tpd)	NO_X (tpd)
2030	55.61	160.23

The State has decided to allocate a portion of the available safety margin to the 2030 MVEBs to allow for, among other things, unanticipated growth in VMT and changes and uncertainty in vehicle mix assumptions that will influence the emission estimations. Georgia has allocated 20.43 tpd (34.76 percent) of the available NO_X safety margin to the 2030 NO_X MVEB and 19.33 tpd (12.75 percent) of the available VOC safety margin to the 2030 VOC MVEB. After allocation of the available safety margin, the remaining safety margin is 139.80 tpd for NO_X and 36.28 tpd for VOC. This allocation and the resulting available safety margin for the Atlanta Area are discussed further in section VI of this proposed rulemaking along with the MVEBs to be used for transportation conformity proposes.

d. Monitoring Network

There currently are nine monitors measuring ozone in the Atlanta Area. Georgia will continue to operate the monitors in the Atlanta Area in compliance with 40 CFR part 58 and has

thus addressed the requirement for monitoring. EPA approved Georgia's monitoring plan on October 13, 2015.

e. Verification of Continued Attainment

Georgia, through the GA EPD, has the legal authority to enforce and implement the maintenance plan for the Area. This includes the authority to adopt, implement, and enforce any subsequent emissions control contingency measures determined to be necessary to correct future ozone attainment problems.

Additionally, under the AERR, GA EPD is required to develop a comprehensive, annual, statewide emissions inventory every three years that is due twelve to eighteen months after the completion of the inventory year. EPD will update the AERR inventory every three years and will use the updated emissions inventory to track progress of the maintenance plan.

f. Contingency Measures in the Maintenance Plan

Section 175A of the CAA requires that a maintenance plan include such contingency measures as EPA deems necessary to assure that the state will promptly correct a violation of the NAAQS that occurs after redesignation. The maintenance plan should identify the contingency measures to be adopted, a schedule and procedure for adoption and implementation, and a time limit for action by the state. A state should also identify specific indicators to be used to determine when the contingency measures need to be implemented. The maintenance plan must include a requirement that a state will implement all measures with respect to control of the pollutant that were contained in the SIP before redesignation of the area to attainment in accordance with section 175A(d).

In the July 18, 2016, submittal, Georgia commits to continuing existing programs and commits to use emission inventory and air quality monitoring data as indicators to determine whether contingency measures will be implemented. The contingency plan included in the maintenance plan includes a two-tiered triggering mechanism to determine when contingency measures are needed and a process of developing and implementing appropriate control measures.

A Tier 1 trigger will apply where a violation of the 2008 8-hour standard has not occurred, but where the State finds monitored ozone concentrations indicating that a violation may be imminent. The Tier 1 trigger date will be 60 days after the State observes a 4th highest value of 0.076 ppm or greater at a single monitor for which the previous ozone season had a 4th highest value of 0.076 ppm or greater. If Tier 1 is triggered, Georgia will develop a plan identifying additional voluntary measures to be implemented to remedy the situation that may include the following measures or any other measure deemed appropriate and effective at the time the selection is made: Clean Air Force Campaign Strategies; additional Georgia Department of Transportation marketing campaigns; implementation of diesel retrofit programs, including incentives for performing retrofits for fleet vehicle operations; alternative fuel programs for fleet vehicle operations; gas can and lawnmower replacement programs; or voluntary engine idling reduction programs.[23] If the 4th highest exceedance occurs early in the ozone season, GA EPD will work with entities identified in the plan to determine if measures can be implemented during the current season, otherwise, GA EPD will implement the plan for the following ozone season. No later than May 1 of the year following the trigger, GA EPD will complete analyses to begin adoption of necessary rules for ensuring attainment and maintenance of the 2008 8-hour ozone NAAQS that would become state effective by the following year.

A Tier II trigger occurs when the periodic emissions inventory updates (AERR) reveal excessive or unanticipated growth greater than 10 percent in NO_X or VOC emissions over the attainment or intermediate emissions inventories for the Area or when there is a quality assured design value equal to or greater than 0.076 ppm at a monitor in the Area, which is a violation of the 2008 Ozone NAAQS. The trigger date will be 60 days from the date that Georgia observes a 4th highest value that, when averaged with the two previous ozone seasons' 4th highest values, results in a three-year average equal to or greater than 0.076 ppm. If a Tier II trigger occurs, Georgia will conduct a comprehensive analysis and, as expeditiously as practicable but no later than 24 months of the trigger, will implement at least one contingency measure. In order for more time to be allowed, Georgia must submit to EPA a demonstration that more time is needed and EPA must approve such demonstration.

If the comprehensive analysis determines that emissions from the Area are contributing to the trigger condition, GA EPD will evaluate those measures as specified in CAA section 172 for control options as well as other available measures. If a new measure/control is already promulgated and scheduled to be implemented at the federal or state level, and that measure/control is determined to be adequate, the State may conclude that additional local controls may be unnecessary. Under Section 175A(d), the minimum requirement for contingency measures is the implementation of all measures that were contained in the SIP before the redesignation. Currently all such measures are in effect for the Atlanta Area; however, an evaluation of those measures, such as RACT, can be performed to determine if those measures are adequate or up-to-date. In addition to these measures, contingency measure(s) will be selected from the following types of measures or from any other measure deemed appropriate and effective at the time the selection is made:

- RACM for sources of VOC and NO_X;
- RACT for point sources of VOC and NO_X, specifically the adoption of new and revised RACT rules based on Groups II, III, and IV CTGs;
- Expansion of RACM/RACT to area(s) of transport within the State;
- Other measures deemed appropriate at the time as a result of advances in control technologies; and
- Additional NO_X reduction measures yet to be identified.

EPA preliminarily concludes that the maintenance plan adequately addresses the five basic components of a maintenance plan: The attainment emissions inventory, maintenance demonstration, monitoring, verification of continued attainment, and a contingency plan. Therefore, EPA proposes to find that the maintenance plan SIP revision submitted by Georgia for the Area meets the requirements of section 175A of the CAA and is approvable.

VI. What is EPA's analysis of Georgia's proposed NO_X and VOC MVEBs for the area?

Under section 176(c) of the CAA, new transportation plans, programs, and projects, such as the construction of new highways, must ''conform'' to (*i.e.,*

[23] If the State adopts a voluntary emission reduction measure as a contingency measure necessary to attain or maintain the NAAQS, EPA will evaluate approvability in accordance with relevant Agency guidance regarding the incorporation of voluntary measures into SIPs. *See, e.g.,* Memorandum from Richard D. Wilson, Acting Administrator for Air and Radiation, to EPA Regional Administrators re: Guidance on Incorporating Voluntary Mobile Source Emission Reduction Programs in State Implementation Plans (SIPs) (October 24, 1997); EPA, Office of Air and Radiation, Incorporating Emerging and Voluntary Measures in a State Implementation Plan (SIP) (September 2004).

be consistent with) the part of the state's air quality plan that addresses pollution from cars and trucks. Conformity to the SIP means that transportation activities will not cause new air quality violations, worsen existing violations, or delay timely attainment of the NAAQS or any interim milestones. If a transportation plan does not conform, most new projects that would expand the capacity of roadways cannot go forward. Regulations at 40 CFR part 93 set forth EPA policy, criteria, and procedures for demonstrating and assuring conformity of such transportation activities to a SIP. The regional emissions analysis is one, but not the only, requirement for implementing transportation conformity. Transportation conformity is a requirement for nonattainment and maintenance areas. Maintenance areas are areas that were previously nonattainment for a particular NAAQS but have since been redesignated to attainment with an approved maintenance plan for that NAAQS.

Under the CAA, states are required to submit, at various times, control strategy SIPs and maintenance plans for nonattainment areas. These control strategy SIPs (including RFP and attainment demonstration requirements) and maintenance plans create MVEBs for criteria pollutants and/or their precursors to address pollution from cars and trucks. Per 40 CFR part 93, a MVEB must be established for the last year of the maintenance plan. A state may adopt MVEBs for other years as well. The MVEB is the portion of the total allowable emissions in the maintenance demonstration that is allocated to highway and transit vehicle use and emissions. *See* 40 CFR 93.101. The MVEB serves as a ceiling on emissions from an area's planned transportation system. The MVEB concept is further explained in the preamble to the November 24, 1993, Transportation Conformity Rule (58 FR 62188). The preamble also describes how to establish the MVEB in the SIP and how to revise the MVEB.

After interagency consultation with the transportation partners for the Atlanta Area, Georgia has developed MVEBs for NO_X and VOC for the Area. Georgia developed these MVEBs for the last year of its maintenance plan (2030) and for the interim year of 2014. Because the interim MVEB year of 2014 is also the base year for the maintenance plan inventory, there is no safety margin; therefore, no adjustments were made to the MVEBs for 2014. The 2030 MVEBs reflect the total projected on-road emissions for 2030, plus an allocation from the available NO_X and VOC safety margins. Under 40 CFR 93.101, the term ''safety margin'' is the difference between the attainment level (from all sources) and the projected level of emissions (from all sources) in the maintenance plan. The safety margin can be allocated to the transportation sector; however, the total emissions must remain below the attainment level. The NO_X and VOC MVEBs and allocation from the safety margin were developed in consultation with the transportation partners and were added to account for uncertainties in population growth, changes in model vehicle miles traveled, and new emission factor models. The NO_X and VOC MVEBs for the Area are identified in Table 6, below.

TABLE 6—ATLANTA AREA NO_X AND VOC MVEBS

[tpd]

	2014	2030
NO_X On-Road Emissions	170.15	37.57
NO_X Safety Margin Allocated to MVEB	.....	20.43
NO_X MVEB	170.15	58
VOC On-Road Emissions	81.76	32.67
VOC Safety Margin Allocated to MVEB	.....	19.33
VOC MVEB	81.76	52

Georgia has chosen to allocate a portion of the available safety margin to the 2030 NO_X and VOC MVEBs for the Area based on the worst-case 2030 daily motor vehicle emissions projection. The worst-case projection for NO_X is 54 percent (20.43 tpd) above the projected 2030 NO_X on-road emissions and the worst-case projection for VOC is 59 percent (19.33 tpd) above the 2030 VOC on-road emissions. Georgia therefore allocated 20.43 tpd of the NO_X safety margin to the 2030 NO_X MVEB and 19.33 tpd of the VOC safety margin to the 2030 VOC MVEB. The remaining safety margins for 2030 are 139.80 tpd and 36.28 tpd NO_X and VOC, respectively.

Through this rulemaking, EPA is proposing to approve the MVEBs for NO_X and VOC for years 2014 and 2030 for the Area because EPA has preliminarily determined that the Area maintains the 2008 8-hour ozone NAAQS with the emissions at the levels of the budgets. If the MVEBs for the Area are approved or found adequate (whichever is completed first), they must be used for future conformity determinations.

VII. What is the status of EPA's adequacy determination for the proposed NO_X and VOC MVEBs the Atlanta area?

When reviewing submitted ''control strategy'' SIPs or maintenance plans containing MVEBs, EPA may affirmatively find the MVEB contained therein adequate for use in determining transportation conformity. Once EPA affirmatively finds the submitted MVEB is adequate for transportation conformity purposes, that MVEB must be used by state and federal agencies in determining whether proposed transportation projects conform to the SIP as required by section 176(c) of the CAA.

EPA's substantive criteria for determining adequacy of a MVEB are set out in 40 CFR 93.118(e)(4). The process for determining adequacy consists of three basic steps: public notification of a SIP submission, a public comment period, and EPA's adequacy determination. This process for determining the adequacy of submitted MVEBs for transportation conformity purposes was initially outlined in EPA's May 14, 1999, guidance, ''Conformity Guidance on Implementation of March 2, 1999, Conformity Court Decision.'' EPA adopted regulations to codify the adequacy process in the Transportation Conformity Rule Amendments for the ''New 8-Hour Ozone and $PM_{2.5}$ National Ambient Air Quality Standards and Miscellaneous Revisions for Existing Areas; Transportation Conformity Rule Amendments—Response to Court Decision and Additional Rule Change,'' on July 1, 2004 (69 FR 40004). Additional information on the adequacy process for transportation conformity purposes is available in the proposed rule entitled, ''Transportation Conformity Rule Amendments: Response to Court Decision and Additional Rule Changes,'' 68 FR 38974, 38984 (June 30, 2003).

As discussed earlier, Georgia's maintenance plan includes NO_X and VOC MVEBs for the Atlanta Area for interim year 2014 and 2030, the last year of the maintenance plan. EPA reviewed the NO_X and VOC MVEBs through the adequacy process described in Section I.

EPA intends to make its determination on the adequacy of the 2014 and 2030 MVEBs for the Area for transportation conformity purposes in the near future by completing the adequacy process that was started on September 2, 2016. If EPA finds the 2014 and 2030 MVEBs adequate or approves them, the new MVEBs for NO_X and VOC must be used for future

transportation conformity determinations. For required regional emissions analysis years that involve 2014 through 2029, the 2014 MVEBs will be used, and for years 2030 and beyond, the applicable budgets will be the new 2030 MVEBs established in the maintenance plan.

VIII. What is the effect of EPA's proposed actions?

EPA's proposed actions establish the basis upon which EPA may take final action on the issues being proposed for approval. Approval of Georgia's redesignation request would change the legal designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in the Atlanta Area, found at 40 CFR part 81, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Georgia's associated SIP revision would also incorporate a plan for maintaining the 2008 8-hour ozone NAAQS in the Area through 2030 into the Georgia SIP. The maintenance plan establishes NO_X and VOC MVEBs for 2014 and 2030 for the Area and includes contingency measures to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluating potential violations.

IX. Proposed Actions

EPA is proposing to: (1) Approve the maintenance plan for the Atlanta Area, including the NO_X and VOC MVEBs for 2014 and 2030, and incorporate it into the Georgia SIP, and (2) approve Georgia's redesignation request for the 2008 8-hour ozone NAAQS for the Area. Further, as part of this proposed action, EPA is also describing the status of its adequacy determination for the NO_X and VOC MVEBs for 2014 and 2030 in accordance with 40 CFR 93.118(f)(1). Within 24 months from the effective date of EPA's adequacy determination for the MVEBs or the effective date for the final rule for this action, whichever is earlier, the transportation partners will need to demonstrate conformity to the new NO_X and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

If finalized, approval of the redesignation request would change the official designation of Bartow, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding and Rockdale Counties, in Georgia for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

X. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of a maintenance plan under section 107(d)(3)(E) are actions that affect the status of a geographical area and do not impose any additional regulatory requirements on sources beyond those imposed by state law. A redesignation to attainment does not in and of itself create any new requirements, but rather results in the applicability of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these proposed actions merely propose to approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state law. For these reasons, these proposed actions:

- Are not significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- do 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);
- do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- are not significant regulatory actions subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

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

Dated: December 13, 2016.

Heather McTeer Toney,

Regional Administrator, Region 4.

[FR Doc. 2016–30879 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1989–0009; FRL–9957–30–Region 3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Partial Deletion of the North Penn Area 6 Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule; Notice of intent for partial deletion of the North Penn Area 6 Superfund Site from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) Region III is issuing a Notice of Intent to Delete a portion of the North Penn Area 6 Superfund Site (Site) located in Lansdale Borough, Montgomery County, Pennsylvania, from the National Priorities List (NPL). The proposed deletion affects approximately 6.5 acres at 135 East Hancock Street (the ''Administrative

Parcel''), and EPA requests public comments on this proposed action. The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is found at Appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), have determined that all appropriate response actions under CERCLA, other than five-year reviews, have been completed at the Administrative Parcel. However, this partial deletion does not preclude future actions at the Administrative Parcel under Superfund.

This partial deletion pertains only to the soils and groundwater of the approximately 6.5 acre Administrative Parcel portion of the Site. The other portions of the Site will remain on the NPL, and are not being considered for deletion as part of this action.

DATES: Comments must be received by January 23, 2017.

ADDRESSES: Submit your comments, identified by Docket ID no. EPA–HQ–SFUND–1989–0009, by mail to Huu Ngo (3HS21), U.S. Environmental Protection Agency, 1650 Arch Street, Philadelphia, PA 19103–2029. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the ''Rules and Regulations'' section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Huu Ngo, Remedial Project Manager (3HS21), U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, PA 19103–2029; (215) 814–3187; email: *ngo.huu@epa.gov.*

SUPPLEMENTARY INFORMATION:

In the ''Rules and Regulations'' Section of today's **Federal Register**, we are publishing a direct final Notice of Partial Deletion of the Administrative Parcel of the North Penn Area 6 Superfund Site without prior Notice of Intent for Partial Deletion because EPA views this as a noncontroversial revision and anticipates no adverse comment. We have explained our reasons for this partial deletion in the preamble to the direct final Notice of Partial Deletion, and those reasons are incorporated herein. If we receive no adverse comment(s) on this partial deletion action, we will not take further action on this Notice of Intent for Partial Deletion. If we receive adverse comment(s), we will withdraw the direct final Notice of Partial Deletion and it will not take effect. We will, as appropriate, address all public comments in a subsequent final Notice of Partial Deletion based on this Notice of Intent for Partial Deletion. We will not institute a second comment period on this Notice of Intent for Partial Deletion. Any parties interested in commenting must do so at this time.

For additional information, see the direct final Notice of Partial Deletion, which is located in the ''Rules'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: December 5, 2016.

Cecil Rodrigues,

Acting Regional Administrator, Region III.

[FR Doc. 2016–31016 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 10 and 11

[WC Docket No. 10–90, CC Docket No. 01–92; Report No. 3062]

Petition for Reconsideration of Action in Rulemaking Proceeding

AGENCY: Federal Communications Commission.

ACTION: Petition for reconsideration.

SUMMARY: A Petition for Reconsideration (Petition) has been filed in the Commission's rulemaking proceeding by Russell M. Blau, on behalf of Smart City Telecommunications LLP.

DATES: Oppositions to the Petition must be filed on or before January 9, 2017. Replies to an opposition must be filed on or before January 17, 2017.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Victoria Goldberg, Wireline Competition Bureau, phone: (202) 418–7353; email: *Victoria.Goldberg@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document, Report No. 3062, released December 13, 2016. The full text of the Petition is available for viewing and copying at the FCC Reference Information Center, 445 12th Street SW., Room CY–A257, Washington, DC 20554. It also may be accessed online via the Commission's Electronic Comment Filing System at: *https://www.fcc.gov/ecfs/.* The Commission will not send a copy of this document pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), because this document does not have an impact on any rules of particular applicability.

Subject: In the Matter of Connect America Fund; In the Matter of Developing a Unified Intercarrier Compensation Regime; Petitions for Waiver of § 51.917 of the Commission's Rules, FCC 16–140, released October 20, 2016, in WC Docket No. 10–90 and CC Docket No. 01–92.

Number of Petitions Filed: 1

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–30763 Filed 12–22–16; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2016–0102; FXES11130900000 167 FF09E42000]

RIN 1018–BB74

Endangered and Threatened Wildlife and Plants; Establishment of a Nonessential Experimental Population of the Oregon Silverspot Butterfly in Northwestern Oregon

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service or USFWS), with the support of the State of Oregon Parks and Recreation Department (OPRD), propose to establish a nonessential experimental population (NEP) of the Oregon silverspot butterfly (*Speyeria zerene hippolyta*), a threatened species, under the authority of section 10(j) of the Endangered Species Act of 1973, as amended (Act). This proposed rule provides a plan for reintroducing the Oregon silverspot butterfly into portions of the subspecies' historical range at two sites in northwestern Oregon: Saddle Mountain State Natural Area (SNA) in Clatsop County, and Nestucca Bay National Wildlife Refuge (NWR) in Tillamook County. It would also provide for

allowable legal incidental taking of the Oregon silverspot butterfly within the defined NEP areas. The best available data indicate that reintroduction of the Oregon silverspot butterfly to Saddle Mountain SNA and Nestucca Bay NWR is biologically feasible and would promote the conservation of the subspecies.

DATES: We will accept comments received or postmarked on or before February 21, 2017. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES**), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Time on this date. We must receive requests for public hearings, in writing, at the address shown in **FOR FURTHER INFORMATION CONTACT** by February 6, 2017.

ADDRESSES: *Written comments:* You may submit comments by one of the following methods:

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter Docket No. FWS–R1–ES–2016–0102, which is the docket number for this rulemaking. Then, click the Search button. On the resulting page, in the Search panel on the left side of the screen, under the Document Type heading, click on the box next to Proposed Rules to locate this document. You may submit a comment by clicking on ''Comment Now!''
- *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2016–0102, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service, MS; BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Copies of documents: This proposed rule is available on *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102. In addition, the supporting file for this proposed rule will be available for public inspection, by appointment, during normal business hours, at the Newport Field Office, 2127 SE Marine Science Drive, Newport, OR 97365; telephone 541–867–4558. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339.

FOR FURTHER INFORMATION CONTACT: Laura Todd, Field Supervisor, 541–867–4558. Persons who use a TDD may call the Federal Relay Service (FRS) at 1–800–877–8339. Direct all questions or requests for additional information to: OREGON SILVERSPOT BUTTERFLY QUESTIONS, U.S. Fish and Wildlife Service, Newport Field Office, 2127 SE Marine Science Drive, Newport, OR 97365.

SUPPLEMENTARY INFORMATION:

Public Comments

We want any final rule resulting from this proposal to be as effective as possible. Therefore, we invite Tribal and governmental agencies, the scientific community, industry, and other interested parties to submit comments or recommendations concerning any aspect of this proposed rule. Comments should be as specific as possible.

To issue a final rule to implement this proposed action, we will take into consideration all comments and any additional information we receive. Such communications may lead to a final rule that differs from this proposal. All comments, including commenters' names and addresses, if provided to us, will become part of the supporting record.

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. Comments must be submitted to *http://www.regulations.gov* before 11:59 p.m. (Eastern Time) on the date specified in **DATES**. We will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in **DATES**.

We will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in your comment, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

Comments and materials we receive, as well as some of the supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov.* All comments and materials we receive, as well as all supporting documentation, will be available by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

We particularly seek comments regarding:

- Any possible adverse effects on Oregon silverspot butterfly populations as a result of removal of individuals for the purposes of captive rearing and reintroduction of their offspring elsewhere;
- The likelihood that the proposed NEP will become established and survive in the foreseeable future;
- The relative effects that establishment of the NEP will have on the recovery of the subspecies; and
- The extent to which the reintroduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the proposed NEP areas.

Peer Review

In accordance with our Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities, which was published on July 1, 1994 (59 FR 34270), and a recent internal memorandum clarifying the Service's interpretation and implementation of that policy (USFWS 2016), we will seek the expert opinion of at least three appropriate independent specialists regarding scientific data and interpretations contained in this proposed rule. We will send copies of this proposed rule to the peer reviewers immediately following publication in the **Federal Register**. The purpose of such review is to ensure that our decisions are based on scientifically sound data, assumptions, and analysis. Accordingly, the final decision may differ from this proposal.

Background

Statutory and Regulatory Framework

We listed the Oregon silverspot butterfly as a threatened species under the Act (16 U.S.C. 1531 *et seq.*) on October 15, 1980 (45 FR 44935; July 2, 1980). We designated critical habitat for the subspecies at the time of listing (45 FR 44935; July 2, 1980).

Species listed as endangered or threatened are afforded protection primarily through the prohibitions of section 9 of the Act and the requirements of section 7 of the Act. Section 9 of the Act, among other things, prohibits the take of endangered wildlife. ''Take'' is defined by the Act as harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct. Our regulations (50 CFR 17.31) generally extend the prohibition of take to threatened wildlife species. Section 7 of the Act outlines the procedures for Federal interagency cooperation to conserve federally listed species and protect designated critical habitat. It mandates that all Federal agencies use their existing authorities to further the

purposes of the Act by carrying out programs for the conservation of listed species. It also states that Federal agencies must, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or result in the destruction or adverse modification of designated critical habitat. Section 7 of the Act does not affect activities undertaken on private land unless they are authorized, funded, or carried out by a Federal agency.

The 1982 amendments to the Act (16 U.S.C. 1531 *et seq.*) included the addition of section 10(j), which allows for the designation of reintroduced populations of listed species as ''experimental populations.'' The provisions of section 10(j) were enacted to ameliorate concerns that reintroduced populations would negatively impact landowners and other private parties, by giving the Secretary greater regulatory flexibility and discretion in managing the reintroduction of listed species to encourage recovery in collaboration with partners, especially private landowners. Under section 10(j) of the Act and our regulations at 50 CFR 17.81, the Service may designate as an experimental population an endangered or threatened species that has been or will be released into suitable natural habitat outside the species' current natural range (but within its probable historical range, absent a finding by the Director of the Service in the extreme case that the primary habitat of the species has been unsuitably and irreversibly altered or destroyed).

As discussed below (see Relationship of the NEP to Recovery Efforts), we are considering the reintroduction of the Oregon silverspot butterfly into areas of suitable habitat within its historical range for the purpose of restoring populations to meet recovery goals. Oregon silverspot butterfly populations have been reduced from at least 20 formerly known locations to only 5, thus reintroductions are important to achieve biological redundancy in populations and to broaden the distribution of populations within the geographic range of the subspecies. The restoration of multiple populations of Oregon silverspot butterfly distributed across its range is one of the recovery criteria identified for the subspecies (USFWS 2001, pp. 39–41).

When we establish experimental populations under section 10(j) of the Act, we must determine whether such a population is essential or nonessential to the continued existence of the species. This determination is based solely on the best scientific and commercial data available. Our regulations (50 CFR 17.80(b)) state that an experimental population is considered essential if its loss would be likely to appreciably reduce the likelihood of survival of that species in the wild. All other populations are considered nonessential. We find the proposed experimental population to be nonessential for the following reasons: (1) Oregon silverspot butterflies are currently found at five locations, from the central Oregon coast to northern California (see Biological Information, below); (2) There are ongoing management efforts, including captive rearing and release, to maintain or expand Oregon silverspot butterfly populations at these five locations (VanBuskirk 2010, entire; USFWS 2012, entire); (3) The experimental population will not provide demographic support to the wild populations (see Location and Boundaries of the NEP, below); (4) The experimental population will not possess any unique genetic or adaptive traits that differ from those in the wild populations because it will be established using donor stock from extant wild populations of Oregon silverspot butterflies (see Donor Stock Assessment and Effects on Donor Populations, below); and (5) loss of the experimental population will not preclude other recovery options, including future efforts to reestablish Oregon silverspot butterfly populations elsewhere. Therefore, we are proposing to designate a nonessential experimental population (NEP) of Oregon silverspot butterfly at two sites in northwest Oregon.

With the NEP designation, the relevant population is treated as if it were listed as a threatened species for the purposes of establishing protective regulations, regardless of the species' designation elsewhere in its range. This approach allows us to develop tailored take prohibitions that are necessary and advisable to provide for the conservation of the species. In these situations, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species. The protective regulations adopted for an experimental population in a section 10(j) rule contain the applicable prohibitions and exceptions for that population. These section 9 prohibitions and exceptions apply on all lands within the NEP.

For the purposes of section 7 of the Act, which addresses Federal cooperation, we treat an NEP as a threatened species when the NEP is located within a National Wildlife Refuge or unit of the National Park Service, and Federal agency conservation requirements under section 7(a)(1) and the Federal agency consultation requirements of section 7(a)(2) of the Act apply. Section 7(a)(1) of the Act requires all Federal agencies to use their authorities to carry out programs for the conservation of listed species. Section 7(a)(2) requires that Federal agencies, in consultation with the Service, ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of a listed species or adversely modify its critical habitat. When NEPs are located outside a National Wildlife Refuge or National Park Service unit, then, for the purposes of section 7, we treat the population as proposed for listing and only section 7(a)(1) and section 7(a)(4) of the Act apply. In these instances, NEPs provide additional flexibility because Federal agencies are not required to consult with us under section 7(a)(2). Section 7(a)(4) requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a species proposed to be listed. The results of a conference are in the form of conservation recommendations that are optional to the agencies carrying out, funding, or authorizing activities. If finalized, the NEP area within Nestucca Bay NWR will still be subject to the provisions of section 7(a)(2), and intra-agency consultation would be required on the refuge. Section 7(a)(2) consultation would not be required outside of the refuge.

Before authorizing the release as an experimental population (including eggs, propagules, or individuals) of an endangered or threatened species, and before authorizing any necessary transportation to conduct the release, the Service must find, by regulation, that such release will further the conservation of the species. In making such a finding, the Service uses the best scientific and commercial data available to consider the following factors (see 49 FR 33893; August 27, 1984): (1) Any possible adverse effects on extant populations of a species as a result of removal of individuals, eggs, or propagules for introduction elsewhere (see *Donor Stock Assessment and Effects on Donor Populations,* below); (2) the likelihood that any such experimental population will become established and survive in the foreseeable future (see *Likelihood of Population Establishment and Survival,* below); (3) the relative effects that establishment of an experimental population will have on the recovery of the species (see *Relationship of the NEP*

to Recovery Efforts, below); and (4) the extent to which the introduced population may be affected by existing or anticipated Federal or State actions or private activities within or adjacent to the experimental population area (see *Extent to Which the Reintroduced Population May Be Affected by Land Management Within the Proposed NEP,* below).

Furthermore, as set forth at 50 CFR 17.81(c), all regulations designating experimental populations under section 10(j) must provide: (1) Appropriate means to identify the experimental population, including, but not limited to, its actual or proposed location, actual or anticipated migration, number of specimens released or to be released, and other criteria appropriate to identify the experimental population(s) (see *Location and Boundaries of the NEP,* below); (2) a finding, based solely on the best scientific and commercial data available, and the supporting factual basis, on whether the experimental population is, or is not, essential to the continued existence of the species in the wild (see discussion in this section, above); (3) management restrictions, protective measures, or other special management concerns of that population, which may include but are not limited to, measures to isolate and/or contain the experimental population designated in the regulation from natural populations (see *Extent to Which the Reintroduced Population May Be Affected by Land Management Within the Proposed NEP,* below); and (4) a process for periodic review and evaluation of the success or failure of the release and the effect of the release on the conservation and recovery of the species (see *Reintroduction Effectiveness Monitoring and Donor Population Monitoring,* below).

Under 50 CFR 17.81(d), the Service must consult with appropriate State fish and wildlife agencies, local governmental entities, affected Federal agencies, and affected private landowners in developing and implementing experimental population rules. To the maximum extent practicable, section 10(j) rules represent an agreement between the Service, the affected State and Federal agencies, and persons holding any interest in land which may be affected by the establishment of an experimental population.

Section 10(j)(2)(C)(ii) of the Act states that critical habitat shall not be designated for any experimental population that is determined to be nonessential. Accordingly, we cannot designate critical habitat in areas where we establish an NEP.

Biological Information

The Oregon silverspot butterfly is a small, darkly marked coastal subspecies of the Zerene fritillary, a widespread butterfly species in montane western North America (USFWS 2001, p. 1). Historically, the Oregon silverspot butterfly was documented at 20 locations, from the border of northern California to the southern coast of Washington (McCorkle *et al.* 1980, p. 7). Its current distribution is limited to five locations, one near Lake Earl, along the coast of Del Norte County, California; two on the central Oregon coast in Lane County, Oregon; and two in Tillamook County, Oregon. With the exception of the two populations on the central Oregon coast that are only about 5 miles (mi) (8 kilometers (km)) apart, all remaining populations are geographically isolated from one another (USFWS 2001, pp. 8–10).

The Oregon silverspot butterfly has a 1-year life cycle which begins when female adults lay eggs on or near early blue violets (*Viola adunca*) during their flight period from mid-August through September. The eggs hatch within 10 days. The tiny first-instar caterpillars eat their eggshells and then go into diapause, a hibernation-like state, until late spring the following year when violets begin growing. Caterpillars are cryptic in habits and feed on early blue violets and a few other *Viola* species until pupation in the summer. Adult emergence starts in July and extends into September.

The Oregon silverspot butterfly occupies three types of grassland habitat: marine terrace and coastal headland meadows, stabilized dunes, and montane grasslands. Key resources needed by the Oregon silverspot butterfly in all of these habitats include: (1) The early blue violet, which is the primary host plant for Oregon silverspot caterpillars; (2) a variety of nectar plants that bloom during the butterfly flight period, including, but not limited to, yarrow (*Achillea millefolium*), pearly everlasting (*Anaphalis margaritacea*), Pacific aster (*Symphyotrichum chilense*), Canada goldenrod (*Solidago canadensis*), tansy ragwort (*Senecio jacobaea*), and edible thistle (*Cirsium edule*); (3) grasses and forbs in which the larvae find shelter; and (4) trees surrounding occupied meadows, which provide shelter for adult butterflies (45 FR 44935, July 2, 1980, p. 44939; USFWS 2001, p. 12). Historically, habitats with these key resources were likely widely distributed along the Oregon and Washington coasts (Hammond and McCorkle 1983, p. 222). Loss of habitat and key resources occurred as a result of human development and due to ecological succession and invasion of shrubs, trees, and tall introduced grasses which crowd-out the subspecies' host plants and nectar resources (Hammond and McCorkle 1983, p. 222). Loss of habitat was the primary threat to the subspecies identified in our 2001 Revised Recovery Plan for the Oregon Silverspot Butterfly (USFWS 2001, entire). More recently, during a periodic review of the subspecies' status, we identified the reduced size, number, and isolation of Oregon silverspot butterfly populations as additional severe and imminent threats to the subspecies (USFWS 2012, pp. 24–25).

Additional information on the biology, habitat, and life history of the butterfly can be found in our Revised Recovery Plan for the Oregon Silverspot Butterfly *(Speyeria zerene hippolyta*) (USFWS 2001, pp. 11–19), which is available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above.

Relationship of the NEP to Recovery Efforts

We are proposing to establish an NEP to promote the conservation and recovery of the Oregon silverspot butterfly. The recovery strategy for the Oregon silverspot butterfly, as detailed in our 2001 revised recovery plan, is to protect and manage habitat, and to augment and restore populations (USFWS 2001, pp. 39–41). Recovery criteria for the Oregon silverspot butterfly are (USFWS 2001, p. 42):

1. At least two viable Oregon silverspot butterfly populations exist in protected habitat in each of the following areas: Coastal Mountains, Cascade Head, and Central coast in Oregon; and Del Norte County in California; and at least one viable Oregon silverspot butterfly population exists in protected habitat in each of the following areas: Long Beach Peninsula, Washington, and Clatsop Plains, Oregon. This includes the development of comprehensive management plans.

2. Habitats are managed long term to maintain native, early successional grassland communities. Habitat management maintains and enhances early blue violet abundance, provides a minimum of five native nectar species dispersed abundantly throughout the habitat and flowering throughout the entire flight-period, and reduces the abundance of invasive, nonnative plant species.

3. Managed habitat at each population site supports a minimum viable

population of 200 to 500 butterflies for at least 10 years.

The reintroduction of Oregon silverspot butterflies within the proposed NEP would help address the limited number of populations and the subspecies' diminished geographic range. In addition, it is likely to contribute to meeting recovery criteria, as both proposed NEP areas have the biological attributes to support a viable butterfly population of butterflies and will be managed consistent with the subspecies' biological needs.

Location and Boundaries of the NEP

Section 10(j) of the Act requires that an experimental population be geographically separate from other populations of the same species. We identified the boundary of the proposed NEP as those Public Land Survey System sections intersecting with a 4.25-mi (6.8-km) radius around the proposed release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations. This 4.25-mi (6.8-km) radius is greater than the longest known flight distance of the Oregon silverspot butterfly (4.1 mi (6.6 km)) (VanBuskirk and Pickering 1999, pp. 3–4, Appendix 1). Although this flight distance had previously been reported as ''5 miles'' (VanBuskirk and Pickering 1999, p. 4; USFWS 2010, p. 10), a more precise measurement using the locations where the individual butterfly in question was marked and recaptured (rather than the general distance between the populations) resulted in a distance of 4.1 mi (6.8 km). The proposed NEP areas are geographically isolated from existing Oregon silverspot butterfly populations by a sufficient distance to preclude significant contact between populations. There is an extremely small potential that butterflies dispersing 4.1 mi (6.8 km) from the proposed release site on Nestucca Bay NWR may interact with butterflies dispersing 4.1 mi (6.8 km) from Cascade Head, because these locations are 8 mi (13 km) apart. Nevertheless, the likelihood of butterflies from these two sites interbreeding is remote because of the distance between the sites and the fact that there is little or no suitable habitat with appropriate larval host plants and adult nectar sources between Nestucca Bay NWR and Cascade Head. Even if butterflies dispersed and were present within the same area, we do not believe the occasional presence of a few individual butterflies meets a minimal biological definition of a population. Based on definitions of ''population'' used in other experimental population rules (*e.g.,* 59 FR 60252, November 22, 1994; 71 FR 42298, July 26, 2006), we believe that a determination that a population is not geographically separate from the proposed NEP area would require the presence of sufficient suitable habitat in the intervening area to support successfully reproducing Oregon silverspot butterflies over multiple years. Because there is little to no suitable habitat between Nestucca Bay NWR and Cascade Head, we conclude this is unlikely to happen. Biologically, the term ''population'' is not normally applied to dispersing individuals, and any individual butterflies would be considered emigrants from the Cascade Head population. Finally, a few butterflies would not be considered a self-sustaining population. Self-sustaining populations need a sufficient number of individuals to avoid inbreeding depression and occurrences of chance local extinction; a general rule of thumb is that the effective population size needs to be at least 50 to reduce the likelihood of extinction in the short term because of harmful effects of inbreeding depression on demographic rates, and at least 500 to retain sufficient genetic variation to allow for future adaptive change (Jamieson and Allendorf 2014, p. 578).

Saddle Mountain State Natural Area

Saddle Mountain SNA, managed by OPRD, is located in central Clatsop County, in northwest Oregon. Saddle Mountain was historically occupied by the Oregon silverspot butterfly, which was last documented at this site in 1973 (McCorkle *et al.* 1980, p. 8). Butterfly surveys in 1980 and more recent surveys during the butterfly flight period—in 2003, 2006, and 2010—did not document the species at Saddle Mountain (Mike Patterson, pers. comm. 2016), and the population there is presumed to be extirpated (VanBuskirk 2010, p. 27). The nearest extant Oregon silverspot butterfly population is 50 miles (80 km) south at Mount Hebo.

Saddle Mountain SNA is a 3,225-acre (ac) (1,305-hectare (ha)) park known for its unique botanical community, which thrives on the thin rocky soils, with few invasive weeds. Habitat suitable for the Oregon silverspot butterfly consists of approximately 60 ac (24 ha) of meadows on the slopes of Saddle Mountain near its upper peaks at 3,288 feet (ft) (1,002 meters (m)) above sea-level. Based on recent plant surveys (OPRD 2012, p. 2), the proposed release site contains high-quality butterfly habitat with sufficient densities of the requisite species (*Viola adunca* and native nectar plants) to support an Oregon silverspot butterfly population (USFWS 2001, pp. 13–14). Habitat quality has been maintained through natural processes including vertical drainage patterns associated with steep ridges, thin rocky soils, elevation, and winter snow cover within the forb rich Roemer fescue (*Festuca roemeri*) montane grassland community (ONHIC 2004, p. 2). In a letter to the Service dated October 15, 2011, and a follow-up letter dated February 12, 2016, OPRD expressed their desire to have an NEP of Oregon silverspot butterfly and to return this native pollinator to the ecosystem (OPRD *in litt.,* 2011; OPRD *in litt.,* 2016).

The Saddle Mountain NEP area is centered on the coastal prairie habitat on top of Saddle Mountain, where we are proposing to reintroduce the Oregon silverspot butterfly. The proposed NEP encompasses all the Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the proposed release area. The subspecies is territorial within habitat areas, and the reintroduced butterflies are expected to stay in or near meadows on top of Saddle Mountain, which have an abundance of the plant species they need to survive. The proposed Saddle Mountain butterfly population will be released into permanently protected suitable habitat. We are proposing to reintroduce the Oregon silverspot butterfly as an NEP in this area to address OPRD's concerns regarding potential impacts to park management activities, such as trail maintenance, and potential opposition from surrounding landowners to the reintroduction of a federally listed species without an NEP. Surrounding land cover is primarily forest (OPRD 2014, pers. comm.) and is not suitable Oregon silverspot butterfly habitat; therefore, we do not expect butterflies to use areas outside of Saddle Mountain SNA.

Nestucca Bay National Wildlife Refuge

The Nestucca Bay NWR, managed by the Service, is located in the southwest corner of Tillamook County, along the northern Oregon coast. Although the Oregon silverspot butterfly was never documented at this site, it is within the historical range of the subspecies along the coast, and a small amount of remnant coastal prairie occurred on the site prior to commencement of restoration efforts in 2011. Therefore, it is reasonable to assume that the Oregon silverspot butterfly once inhabited the area, but no surveys were conducted to document its presence. Currently occupied Oregon silverspot butterfly

sites nearest to the proposed NEP area are 10 mi (16 km) to the east at Mount Hebo and 8 mi (13 km) south at Cascade Head, with little or no suitable habitat in between. There are currently no known extant Oregon silverspot butterfly populations to the north of the proposed release site, but the subspecies was historically documented near Cape Meares, 20 mi (32 km) to the north of Nestucca Bay NWR, where it was last observed in 1968 (McCorkle *et al.* 1980, p. 7).

The Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan includes a goal to promote the recovery of the Oregon silverspot butterfly by establishing an NEP on the refuge (USFWS 2013, p. 2–4). The approximately 1,203-ac (487-ha) refuge has 25 to 30 ac (10 to 12 ha) of coastal prairie habitat in varying stages of restoration, including the conversion of degraded grasslands on the Cannery Hill Unit from nonnative pasture grasses to native coastal grasses and forbs with an emphasis on the plant species and structure required to support the Oregon silverspot butterfly. Since 2011, invasive weed abundance has been minimized, and thousands of violet and nectar plants have been planted to enhance and restore the coastal prairie ecosystem. Funding acquired by the refuge in 2015 is now being used to complete habitat restoration on the remaining acreage prior to the release of Oregon silverspot butterflies.

The NEP area is centered on coastal prairie habitat on the Cannery Hill Unit of the refuge, where we are proposing to release Oregon silverspot butterflies. The proposed NEP encompasses all Public Land Survey System sections that intersect with a 4.25-mi (6.8-km) radius around the proposed release area. We propose to release Oregon silverspot butterflies into permanently protected suitable habitat at Nestucca Bay NWR, which will be managed to provide the plant community needed for the butterfly to become established and to support a population. We are proposing to reintroduce the Oregon silverspot butterfly as an NEP in this area to address adjacent landowner concerns regarding the impact a federally listed species might have on the sale or development of their property. As little or no suitable habitat is currently available on adjacent properties, and Oregon silverspot butterflies are territorial and non-migratory, we consider the likelihood of butterflies moving on to these adjacent lands to be low. Despite a few adjacent properties that Oregon silverspot butterflies might occasionally move through, the primary surrounding land cover is agriculture and forest (USFWS 2013, p. 4–3), which are not suitable habitat for the subspecies; therefore, occurrence of Oregon silverspot butterflies in surrounding areas, if any, is expected to be limited.

Likelihood of Population Establishment and Survival

The best available scientific data indicate that the reintroduction of Oregon silverspot butterflies into suitable habitat is biologically feasible and would promote the conservation of the species. Oregon silverspot butterfly population augmentations have been conducted on the central Oregon coast from 2000 through 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 4). Based on the knowledge gained from these efforts, we anticipate the proposed NEP areas would become successfully established. Butterflies would be released into high-quality habitat in sufficient amounts to support large butterfly populations, and no unaddressed threats to the species are known to exist at these sites.

The coastal headland meadows of the Nestucca Bay NWR are being restored with the specific intent of providing high densities of the plant species needed by the Oregon silverspot butterfly. Ongoing habitat enhancement and management will maintain suitable habitat and minimize the abundance and distribution of invasive, nonnative plant species, which degrade habitat quality. The Nestucca Bay NWR has committed to the management required to restore and maintain suitable habitat specifically for a population of the Oregon silverspot butterfly. The upper meadows of the Saddle Mountain SNA have an abundance of the key resources, including an intact plant community with an abundance of plants needed to support the Oregon silverspot butterfly. Habitat quality has been maintained through natural processes, including vertical drainage patterns associated with steep ridges, thin rocky soils, elevation, and winter snow cover within the forb rich Roemer fescue montane grassland community (ONHIC 2004, p. 2). The habitat at Saddle Mountain is self-sustaining, does not require active management (see Addressing Causes of Extirpation, below), and is adequately protected. Additionally, within both proposed NEP areas, large trees surrounding the meadows would provide needed cover for sheltering Oregon silverspot butterflies.

Based on all of these considerations, we anticipate that reintroduced Oregon silverspot butterflies are likely to become established and persist at Nestucca Bay NWR and Saddle Mountain SNA.

Addressing Causes of Extirpation

The largest threat to Oregon silverspot butterfly populations is a lack of suitable habitat. Without regular disturbance, coastal prairie habitat is vulnerable to plant community succession, resulting in loss of prairie habitat to brush and tree invasion. Invasive, nonnative plants also play a significant role in the degradation of habitat quality and quantity for this butterfly.

The reasons for the extirpation of the original population of Oregon silverspot butterflies on Saddle Mountain between 1973 and 1980 are unknown. The habitat on top of Saddle Mountain is currently suitable for supporting a population of the butterfly. The grassland habitat at this location has been self-sustaining likely due to the 3,000-ft (914-m) elevation, thin rocky soil type, steep slopes, primarily native composition of the plant community, and lack of human disturbance to the ecosystem. The Saddle Mountain SNA, protected as a special botanical area, has an annual day-use rate of 68,928 visitors per year. OPRD maintains a trail, accessible only by foot, which leads to the top of the mountain. The extremely steep grade on either side of the trail discourages visitors from straying off trail and into the adjacent meadow areas. Park rules do not allow collection of plants or animals (OPRD 2010). Continuance of this management regime is expected to protect the reintroduced population and contribute to its successful establishment. We acknowledge there is some uncertainty regarding population establishment and long-term viability at this site given that we have not identified the original cause of local extirpation. Nevertheless, this site has been identified as one of the most promising for a reintroduction effort given the lack of identifiable threats, density of host plants, and overall quality of habitat (VanBuskirk 2010, p. 27).

The Nestucca Bay NWR will address habitat threats by monitoring and maintaining habitat quality for the benefit of the Oregon silverspot butterfly, in accordance with the Nestucca Bay National Wildlife Refuge Comprehensive Conservation Plan, which sets specific targets for abundance of violet and nectar species. All management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4–37–4–43). As described above, the Nestucca Bay NWR is actively working to restore habitat specifically for the benefit of the Oregon silverspot butterfly in

anticipation of a potential reintroduction. Restoration efforts have proven successful in establishing high-quality habitat that is likely to support all life stages of the subspecies. Nestucca Bay NWR's demonstrated commitment to reestablishing and maintaining high-quality habitat suitable for the Oregon silverspot butterfly is expected to contribute to the successful establishment of the proposed NEP at this site.

Release Procedures

We propose to use captive-reared butterflies to populate the NEP areas using proven release methods developed by the Oregon silverspot butterfly population augmentation program from 2000 to 2015 (USFWS 2012, p. 10; Engelmeyer 2015, p. 2). We will release captive-reared caterpillars or pupae of wild female butterflies into suitable habitat within the proposed NEP areas, following the guidance in the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire). We will determine the number of individuals to release based on the number of available healthy offspring and the amount of suitable habitat available, with violet densities as the primary measure of habitat suitability. The ultimate goal is the establishment of self-sustaining populations of between 200 to 500 butterflies for 10 years at each proposed NEP area, similar to the recovery criteria for the other habitat conservation areas.

Based on guidance from the Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire), we propose to establish populations in each NEP area from offspring of at least 50 mated females. Because the number of female butterflies available for collection for the captive-rearing program is limited to 5 percent of the donor population per year, it may be necessary to release caterpillars or pupae incrementally over a period of a few years. We will use annual butterfly counts during the flight period to monitor population establishment success. Butterfly survey methods used at the occupied sites (Pollard 1977, p. 116; Pickering 1992, p. 3) will also be used to assess population establishment success in the proposed NEP areas.

Donor Stock Assessment and Effects on Donor Populations

Individual Oregon silverspot butterflies used to establish populations at both proposed NEP areas will most likely come from the offspring of the Mount Hebo population. Additional genetic research on the subspecies is in progress and may suggest that butterflies from other populations should be included in the captive-rearing program to enhance genetic diversity. If populations other than the Mount Hebo population are used as donor stock, we will evaluate the impact of taking females from those populations on the survival and recovery of the subspecies prior to issuing a recovery permit for such take.

The Mount Hebo Oregon silverspot butterfly population has historically been the largest and most stable population, averaging an annual index count of 1,457 butterflies per year between 2000 to 2014 (USFWS 2012, p. 10; Patterson 2014, p. 11); therefore, it is the least likely to be impacted by the removal of up to 5 percent of the population. Demographic modeling indicates that the optimal strategy for captive rearing of Oregon silverspot butterflies to increase the probability of persistence is to take females from larger donor populations (Crone *et al.* 2007, p. 108). Regional persistence can be increased with captive rearing, with negligible effects on the donor population (Crone *et al.* 2007, pp. 107–108). Measurable increases in regional persistence are predicted when one assumes each donor female produces four adult butterflies for release to the wild (*i.e.,* four adults/female). In reality, the number of adult butterflies produced per female captured from the donor population has been much higher in recent years. For example, during 2007–2009, between 24 and 29 females were captured, producing between 875 and 2,391 adults for release (31–83 adults/female) (VanBuskirk 2010, p. 12). In 2015, 14 females produced 815 adults for release (58 adults/female) (Engelmeyer 2015, p. 5). These rates of production far exceed what is needed to have a positive impact on regional persistence, even if all the females were removed from small donor populations (see Crone *et al.* 2007, p. 109). As an additional protective measure, we will release some caterpillars and pupae from the captive-rearing program back into the donor population each year, concurrent with the reintroductions to the proposed NEP areas. This will further minimize any potential effects from the removal of a small number of adult females in the prior year.

The Mount Hebo population occurs in an environment similar to the proposed Saddle Mountain NEP area (*i.e.,* similar elevation, native plant community, and distance from the coast). Therefore, offspring of butterflies from Mount Hebo will likely be well-adapted to the environment in the meadows on top of Saddle Mountain. The Mount Hebo population may also serve as the best donor population for the proposed Nestucca Bay NEP area because it is genetically most similar to the existing population closest to the refuge (*i.e.,* the Cascade Head population) (VanBuskirk 2000, p. 27; McHugh *et al.* 2013, p. 8). We will consider all new scientific information when making annual decisions on an appropriate donor population; therefore, it is possible that we will use donor populations other than Mount Hebo.

The Captive Propagation and Reintroduction Plan for the Oregon Silverspot Butterfly (VanBuskirk 2010, entire) contains further information on the captive rearing program, release procedures, genetic considerations, population dynamics, effects of releases on population viability of the Oregon silverspot butterfly, and the potential for reintroduction to Saddle Mountain SNA and Nestucca Bay NWR (copies of this document are available online at *http://www.regulations.gov* under Docket No. FWS–R1–ES–2016–0102 or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**, above).

Legal Status of Reintroduced Populations

Based on the current legal and biological status of the subspecies and the need for management flexibility, and in accordance with section 10(j) of the Act, we propose to designate all Oregon silverspot butterflies released within the boundaries of the NEP areas as members of the NEP. Such designation allows us to establish special protective regulations for management of Oregon silverspot butterflies.

With the experimental population designation, the relevant population is treated as threatened for purposes of section 9 of the Act, regardless of the species' designation elsewhere in its range. Treating the experimental population as threatened allows us the discretion to devise management programs and specific regulations for such a population. Section 4(d) of the Act allows us to adopt any regulations that are necessary and advisable to provide for the conservation of a threatened species. When designating an experimental population, the general regulations that extend most section 9 prohibitions to threatened species do not apply to that species, and the section 10(j) rule contains the prohibitions and exemptions necessary and advisable to conserve that species.

The 10(j) rule would further the conservation of the subspecies by facilitating its reintroduction into two areas of suitable habitat within its historical range. The rule would provide

assurances to landowners and development interests that the reintroduction of Oregon silverspot butterflies will not interfere with natural resource developments or with human activities (although the Act's section 7(a)(2) consultation requirements would still apply on Nestucca Bay NWR). Without such assurances, some landowners and developers, as well as the State, would object to the reintroduction of Oregon silverspot butterflies to these two areas. Except as provided for under sections 10(a)(1)(A) and 10(e) of the Act, or as described in this proposed NEP rule, take of any member of the Oregon silverspot butterfly NEP will be prohibited under the Act.

Extent to Which the Reintroduced Population May Be Affected by Land Management Within the Proposed NEP

We conclude that the effects of Federal, State, or private actions and activities will not pose a threat to Oregon silverspot butterfly establishment and persistence at Saddle Mountain SNA or the Nestucca Bay NWR because the best information, including activities currently occurring in Oregon silverspot butterfly populations range wide, indicates that activities currently occurring, or likely to occur, at prospective reintroduction sites within proposed NEP areas are compatible with the species' recovery. The reintroduced Oregon silverspot butterfly populations would be managed by OPRD and the Service, and would be protected from major development activities through the following mechanisms:

(1) Development activities and timber harvests are not expected to occur in the Saddle Mountain SNA, which is protected as a special botanical area. Trail maintenance and other park maintenance activities would continue to occur within the proposed NEP area, but are expected to have minimal impact on the butterfly meadow habitat areas due to the terrain and steepness of the slopes. Because of the rugged nature of the area, and also to protect the important botanical resources at this site, maintenance activities in this area are generally limited to trail maintenance by hand crews, with minimal impacts on the meadow areas. Additionally, the proposed Oregon silverspot butterfly NEP area at Saddle Mountain SNA would be protected by the Oregon State regulations prohibiting collection of animals on State lands (Oregon Administrative Rule (OAR) 736–010–0055(2)(d)). Private timberlands surrounding the SNA do not contain suitable butterfly habitat, and therefore activities on adjacent lands are not expected to impact the butterfly.

(2) In accordance with the Nestucca Bay NWR Comprehensive Conservation Plan, all refuge management actions taken in the vicinity of the reintroduced population will defer to the habitat needs of the butterfly (USFWS 2013, pp. 4–37–4–43). In addition, the refuge must complete section 7(a)(2) consultation on all actions that may affect the butterfly. Oregon silverspot butterflies may occasionally visit or fly within adjacent properties near the proposed NEP area, which may be subject to future development. However, given the lack of suitable habitat for this subspecies on adjacent properties, as well as the butterfly's territorial and non-migratory nature, we consider negative impacts to the Oregon silverspot butterfly from development on adjacent sites to be unlikely, as there is little likelihood of individuals moving to these sites.

Management issues related to the proposed Oregon silverspot butterfly NEP that have been considered include:

(a) *Incidental Take:* The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity (50 CFR 17.3), such as agricultural activities and other rural development, and other activities that are in accordance with Federal, Tribal, State, and local laws and regulations. Experimental population rules contain specific prohibitions and exceptions regarding the taking of individual animals. If we adopt this 10(j) rule as proposed, take of the Oregon silverspot butterfly anywhere within the NEP areas would not be prohibited, provided that the take is unintentional, not due to negligent conduct, and is in accordance with this 10(j) rule; however, the section 7(a)(2) consultation requirement still applies on refuge lands. We expect levels of incidental take to be low because the reintroduction is compatible with ongoing activities and anticipated future actions in the proposed NEP areas.

(b) *Special handling:* In accordance with 50 CFR 17.32, any person with a valid permit issued by the Service may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, take an Oregon silverspot butterfly in the wild in the NEP area without a permit if such action is necessary for scientific purposes, to aid a law enforcement investigation, to euthanize an injured individual, to dispose of or salvage a dead individual for scientific purposes, or to relocate an Oregon silverspot butterfly to avoid conflict with human activities, to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes, to move individuals into captivity or from one population in the NEP to the other, or to retrieve an Oregon silverspot butterfly that has moved outside the NEP area. Non-Service or other non-authorized personnel would need a permit from the Service for these activities.

(c) *Coordination with landowners and land managers:* We have coordinated with landowners likely to be affected by the proposed reintroduction. During this coordination we identified issues and concerns associated with reintroducing Oregon silverspot butterflies in the absence of an NEP designation. We also discussed the possibility of NEP designation. Affected State agencies, landowners, and land managers have either indicated support for, or no opposition to, the proposed NEP if a 10(j) rule is promulgated to allow incidental take of Oregon silverspot butterflies.

(d) *Public awareness and cooperation:* The proposed NEP designation is necessary to secure needed cooperation of the States, landowners, agencies, and other interests in the affected area. If this proposed rule is adopted, we will work with our partners to continue public outreach on our effort to restore Oregon silverspot butterflies to parts of their historical range and the importance of these restoration efforts to the overall recovery of the subspecies.

(e) *Potential impacts to other federally listed species:* No federally listed species occur in the proposed NEP areas that would be affected by the reintroductions.

(f) *Monitoring and evaluation:* Annual monitoring would be performed by qualified personnel with the cooperation of the OPRD Saddle Mountain SNA and Nestucca Bay NWR. Oregon silverspot butterflies would be counted on designated survey transects or public trails. We do not anticipate that surveys would disrupt or hamper public use and would likely be perceived by the public as normal activities in the context of a natural area.

Reintroduction Effectiveness Monitoring

Oregon silverspot butterfly surveys would be conducted annually within Oregon silverspot butterfly habitat at Nestucca Bay NWR and Saddle Mountain SNA using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). This survey method is currently used at all occupied Oregon silverspot butterfly sites. The surveys would be conducted weekly during the butterfly flight period, July through September, on designated survey transects or public trails. The surveys produce an index of Oregon silverspot butterfly relative abundance that would be used to assess annual population trends to provide information on reintroduction effectiveness. We would prepare annual progress reports. Reintroduction efforts would be fully evaluated after 5 years to determine whether to continue or terminate the reintroduction efforts.

Donor Population Monitoring

We would conduct annual Oregon silverspot butterfly surveys within the populations where donor stock is obtained using a modified Pollard walk methodology (Pickering *et al.* 1992, p. 7). Our annual monitoring would be used to adaptively manage the captive rearing program to insure that the removal of donor stock would not jeopardize the continued existence of the population or the species as a whole.

Monitoring Impacts to Other Listed Species

We do not anticipate impacts to other listed species by the proposed reintroduction of the Oregon silverspot butterfly.

Findings

Based on the above information, and using the best scientific and commercial data available (in accordance with 50 CFR 17.81), we find that reintroducing the Oregon silverspot butterfly into the Saddle Mountain SNA and the Nestucca Bay NWR and the associated protective measures and management practices under this proposed rulemaking would further the conservation of the subspecies. The nonessential experimental population status is appropriate for the reintroduction areas because we have determined that these populations are not essential to the continued existence of the subspecies in the wild.

Required Determinations

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this proposed rule is not significant.

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

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

Under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996; 5 U.S.C. 60 *et seq.*), whenever a Federal agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare, and make available for public comment, a regulatory flexibility analysis that describes the effect of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule will not have a significant economic impact on a substantial number of small entities. We are certifying that this rule will not have a significant economic effect on a substantial number of small entities. The following discussion explains our rationale.

The area that would be affected if this proposed rule is adopted includes the release areas at Saddle Mountain SNA and Nestucca Bay NWR and adjacent areas into which individual Oregon silverspot butterflies may disperse. Because of the regulatory flexibility for Federal agency actions provided by the proposed NEP designation and the exemption for incidental take in the rule, we do not expect this rule to have significant effects on any activities within Federal, State, or private lands within the proposed NEP. In regard to section 7(a)(2) of the Act, the population would be treated as proposed for listing, and Federal action agencies are not required to consult on their activities, except on National Wildlife Refuge and National Park land where the subspecies is managed as a threatened species. Section 7(a)(4) of the Act requires Federal agencies to confer (rather than consult) with the Service on actions that are likely to jeopardize the continued existence of a proposed species. However, because the proposed NEP is, by definition, not essential to the survival of the species, conferring will likely never be required for the Oregon silverspot butterfly populations within the NEP areas. Furthermore, the results of a conference are advisory in nature and do not restrict agencies from carrying out, funding, or authorizing activities. In addition, section 7(a)(1) of the Act requires Federal agencies to use their authorities to carry out programs to further the conservation of listed species, which would apply on any lands within the NEP areas. Within the boundaries of the Nestucca Bay NWR, the subspecies would be treated as a threatened species for the purposes of section 7(a)(2) of the Act. As a result, and in accordance with these regulations, some modifications to proposed Federal actions within Nestucca Bay NWR may occur to benefit the Oregon silverspot butterfly, but we do not expect projects to be substantially modified because these lands are already being administered in a manner that is compatible with Oregon silverspot butterfly recovery.

If adopted, this proposal would broadly authorize incidental take of the Oregon silverspot butterfly within the NEP areas. The regulations implementing the Act define ''incidental take'' as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity such as, agricultural activities and other rural development, camping, hiking, hunting, vehicle use of roads and highways, and other activities in the NEP areas that are in accordance with Federal, Tribal, State, and local laws and regulations. Intentional take for purposes other than authorized data collection or recovery purposes would not be authorized. Intentional take for

research or recovery purposes would require a section 10(a)(1)(A) recovery permit under the Act.

The principal activities on private property near the proposed NEP areas are timber production, agriculture, and activities associated with private residences. We believe the presence of the Oregon silverspot butterfly would not affect the use of lands for these purposes because there would be no new or additional economic or regulatory restrictions imposed upon States, non-Federal entities, or private landowners due to the presence of the Oregon silverspot butterfly, and Federal agencies would only have to comply with sections 7(a)(1) and 7(a)(4) of the Act in these areas, except on Nestucca Bay NWR lands where section 7(a)(2) of the Act would apply. Therefore, this rulemaking is not expected to have any significant adverse impacts to activities on private lands within the proposed NEP areas.

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

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

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

(2) This proposed rule would not produce a Federal mandate of $100 million or greater in any year (*i.e.,* it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act). The proposed NEP area designations for the Oregon silverspot butterfly would not impose any additional management or protection requirements on the States or other entities.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the proposed rule does not have significant takings implications. This rule would allow for the take of reintroduced Oregon silverspot butterflies when such take is incidental to an otherwise legal activity, such as recreation (*e.g.,* hiking, birdwatching), forestry, agriculture, and other activities that are in accordance with Federal, State, and local laws and regulations. Therefore, we do not believe that the proposed NEP would conflict with existing or proposed human activities.

A takings implication assessment is not required because this rule (1) will not effectively compel a property owner to suffer a physical invasion of property, and (2) will not deny all economically beneficial or productive use of the land or aquatic resources. This rule would substantially advance a legitimate government interest (conservation and recovery of a listed species) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism (E.O. 13132)

In accordance with Executive Order 13132, we have considered whether this proposed rule has significant Federalism effects and have determined that a federalism summary impact statement is not required. This proposed rule would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. In keeping with Department of the Interior policy, we requested information from and coordinated development of this proposed rule with the affected resource agencies in Oregon. Achieving the recovery goals for this subspecies would contribute to its eventual delisting and its return to State management. No intrusion on State policy or administration is expected; roles or responsibilities of Federal or State governments would not change; and fiscal capacity would not be substantially directly affected. The proposed rule would maintain the existing relationship between the State and the Federal Government, and is being undertaken in coordination with the State of Oregon. Therefore, this rule does not have significant Federalism effects or implications to warrant the preparation of a federalism summary impact statement under the provisions of Executive Order 13132.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule would not unduly burden the judicial system and would meet the requirements of sections (3)(a) and (3)(b)(2) of the Order.

Paperwork Reduction Act

Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), require that Federal agencies obtain approval from OMB before collecting information from the public. This proposed rule does not contain any new information collections that require approval. We may not collect or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

The reintroduction of native species into suitable habitat within their historical or established range is categorically excluded from NEPA documentation requirements consistent with the Department of Interior's Department Manual (516 DM 8.5B(6)).

Government-to-Government Relationship With Tribes

In accordance with the presidential memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951; May 4, 1994), Executive Order 13175 (65 FR 67249; November 9, 2000), and the Department of the Interior Manual Chapter 512 DM 2, we have considered possible effects on federally recognized Indian tribes and have determined that there are no tribal lands affected by this proposed rule.

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

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

Clarity of This Rule (E.O. 12866)

We are required by E.O. 12866, E.O. 12988, and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(1) Be logically organized;

(2) Use the active voice to address readers directly;

(3) Use clear language rather than jargon;

(4) Be divided into short sections and sentences; and

(5) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise the rule, your comment should be as specific as possible. For example, you should tell

us the numbers of the sections and paragraphs that are unclearly written, which sections or sentences are too long, or the sections where you feel lists and tables would be useful.

References Cited

A complete list of all references cited in this final rule is available at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2016–0102 or upon request from the Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this proposed rule are staff members of the Service's Newport Field Office (see **FOR FURTHER INFORMATION CONTACT**).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record keeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—ENDANGERED AND THREATENED WILDLIFE

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 1531–1544; and 4201–4245, unless otherwise noted.

■ 2. Amend § 17.11(h) by revising the entry for ''Butterfly, Oregon silverspot'' under INSECTS in the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Common name	Scientific name	Where listed	Status	Listing citations and applicable rules
* *	*	*	*	* *
INSECTS				
* *	*	*	*	* *
Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	Wherever found, except where listed as an experimental population.	T	45 FR 44935; 7/2/1980, 50 CFR 17.95(i) CH.
Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	U.S.A. (OR—specified portions of Clatsop and Tillamook Counties; see § 17.85(d)).	XN	[**Federal Register** citation of the final rule]
* *	*	*	*	* *

■ 3. Amend § 17.85 by adding paragraph (d) to read as follows:

§ 17.85 Special rules—invertebrates.

* * * * *

(d) Oregon Silverspot Butterfly (*Speyeria zerene hippolyta*).

(1) *Where is the Oregon silverspot butterfly designated as a nonessential experimental population (NEP)?* (i) The NEP areas for the Oregon silverspot butterfly are within the subspecies' historical range in Tillamook and Clatsop Counties, Oregon. The boundary of the NEP includes those Public Land Survey System sections intersecting with a 4.25-mile (6.8-kilometer) radius around the release locations. This boundary was selected to encompass all likely movements of Oregon silverspot butterflies away from the release areas while maintaining geographic separation from existing populations.

(A) The Nestucca Bay NEP area, centered on the coastal prairie habitat on the Cannery Hill Unit of the Nestucca Bay National Wildlife Refuge (Nestucca Bay NEP area), includes Township 4 South, Range 10 West, Sections 15 through 36; Township 4 South, Range 11 West, Sections 13, 24, 25, and 36; Township 5 South, Range 10 West, Sections 2 through 11, 14 through 23, 27 through 30; and Township 5 South, Range 11 West, Sections 12, 13, 24, and 25.

(B) The Saddle Mountain NEP area, centered on the coastal prairie habitat on top of Saddle Mountain State Natural Area (Saddle Mountain NEP area), includes Township 6 North, Range 7 West, Sections 7, 17 through 20, 29 through 32; Township 6 North, Range 8 West, Sections 1 through 36; Township 6 North, Range 9 West, Sections 1, 11 through 14, 23 through 26, 35, and 36; Township 5 North, Range 7 West, Sections 5 through 8, 17, 18, and 19; Township 5 North, Range 8 West, Sections 1 through 24; and Township 5 North, Range 9 West, Sections 1, 2, 3, 11, 12, 13, and 14.

(ii) The nearest known extant population to the Nestucca Bay NEP area is 8 miles (13 kilometers) to the south, beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)) and with little or no suitable habitat between them. The nearest known extant population to the Saddle Mountain NEP area is 50 miles (80 kilometers) to the south, well beyond the longest known flight distance of the butterfly (4.1 miles (6.6 kilometers)). Given its habitat requirements, movement patterns, and distance from extant populations, the NEP is wholly separate from extant populations and we do not expect the reintroduced Oregon silverspot butterflies to become established outside the NEP areas. Oregon silverspot butterflies outside of the NEP boundaries will assume the status of Oregon silverspot butterflies within the geographic area in which they are found.

(iii) We will not change the NEP designations to ''essential experimental,'' ''threatened,'' or ''endangered'' within the NEP areas without engaging in notice-and-comment rulemaking. Additionally, we will not designate critical habitat for this NEP, as provided by 16 U.S.C. 1539(j)(2)(C)(ii).

(2) *What take of the Oregon silverspot butterfly is allowed in the NEP areas?*

(i) Oregon silverspot butterflies may be taken within the NEP area, provided that such take is not willful, knowing, or due to negligence, and is incidental to carrying out an otherwise lawful activity, such as agriculture, forestry and wildlife management, land development, recreation, and other activities that are in accordance with Federal, State, Tribal, and local laws and regulations.

(ii) Any person with a valid permit issued by the Service under 50 CFR 17.32 may take the Oregon silverspot butterfly for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act. Additionally, any employee or agent of the Service, any other Federal land management agency, or a State conservation agency, who is designated by the agency for such purposes, may, when acting in the course of official duties, may take an Oregon silverspot butterfly in the wild in the NEP area if such action is necessary:

(A) For scientific purposes;

(B) To relocate Oregon silverspot butterflies to avoid conflict with human activities;

(C) To relocate Oregon silverspot butterflies within the NEP area to improve Oregon silverspot butterfly survival and recovery prospects or for genetic purposes;

(D) To relocate Oregon silverspot butterflies from one population in the NEP into another in the NEP, or into captivity;

(E) To euthanize an injured Oregon silverspot butterfly;

(F) To dispose of a dead Oregon silverspot butterfly, or salvage a dead Oregon silverspot butterfly for scientific purposes;

(G) To relocate an Oregon silverspot butterfly that has moved outside the NEP area back into the NEP area; or

(H) To aid in law enforcement investigations involving the Oregon silverspot butterfly.

(3) *What take of Oregon silverspot butterfly is not allowed in the NEP area?*

(i) Except as expressly allowed in paragraph (d)(2) of this section, all of the provisions of 50 CFR 17.31(a) and (b) apply to the Oregon silverspot butterfly in areas identified in paragraph (d)(1) of this section.

(ii) A person may not possess, sell, deliver, carry, transport, ship, import, or export by any means, Oregon silverspot butterflies, or parts thereof, that are taken or possessed in a manner not expressly allowed in paragraph (d)(2) of this section or in violation of applicable State fish and wildlife laws or regulations or the Act.

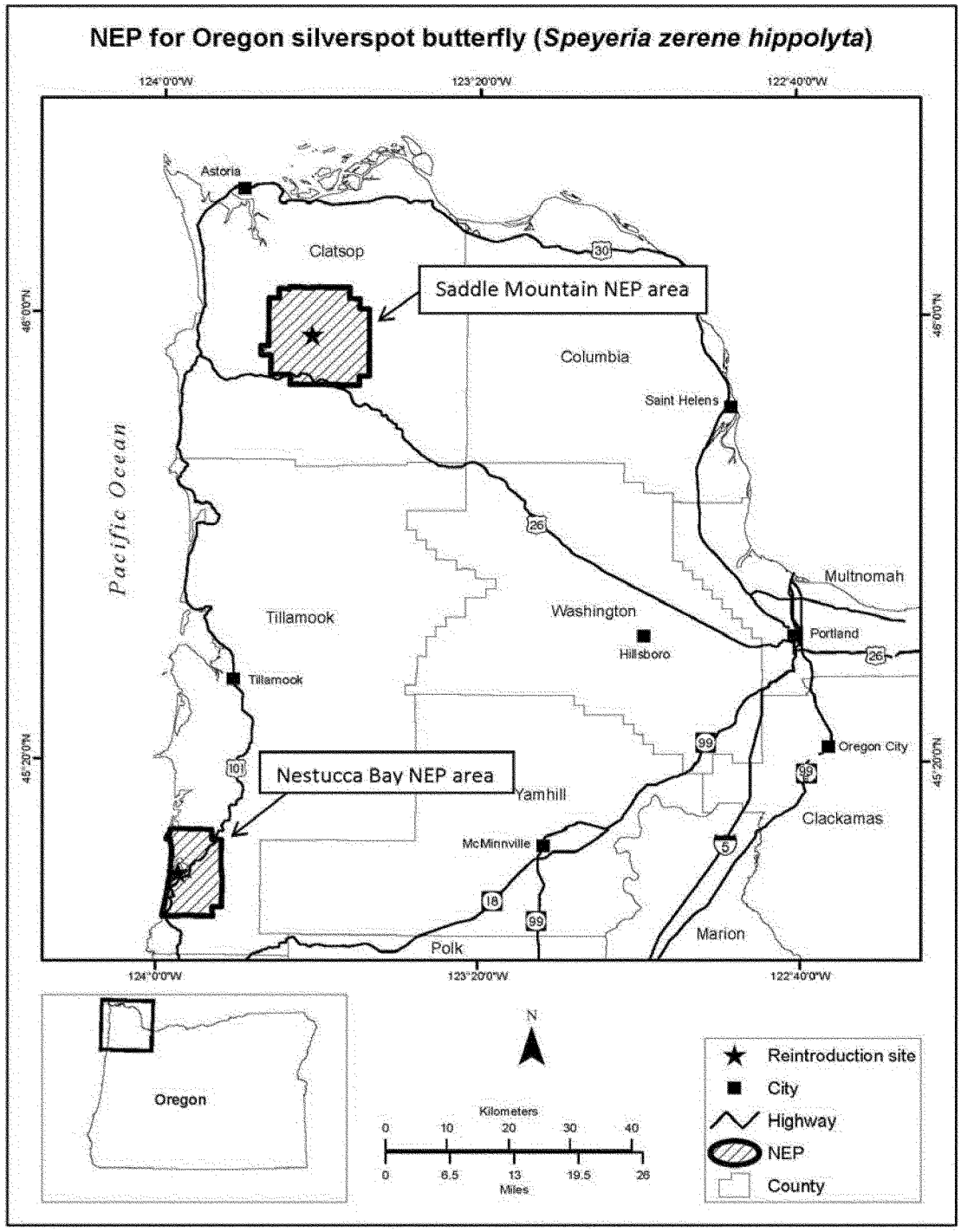
(iii) Any manner of take not described under paragraph (d)(2) of this section is prohibited in the NEP areas.

(iv) A person may not attempt to commit, solicit another to commit, or cause to be committed any take of the Oregon silverspot butterfly, except as expressly allowed in paragraph (d)(2) of this section.

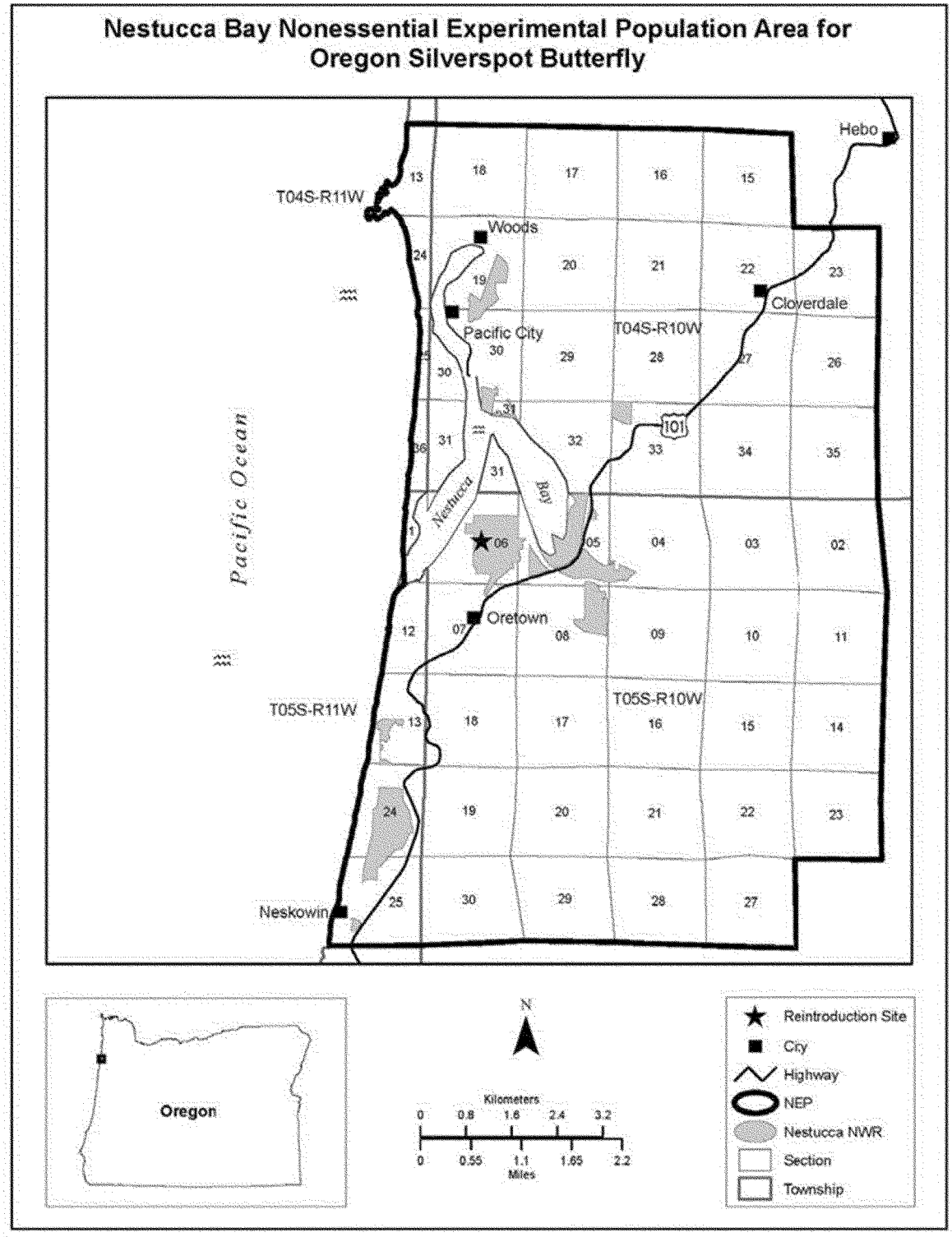
(4) *How will the effectiveness of these reintroductions be monitored?* We will monitor populations annually for trends in abundance in cooperation with partners and prepare annual progress reports. We will fully evaluate reintroduction efforts after 5 years to determine whether to continue or terminate the reintroduction efforts.

(5) *Maps of the NEP areas for the Oregon silverspot butterfly in Northwest Oregon.*

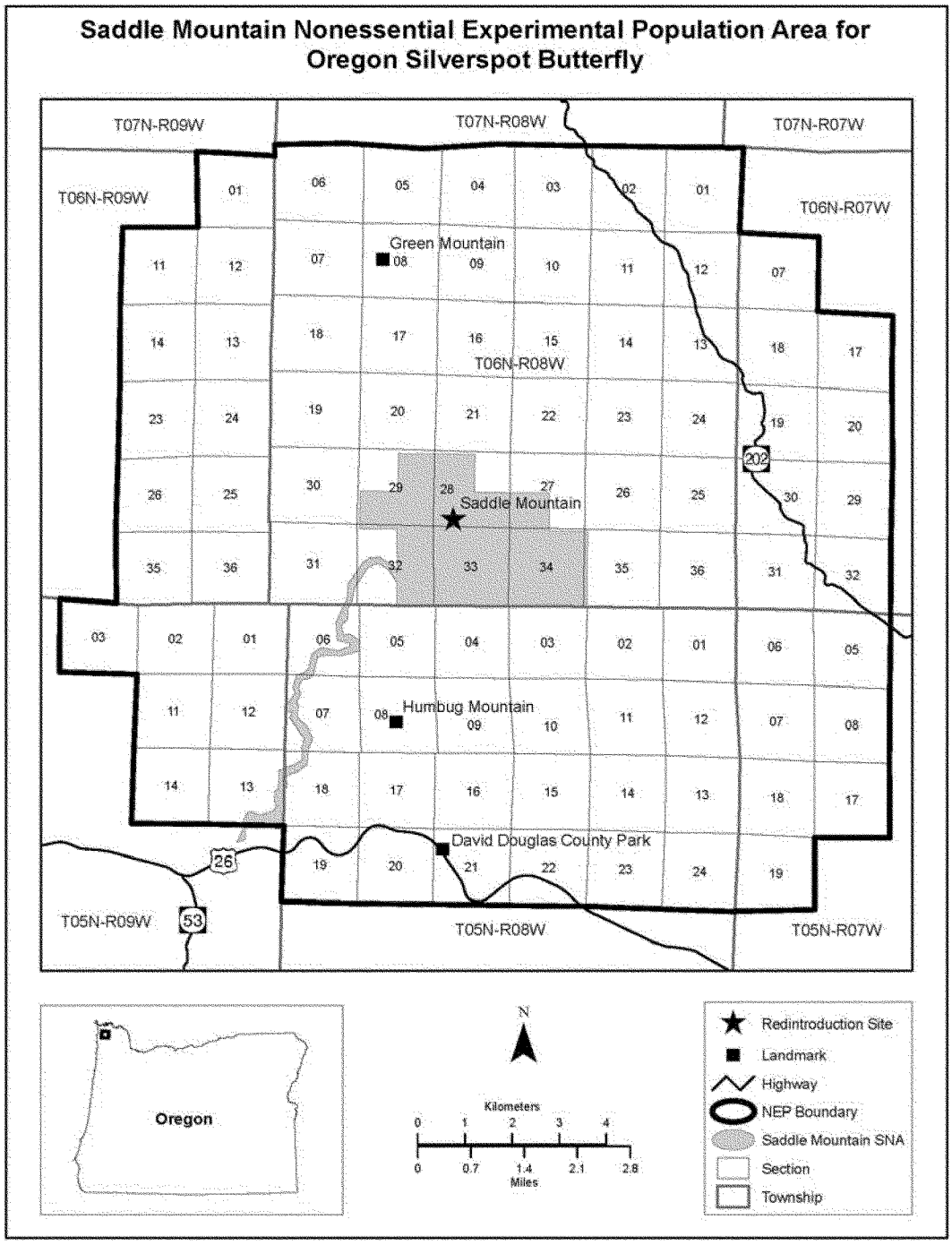
(i) *Note:* Map of the Oregon silverspot butterfly NEP follows:



(ii) *Note:* Map of Nestucca Bay NEP area for the Oregon silverspot butterfly follows:



(iii) *Note:* Map of Saddle Mountain NEP area for the Oregon silverspot butterfly follows:



* * * * *

Dated: December 19, 2016.

Michael J. Bean,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2016–30817 Filed 12–22–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

RIN 0648–XF093

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its *Herring* Advisory Panel on Tuesday, January 10, 2017, to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Tuesday, January 10, 2017, at 10 a.m., to view the agenda see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Four Points by Sheraton, 1 Audubon Road, Wakefield, MA 01880: (781) 245–9300.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Advisory Panel will review alternatives and analyses prepared for Framework Adjustment 5 to the Atlantic *Herring* Fishery Management Plan (FMP), an action considering modification of accountability measures (AMs) that trigger if the sub-ACL of Georges Bank *haddock* is exceeded by the midwater trawl *herring* fishery. The panel may recommend preferred alternatives for the Committee to consider for final action. The panel will also review preliminary outcomes from the recent workshop held in December, on Management Strategy Evaluation of Atlantic *Herring* Acceptable Biological Catch control rules being considered in Amendment 8 to the Atlantic *Herring* FMP. The panel may recommend a range of alternatives for the Committee to consider including in Amendment 8 related to harvest control rule alternatives. The panel will review public comments on the *herring* related measures being considered in the Omnibus Industry Funded Monitoring (IFM) Amendment. The panel may recommend preferred alternatives for the Committee to consider. Address other business, as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at 978–465–0492, at least 5 days prior to the meeting.

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

Dated: December 19, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–30821 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 81, No. 247
Friday, December 23, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Adoption of Recommendations

AGENCY: Administrative Conference of the United States.

ACTION: Notice.

SUMMARY: The Administrative Conference of the United States adopted four recommendations at its Sixty-sixth Plenary Session. The appended recommendations address: Special Procedural Rules for Social Security Litigation; Evidentiary Hearings Not Required by the Administrative Procedure Act; The Use of Ombuds in Federal Agencies; and Self-Represented Parties in Administrative Proceedings.

FOR FURTHER INFORMATION CONTACT: For Recommendation 2016–3, Daniel Sheffner; for Recommendation 2016–4, Amber Williams; for Recommendation 2016–5, David Pritzker; and for Recommendation 2016–6, Connie Vogelmann. For all of these actions the address and telephone number are: Administrative Conference of the United States, Suite 706 South, 1120 20th Street NW., Washington, DC 20036; Telephone 202–480–2080.

SUPPLEMENTARY INFORMATION: The Administrative Conference Act, 5 U.S.C. 591–596, established the Administrative Conference of the United States. The Conference studies the efficiency, adequacy, and fairness of the administrative procedures used by Federal agencies and makes recommendations to agencies, the President, Congress, and the Judicial Conference of the United States for procedural improvements (5 U.S.C. 594(1)). For further information about the Conference and its activities, see *www.acus.gov.* At its Sixty-sixth Plenary Session, held December 13 and 14, 2016, the Assembly of the Conference adopted four recommendations.

Recommendation 2016–3, *Special Procedural Rules for Social Security Litigation in District Court.* This recommendation encourages the Judicial Conference of the United States to develop a uniform set of procedural rules for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. 405(g). It also highlights areas in which such rules should be adopted and sets forth criteria for the promulgation of additional rules.

Recommendation 2016–4, *Evidentiary Hearings Not Required by the Administrative Procedure Act.* This recommendation offers best practices to agencies for structuring evidentiary hearings that are not required by the Administrative Procedure Act. It suggests ways to ensure the integrity of the decisionmaking process; sets forth recommended pre-hearing, hearing, and post-hearing practices; and urges agencies to describe their practices in a publicly accessible document and seek periodic feedback on those practices.

Recommendation 2016–5, *The Use of Ombuds in Federal Agencies.* This recommendation takes account of the broad array of federal agency ombuds offices that have been established since the Administrative Conference's adoption in 1990 of Recommendation 90–2 on the same subject, *https://www.acus.gov/recommendation/ombudsman-federal-agencies.* The new recommendation continues to urge both agencies and Congress to consider creating additional ombuds offices that provide an opportunity for individuals to raise issues confidentially and receive assistance in resolving them without fear of retribution. The recommendation emphasizes the importance of adherence to the three core standards of independence, confidentiality, and impartiality, and identifies best practices for the operation, staffing, and evaluation of federal agency ombuds offices.

Recommendation 2016–6, *Self-Represented Parties in Administrative Proceedings.* This recommendation offers best practices for agencies dealing with self-represented parties in administrative proceedings. Recommendations include the use of triage and diagnostic tools, development of a continuum of services to aid parties, and re-evaluation and simplification of existing administrative proceedings, where possible. The project builds on the activity of a working group on Self-Represented Parties in Administrative Hearings that is co-led by the Administrative Conference and the Department of Justice's Office for Access to Justice.

The Appendix below sets forth the full texts of these four recommendations. The Conference will transmit them to affected agencies, Congress, and the Judicial Conference of the United States. The recommendations are not binding, so the entities to which they are addressed will make decisions on their implementation.

The Conference based these recommendations on research reports that are posted at: *https://www.acus.gov/66thPlenary.*

Dated: December 20, 2016.

Shawne C. McGibbon,

General Counsel.

APPENDIX—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Administrative Conference Recommendation 2016–3

Special Procedural Rules for Social Security Litigation in District Court

Adopted December 13, 2016

The Administrative Conference recommends that the Judicial Conference of the United States develop special procedural rules for cases under the Social Security Act [1] in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. 405(g). The Rules Enabling Act delegates authority to the United States Supreme Court (acting initially through the Judicial Conference) to prescribe procedural rules for the lower federal courts.[2] The Act does not require that procedural rules be trans-substantive (that is, be the same for all types of cases), although the Federal Rules of Civil Procedure (Federal Rules) have generally been so drafted. Rule 81 of the Federal Rules excepts certain specialized proceedings from the Rules' general procedural governing scheme.[3] In the case of social security litigation in the federal courts, several factors warrant an additional set of exceptions. These factors include the extraordinary volume of social security litigation, the Federal Rules' failure to account for numerous procedural issues that

[1] 42 U.S.C. 301 *et seq.* (2012).

[2] *See* 28 U.S.C. 2072(a) (2012).

[3] **Fed. R. Civ. P.** 81(a); *see also* Fed. R. Civ. P. 71.1–73 (''Special Proceedings'').

arise due to the appellate nature of the litigation, and the costs imposed on parties by the various local rules fashioned to fill those procedural gaps.[4]

* * *

The Social Security Administration (SSA) administers the Social Security Disability Insurance program and the Supplemental Security Income program, two of the largest disability programs in the United States. An individual who fails to obtain disability benefits under either of these programs, after proceeding through SSA's extensive administrative adjudication system, may appeal the agency's decision to a federal district court.[5] In reviewing SSA's decision, the district court's inquiry is typically based on the administrative record developed by the agency.

District courts face exceptional challenges in social security litigation. Although institutionally oriented towards resolving cases in which they serve as the initial adjudicators, the federal district courts act as appellate tribunals in their review of disability decisions. That fact alone does not make these cases unique; appeals of agency actions generally go to district courts unless a statute expressly provides for direct review of an agency's actions by a court of appeals.[6] However, social security appeals comprise approximately seven percent of district courts' dockets, generating substantially more litigation for district courts than any other type of appeal from a federal administrative agency. The high volume of social security cases in the federal courts is in no small part a result of the enormous magnitude of the social security disability program. The program, which is administered nationally, annually receives millions of applications for benefits. The magnitude of this judicial caseload suggests that a specialized approach in this area could bring about economies of scale that probably could not be achieved in other subject areas.

The Federal Rules were designed for cases litigated in the first instance, not for those reviewing, on an appellate basis, agency adjudicative decisions. Consequently, the Federal Rules fail to account for a variety of procedural issues that arise when a disability case is appealed to district court. For example, the Rules require the parties to file a complaint and an answer. Because a social security case is in substance an appellate proceeding, the case could more sensibly be initiated through a simple document akin to a notice of appeal or a petition for review. Moreover, although 42 U.S.C. 405(g) provides that the certified record should be filed as ''part of'' the government's answer, there is no functional need at that stage for the government to file anything more than the record. In addition, the lack of congruence between the structure of the Rules and the nature of the proceeding has led to uncertainty about the type of motions that litigants should file in order to get their cases resolved on the merits. In some districts, for instance, the agency files the certified transcript of administrative proceedings instead of an answer, whereas other districts require the agency to file an answer. In still other districts, claimants must file motions for summary judgment to have their case adjudicated on the merits,[7] whereas such motions are considered ''not appropriate'' in others.[8]

Social security disability litigation is not the only type of specialized litigation district courts regularly review in an appellate capacity. District courts entertain an equivalent number of habeas corpus petitions,[9] as well as numerous appeals from bankruptcy courts. But habeas and bankruptcy appeals are governed by specially crafted, national rules that address those cases' specific issues.[10] No particularized set of rules, however, accounts for the procedural gaps left by the Federal Rules in social security appeals.

When specialized litigation with unique procedural needs lacks a tailored set of national procedural rules for its governance, districts and even individual judges have to craft their own. This is precisely what has happened with social security litigation. The Federal Rules do exempt disability cases from the initial disclosure requirements of Rule 26, and limit electronic access of nonparties to filings in social security cases,[11] but, otherwise, they include no specialized procedures. As a result, numerous local rules, district-wide orders, and individual case management orders, addressing a multitude of issues at every stage in a social security case, have proliferated. Whether the agency must answer a complaint, what sort of merits briefs the parties are required to file, whether oral arguments are held, and the answers to a host of other questions differ considerably from district to district and, sometimes, judge to judge. Such local variations have not burgeoned in other subject areas in which district courts serve as appellate tribunals; this fact reflects the district courts' own recognition that social security cases pose distinctive challenges.

Many of the local rules and orders fashioned to fill the procedural gaps left by the Federal Rules generate inefficiencies and impose costs on claimants and SSA. For example, simultaneous briefing—the practice in some districts that requires both parties to file cross motions for resolution of the merits and to respond to each other's briefs in simultaneously filed responses—effectively doubles the number of briefs the parties must file. Some judges employ a related practice whereby the *agency* is required to file the opening brief.[12] Because social security complaints are generally form complaints containing little specificity, courts that employ this practice (known as ''affirmative briefing'') essentially reverse the positions of the parties, leaving to the agency the task of defining the issues on appeal. The questionable nature of some of these local variations may be attributable in part to the fact that they can be imposed without observance of procedures that would assure sufficient deliberation and opportunities for public feedback. Proposed amendments to the Federal Rules must go through several steps, each of which requires public input. So-called ''general orders'' and judge-specific orders, on the other hand, can be issued by a district or individual judge with very little process.

The disability program is a national program that is intended to be administered in a uniform fashion, yet procedural localism raises the possibility that like cases will not be treated alike. Burdensome procedures adopted by some districts or judges, such as simultaneous briefing schedules, can increase delays and litigation costs for some claimants, while leaving other similarly situated claimants free from bearing those costs. Further, many of the attorneys who litigate social security cases—agency lawyers and claimants' representatives alike—maintain regional or even national practices. Localism, however, makes it difficult for those lawyers to economize their resources by, for instance, forcing them to refashion even successful arguments in order to fit several different courts' unique page-limits or formatting requirements.

Procedural variation can thus impose a substantial burden on SSA as it attempts to administer a national program and can result in arbitrary delays and uneven costs for disability claimants appealing benefit denials. SSA and claimants would benefit from a set of uniform rules that recognize the appellate nature of disability cases. Indeed, several districts already treat disability cases as appeals.[13] Many of these districts provide, for example, for the use of merits briefs instead of motions or for the filing of the certified administrative record in lieu of an answer.

The Supreme Court has recognized that the exercise of rulemaking power to craft

[4] This recommendation is based on a portion of the extensive report prepared for the Administrative Conference by its independent consultants, Jonah Gelbach of the University of Pennsylvania Law School and David Marcus of the University of Arizona Rogers College of Law. *See* Jonah Gelbach & David Marcus, A Study of Social Security Litigation in the Federal Courts 127–42, 148–59 (July 28, 2016) (report to the Admin. Conf. of the U.S.).

[5] 42 U.S.C. 405(g) (2012).

[6] *See Watts* v. *Sec. & Exch. Comm'n,* 482 F.3d 501, 505 (D.C. Cir. 2007).

[7] *See, e.g.,* E.D. Mo. L.R. 56–9.02; Order Setting Schedule, Donvan-Terris v. Colvin, Civ. No. 14–5125 (E.D. Wash. April 8, 2015); E.D. Mo. L.R. 56–9.02.

[8] *See, e.g.,* S.D. Iowa Local R. 56(i).

[9] During the twelve months that ended on September 30, 2014, the district courts received 19,185 ''general'' habeas corpus petitions and 19,146 social security appeals. Table C–2A, U.S. District Courts–Civil Cases Commenced, by Nature of the Suit, During the 12-Month Periods Ending September 30, 2009 Through 2014, at 3–4.

[10] *See* **R. GOVERNING § 2254 CASES U.S. DIST. CTS.** 1–12; Fed. R. Bankr. P. 1001–9037.

[11] Fed. R. Civ. P. 26(a)(1)(B)(i); Fed. R. Civ. P. 5.2(c).

[12] *See, e.g.,* Standing Order Gov. Dev. of Soc. Sec. Cases Assigned to Judge Conrad (W.D. Va. Jan. 1, 2005); Briefing Schedule, Barnes v. Colvin, Civ. No 14–482 (S.D. Tex. Sept. 3, 2014), at 1–2.

[13] *See, e.g.,* General Order 05–15, *In re* Soc. Sec. Cases, Actions Seeking Rev. of the Comm'r of Soc. Sec.'s Final Dec. Denying an App. for Benefits (W.D. Wash. June 1, 2015); Standing Order, *In re* Actions Seek. Rev. of the Comm'r of Soc. Sec.'s Final Decs. Denying Soc. Sec. Benefits (W.D. NY Sept. 5, 2013); Standing Order for Disp. of Soc. Sec. App. (W.D. La. Sept. 2, 1994); E.D. Mo. L.R. 9.02; D. Ariz. L.R. 16.1; N.D. Oh. L.R. 16.3.1.

specialized procedural rules for particular areas of litigation can be appropriate under the Rules Enabling Act.[14] Yet, in recommending the creation of special procedural rules for social security disability and related litigation, the Administrative Conference is cognizant that the Judicial Conference has in the past been hesitant about amending the Federal Rules to incorporate provisions pertaining to particular substantive areas of the law. That hesitation has been driven, at least in part, by reluctance to recommend changes that would give rise to the appearance, or even the reality, of using the Federal Rules to advance substantive ends, such as heightened pleading standards that would disfavor litigants in particular subject areas. The proposals offered herein have very different purposes. Indeed, the Administrative Conference believes that rules promulgated pursuant to this recommendation should not favor one class of litigants over another or otherwise bear on substantive rights. Instead, this recommendation endorses the adoption of rules that would promote efficiency and uniformity in the procedural management of social security disability and related litigation, to the benefit of both claimants and the agency.[15] Such a commitment to neutrality would also serve to dampen any apprehensions that the proposed rules would violate the Rules Enabling Act's proscription of rules that would ''abridge, enlarge, or modify any substantive right.'' [16] Rules consistent with these criteria could potentially address a variety of topics, including setting appropriate deadlines for filing petitions for attorneys' fees, or establishing judicial extension practices, or perhaps authorizing the use of telephone, videoconference, or other telecommunication technologies. In developing such rules, the Judicial Conference may wish to consult existing appellate procedural schemes, such as the Federal Rules of Appellate Procedure and the Rules of Practice and Procedure of the United States Court of Appeals for Veterans Claims.

The Administrative Conference believes that a special set of procedural rules could bring much needed uniformity to social security disability and related litigation. In routine cases, page limits, deadlines, briefing schedules, and other procedural requirements should be uniform to ensure effective procedural management. At the same time, the new rules should be drafted to displace the Federal Rules *only* to the extent that the distinctive nature of social security litigation justifies such separate treatment.[17] In this way, the drafters can avoid the promulgation of a special procedural regime that sacrifices flexibility and efficiency for uniformity in certain cases.

The research that served as the foundation for this report focused on social security disability litigation commenced under 42 U.S.C. 405(g). Section 405(g) also authorizes district court review of SSA old age and survivors benefits decisions, as well as other actions related to benefits. Because such non-disability appeals do not differ procedurally from disability cases in any meaningful way,[18] it is the Conference's belief that this recommendation should apply, subject to the exceptions discussed below, to all cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. 405(g).

The Conference recognizes that some cases might be brought under § 405(g) that would fall outside the rationale for the proposed new rules. This could include class actions and other broad challenges to program administration, such as challenges to the constitutionality or validity of statutory and regulatory requirements, or similar broad challenges to agency policies and procedures. In these cases, the usual deadlines and page limits could be too confining. By citing these examples, the Conference does not intend to preclude other exclusions. The task of precisely defining the cases covered by any new rules would be worked out by the committee that drafts the rules, after additional research and more of an opportunity for public comment on the scope of the rules than has been possible for the Conference. It may also be necessary to include specific rules explaining the procedure for the exclusion of appropriate cases.

Recommendation

1. The Judicial Conference, in consultation with Congress as appropriate, should develop for the Supreme Court's consideration a uniform set of procedural rules for cases under the Social Security Act in which an individual seeks district court review of a final administrative decision of the Commissioner of Social Security pursuant to 42 U.S.C. 405(g). These rules would not apply to class actions or to other cases that are outside the scope of the rationale for the proposal.

2. Examples of rules that should be promulgated include:

a. A rule providing that a claimant's complaint filed under 42 U.S.C. 405(g) be substantially equivalent to a notice of appeal;

b. A rule requiring the agency to file a certified copy of the administrative record as the main component of its answer;

c. A rule or rules requiring the claimant to file an opening merits brief to which the agency would respond, and providing for appropriate subsequent proceedings and the filing of appropriate responses consistent with 42 U.S.C. 405(g) and the appellate nature of the proceedings;

d. A rule or rules setting deadlines and page limits as appropriate; and

e. Other rules that may promote efficiency and uniformity in social security disability and related litigation, without favoring one class of litigants over another or impacting substantive rights.

Administrative Conference Recommendation 2016–4

Evidentiary Hearings Not Required by the Administrative Procedure Act

Adopted December 13, 2016

Federal administrative adjudication can be divided into three categories:

(a) Adjudication that is regulated by the procedural provisions of the Administrative Procedure Act (APA) and usually presided over by an administrative law judge (referred to as Type A in the report that underlies this recommendation and throughout the preamble) [1];

(b) Adjudication that consists of legally required evidentiary hearings that are not regulated by the APA's adjudication provisions in 5 U.S.C. 554 and 556–557 and that is presided over by adjudicators who are often called administrative judges, though they are known by many other titles (referred to as Type B in the report that underlies this recommendation and throughout the preamble) [2]; and

(c) Adjudication that is not subject to a legally required (*i.e.,* required by statute, executive order, or regulation) evidentiary hearing (referred to as Type C in the report that underlies this recommendation and throughout the preamble).[3]

This recommendation concerns best practices for the second category of adjudication, that is, Type B adjudication.[4] In

[14] *See* Harris v. Nelson, 394 U.S. 286, 300 n.7 (1969) (inviting the Advisory Committee on Civil Rules to draft procedural rules for habeas corpus litigation).

[15] This recommendation is the latest in a line of Conference recommendations focused on improving the procedures used in social security cases. *See, e.g.,* Recommendation 90–4, Social Security Disability Program Appeals Process: Supplementary Recommendation, 55 FR 34,213 (June 8, 1990); Recommendation 87–7, A New Role for the Social Security Appeals Council, 52 FR 49,143 (Dec. 30, 1987); Recommendation 78–2, Procedures for Determining Social Security Disability Claims, 43 FR 27,508 (June 26, 1978).

[16] 28 U.S.C. 2072(b) (2012).

[17] *See* Fed. R. Civ. P. 81(a)(6) (''[The Federal Rules], to the extent applicable, govern proceedings under [certain designated] laws, except as those laws provide other procedures.'').

[18] Further, they only constitute about four percent of total social security cases appealed to district courts annually. *See* Table C–2A, U.S. District Courts–Civil Cases Commenced, by Nature of the Suit, During the 12-Month Periods Ending September 30, 2009 Through 2014, at 4.

[1] *See* Administrative Procedure Act, 5 U.S.C. 554–559 (2012). In a few kinds of cases, the ''presiding employees'' in APA hearings are not administrative law judges. Congress may provide for a presiding employee who is not an ALJ. *See id.* § 556(b).

[2] This type of adjudication is subject to 5 U.S.C. 555 (requiring various procedural protections in all adjudication) and 5 U.S.C. 558 (relating to licensing), as well as the APA's judicial review provisions.

[3] *See generally* Michael Asimow, Evidentiary Hearings Outside the Administrative Procedure Act (Nov. 10, 2016) [hereinafter Asimow], *available at https://www.acus.gov/report/evidentiary-hearings-outside-administrative-procedure-act-final-report.*

[4] Traditionally, Type A adjudication has been referred to as ''formal adjudication'' and Type B and Type C adjudication have been treated in an undifferentiated way as ''informal adjudication.'' This recommendation does not use that terminology for several reasons. First, the nature of Type B adjudication as involving a legally required hearing sharply distinguishes it from Type C adjudication and makes it feasible to prescribe best practices. Second, the term ''informal adjudication'' can be a misnomer when applied to Type B adjudication; in fact, Type B adjudication is often as ''formal'' or even more ''formal'' than Type A adjudication.

these adjudications, although there is no statutory mandate to hold an ''on the record'' hearing,[5] a statute, regulation, or other source of law does require the agency to conduct an evidentiary hearing. Because the APA's adjudication provisions in 5 U.S.C. 554 and 556–557 are not applicable to these adjudications, the procedures that an agency is required to follow are set forth elsewhere, most commonly in its own procedural regulations.

Type B adjudications are extremely diverse.[6] They involve types of matters spanning many substantive areas, including immigration, veterans' benefits, environmental issues, government contracts, and intellectual property. Some involve disputes between the federal government and private parties; others involve disputes between two private parties. Some involve trial-type proceedings that are at least as formal as Type A adjudication. Others are quite informal and can be decided based only on written submissions. Some proceedings are highly adversarial; others are inquisitorial.[7] Caseloads vary. Some have huge backlogs and long delays; others seem relatively current. The structures for internal appeal also vary.

The purpose of this recommendation is to set forth best practices that agencies should incorporate into regulations governing hearing procedures in Type B adjudications. The procedures suggested below are highlighted as best practices because they achieve a favorable balance of the criteria of accuracy (meaning that the procedure produces a correct and consistent outcome), efficiency (meaning that the procedure minimizes cost and delay), and acceptability to the parties (meaning that the procedure meets appropriate standards of procedural fairness).

Some of the best practices set forth in this recommendation may not be applicable or desirable for every Type B adjudicatory program. Accordingly, the recommendation does not attempt to prescribe the exact language that the agency should employ in its procedural regulations.[8] This recommendation should be particularly useful to agencies that are either fashioning procedural regulations for new adjudicatory programs or seeking to revise their existing procedural regulations.

Recommendation

Integrity of the Decisionmaking Process

1. *Exclusive Record.* Procedural regulations should require a decision to be based on an exclusive record. That is, decisionmakers should be limited to considering factual information presented in testimony or documents they received before, at, or after the hearing to which all parties had access, and to matters officially noticed.

2. *Ex Parte Communications.* Procedural regulations should prohibit ex parte communications relevant to the merits of the case between persons outside the agency and agency decisionmakers or staff who are advising or assisting the decisionmaker. Communications between persons outside the agency and agency decisionmakers or staff who advise or assist decisionmakers should occur only on the record. If oral, written, or electronic ex parte communications occur, they should be placed immediately on the record.

3. *Separation of Functions.* In agencies that have combined functions of investigation, prosecution, and adjudication, procedural regulations should require internal separation of decisional and adversarial personnel. The regulations should prohibit staff who took an active part in investigating, prosecuting, or advocating in a case from serving as a decisionmaker or staff advising or assisting the decisionmaker in that same case. Adversary personnel should also be prohibited from furnishing ex parte advice or factual materials to a decisionmaker or staff who advise or assist decisionmakers.

4. *Staff Who Advise or Assist Decisionmakers.* Procedural regulations should explain whether the agency permits ex parte advice or assistance to decisionmakers by staff. The staff may not have taken an active part in investigating, prosecuting, mediating, or advocating in the same case (see paragraph 3). The advice should not violate the exclusive record principle (see paragraph 1) by introducing new factual materials. The term ''factual materials'' does not include expert, technical, or other advice on the meaning or significance of ''factual materials.''

5. *Bias.* Procedural regulations should prohibit decisionmaker bias in adjudicatory proceedings by stating that an adjudicator can be disqualified if any of the following types of bias is shown:

a. Improper financial or other personal interest in the decision;

b. Personal animus against a party or group to which that party belongs; or

c. Prejudgment of the adjudicative facts at issue in the proceeding.

Procedural regulations and manuals should explain when and how parties should raise claims of bias, and how agencies resolve them.

Pre-Hearing Practices

6. *Notice of Hearing.* Procedural regulations should require notice to parties by appropriate means and sufficiently far in advance so that they may prepare for hearings. The notice should contain a statement of issues of fact and law to be decided. In addition, the notice should be in plain language and, when appropriate, contain the following basic information about the agency's adjudicatory process:

a. Procedures for requesting a hearing;

b. Discovery options, if any (see paragraph 10);

c. Information about representation, including self-representation and non-lawyer or limited representation, if permitted (see paragraphs 13–16), and any legal assistance options;

d. Available procedural alternatives (*e.g.,* in-person, video, or telephonic hearings (see paragraph 20); written and oral hearings (see paragraph 21); and alternative dispute resolution (ADR) opportunities (see paragraph 12));

e. Deadlines for filing pleadings and documents;

f. Procedures for subpoenaing documents and witnesses, if allowed (see paragraph 11);

g. Opportunity for review of the initial decision at a higher agency level (see paragraph 26);

h. Availability of judicial review; and

i. Web site address for and/or citation to the procedural regulations and any practice manuals.

7. *Confidentiality.* Procedural regulations should provide a process by which the parties may seek to keep certain information confidential or made subject to a protective order in order to protect privacy, confidential business information, or national security.

8. *Pre-Hearing Conferences.* Procedural regulations should allow the decisionmaker discretion to require parties to participate in a pretrial conference if the decisionmaker believes the conference would simplify the hearing or promote settlement. The decisionmaker should require that (a) parties exchange witness lists and expert reports before the pretrial conference and (b) both sides be represented at the pretrial conference by persons with authority to agree to a settlement.

9. *Inspection of Materials.* Procedural regulations should permit parties to inspect unprivileged materials in agency files that are not otherwise protected.

10. *Discovery.* Agencies should empower their decisionmakers to order discovery through depositions, interrogatories, and other methods of discovery used in civil trials, upon a showing of need and cost justification.

11. *Subpoena Power.* Agencies with subpoena power should explain their subpoena practice in detail. Agencies that do not have subpoena power should seek congressional approval for subpoena power, when appropriate.

12. *Alternative Dispute Resolution.* Agencies should encourage and facilitate ADR, and ensure confidentiality of communications occurring during the ADR process.

Finally, Type C adjudication—which can properly be referred to as ''informal adjudication''—is an enormous category, consisting of many millions of adjudications each year. This type of adjudication is highly diverse and does not easily lend itself to an overarching set of best practices.

[5] *See id.* at 7–9 (discussing the boundary between Type A and Type B adjudication).

[6] *See generally id.* (describing the vast variety of evidentiary hearings that are not required by the APA). *See also* Federal Administrative Adjudication, *available at https://www.acus.gov/research-projects/federal-administrative-adjudication* (providing an extensive database that maps the contours of administrative adjudication across the federal government).

[7] *See* Asimow, *supra* note 3 at 11–12, 84–88 (providing examples of inquisitorial adjudications).

[8] Drafters of procedural regulations implementing these best practices may want to consult the Conference-prepared 1993 Model Adjudication Rules for guidance on language, though those rules are directed to adjudication governed by the APA. *See* Michael Cox, *The Model Adjudication Rules (MARS),* 11 T.M. Cooley L. Rev. 75 (1994). The Conference has initiated a new Model Adjudication Rules Working Group to revise the model rules. See Admin. Conf. of the U.S., Office of the Chairman Model Adjudication Rules Working Group, available at *https://www.acus.gov/research-projects/office-chairman-model-adjudication-rules-working-group* for more information.

Hearing Practices

13. *Lawyer Representation.* Agencies should permit lawyer representation.

14. *Non-Lawyer Representation.* Agencies should permit non-lawyer representation. Agencies should have the discretion to (a) establish criteria for appearances before the agency by non-lawyer representatives or (b) require approval on a case-by-case basis.[9]

15. *Limited Representation.* Agencies should permit limited representation by lawyers or non-lawyers, when appropriate (*i.e.,* representation of a party with respect to some issues or during some phases of the adjudication).

16. *Self-Representation.* Agencies should make hearings as accessible as possible to self-represented parties by providing plain language resources, legal information, and other assistance, as allowed by statute and regulations.[10]

17. *Sanctions.* Agencies with the requisite statutory power should authorize decisionmakers to sanction attorneys and parties for misconduct. Sanctions can include admonitions, monetary fines, and preclusion from appearing before the agency. Agencies should have a mechanism for administrative review of any sanctions.

18. *Open Hearings.* Agencies should adopt the presumption that their hearings are open to the public, while retaining the ability to close the hearings in particular cases, including when the public interest in open proceedings is outweighed by the need to protect:

a. National security;

b. Law enforcement;

c. Confidentiality of business documents; and

d. Privacy of the parties to the hearing.

19. *Adjudicators.* Agencies that decide a significant number of cases should use adjudicators—rather than agency heads, boards, or panels—to conduct hearings and provide initial decisions, subject to higher-level review (see paragraph 26).

20. *Video Teleconferencing and Telephone Hearings.* Agencies should consult the Administrative Conference's recommendations [11] in determining whether and when to conduct hearings or parts of hearings by video conferencing or telephone.

21. *Written-Only Hearings.* Procedural regulations should allow agencies to make use of written-only hearings in appropriate cases. Particularly good candidates for written-only hearings include those that solely involve disputes concerning:

a. Interpretation of statutes or regulations; or

b. Legislative facts as to which experts offer conflicting views.

Agencies should also consider the adoption of procedures for summary judgment in cases in which there are no disputed issues of material fact.

22. *Oral Argument.* Agencies generally should permit oral argument in connection with a written-only hearing if a party requests it, while retaining the discretion to dispense with oral argument if it appears to be of little value in a given case or parts of a case.

23. *Evidentiary Rules.* Procedural regulations should prescribe the evidentiary rules the decisionmaker will apply in order to avoid confusion and time-consuming evidentiary disputes.[12]

24. *Opportunity for Rebuttal.* Agencies should allow an opportunity for rebuttal, which can take the form of cross-examination of an adverse witness as well as additional written or oral evidence. Agencies should have the discretion to limit or preclude cross-examination or have it be conducted in camera in appropriate cases, such as when:

a. The dispute concerns a question of legislative fact where the evidence consists of expert testimony;

b. Credibility is not at issue;

c. The only issue is how a decisionmaker should exercise discretion;

d. National security could be jeopardized; or

e. The identity of confidential informants might be revealed.

Post-Hearing Practices

25. *Decisions.* Procedural regulations should require the decisionmaker to provide a written or transcribable decision and specify the contents of the decision. The decision should include:

a. Findings of fact, including an explanation of how the decisionmaker made credibility determinations; and

b. Conclusions of law, including an explanation of the decisionmaker's interpretation of statutes and regulations.

26. *Higher-Level Review.* Apart from any opportunity for reconsideration by the initial decisionmaker, procedural regulations should provide for a higher-level review of initial adjudicatory decisions. Agencies should give parties an opportunity to file exceptions and make arguments to the reviewing authority. The reviewing authority should be entitled to summarily affirm the initial decision without being required to write a new decision.

27. *Precedential Decisions.* Procedural regulations should allow and encourage agencies to designate decisions as precedential in order to improve decisional consistency. These decisions should be published on the agency's Web site to meet the requirements of 5 U.S.C. 552.

Management of Procedures

28. *Complete Statement of Important Procedures.* Agencies should set forth all important procedures and practices that affect persons outside the agency in procedural regulations that are published in the **Federal Register** and the Code of Federal Regulations and posted on the agency Web site.

29. *Manuals and Guides.* Agencies should provide practice manuals and guides for decisionmakers, staff, parties, and representatives in which they spell out the details of the proceeding and illustrate the principles that are set forth in regulations. These manuals and guides should be written in simple, non-technical language and contain examples, model forms, and checklists, and they should be posted on the agency Web site.

30. *Review of Procedures.* Agencies should periodically re-examine and update their procedural regulations, practice manuals, and guides.

31. *Feedback.* Agencies should seek feedback from decisionmakers, staff, parties, representatives, and other participants in order to evaluate and improve their adjudicatory programs.

Administrative Conference Recommendation 2016–5

The Use of Ombuds in Federal Agencies

Adopted December 14, 2016

This recommendation updates and expands on the Administrative Conference's earlier Recommendation 90–2, *The Ombudsman in Federal Agencies,* adopted on June 7, 1990. That document concentrated on ''external ombudsmen,'' those who primarily receive and address inquiries and complaints from the public, and was formulated before ''use of ombuds'' was added to the definition of ''means of alternative dispute resolution'' in the Administrative Dispute Resolution Act (ADRA) [1] in 1996. In 90–2, the Conference urged ''the President and Congress to support federal agency initiatives to create and fund an effective ombudsman in those agencies with significant interaction with the public,'' believing that those agencies would benefit from establishing either agency-wide or program-specific ombudsman offices.

The present recommendation is based on a study of the far broader array of federal ombuds [2] that have been established since

[9] Agencies should refer to Recommendation 86–1, Nonlawyer Assistance and Representation, 51 FR 25,641 (June 16, 1986), available at *https://www.acus.gov/recommendation/nonlawyer-assistance-and-representation,* when establishing or improving their procedures related to non-lawyer representation.

[10] Agencies should refer to Recommendation 2016–6, Self-Represented Parties in Administrative Hearings, __FR __(Dec. __, 2016), available at *https://www.acus.gov/recommendation/self-represented-parties-administrative-proceedings-final-recommendation,* when establishing or improving their procedures related to self-represented parties.

[11] Agencies should refer to Recommendation 2011–4, Agency Use of Video Hearings: Best Practices and Possibilities for Expansion, 76 FR 48,795 (Aug. 9, 2011), available at *https://www.acus.gov/recommendation/agency-use-video-hearings-best-practices-and-possibilities-expansion;* Recommendation 2014–7, Best Practices for Using Video Teleconferencing for Hearings, 79 FR 75,119 (Dec. 17, 2014), available at *https://www.acus.gov/recommendation/best-practices-using-video-teleconferencing-hearings;* and the Conference's Handbook on Best Practices for Using Video Teleconferencing in Adjudicatory Hearings, available at *https://www.acus.gov/report/handbook-best-practices-using-video-teleconferencing-adjudicatory-hearings* , when establishing or improving their video teleconferencing hearings.

[12] Agencies should refer to Recommendation 86–2, Use of Federal Rules of Evidence in Federal Agency Adjudications, 51 FR 25,642 (June 16, 1986), available at *https://www.acus.gov/recommendation/use-federal-rules-vidence-federal-agency-adjudications,* when considering whether or how to use the Federal Rules of Evidence.

[1] 5 U.S.C. 571–84 (2012); *see id.* § 571(3) (2012).

[2] The term *ombudsman* is Scandinavian and means representative or proxy. Variations on the term exist in the field (ombudsmen, ombudsperson,

the Conference's earlier recommendation on this subject. Federal ombuds now include multiple variations of both primarily externally-focused and primarily internally-focused ombuds (*i.e.,* those who receive inquiries and complaints from persons within the agency). These individuals and offices can and do make a distinct and beneficial contribution to government effectiveness. While all forms of alternative dispute resolution expressly embraced by the ADRA have the capacity to reduce litigation costs and foster better relationships, the ombuds alone affords the constituent and the agency the opportunity to learn about and address issues before, in effect, they have been joined. Constituents and the agency are served by the ombuds' skilled, impartial assistance in resolution, and the agency is served by the opportunity for critical early warning of specific and systemic issues.

The research conducted to support this recommendation, including quantitative and qualitative surveys, interviews, case studies and profiles, revealed that federal ombuds can add value to their agencies in a variety of ways.[3] Ombuds (1) identify significant new issues and patterns of concerns that are not well known or being ignored; (2) support significant procedural changes; (3) contribute to significant cost savings by dealing with identified issues, often at the earliest or pre-complaint stages, thereby reducing litigation and settling serious disputes; (4) prevent problems through training and briefings; (5) serve as an important liaison between colleagues, units, or agencies; and (6) provide a fair process for constituents.

Externally-facing ombuds were more likely to report supporting the agency with specific mission-related initiatives; helping the agency to improve specific policies, procedures, or structures; making administrative decisions to resolve specific issues; helping within the agency to keep its organizational processes coordinated; and advocating on behalf of individuals. Internally-facing ombuds were more likely to report helping constituents by providing a safe way to discuss perceptions of unsafe or illegal behavior; promoting the use of fair and helpful options; helping to prevent problems by coaching one-on-one; and providing group training and briefings to constituents. Whistleblower ombuds and procurement ombuds—consonant with their particular focus on more narrowly defined responsibilities—described their accomplishments as providing specific information and education, and guidance about very specific matters of concern to their constituents.

Since the Conference last considered ombuds in the federal government, the milieu in which government operates has, by all accounts, become more polarized, with government itself often the target of suspicion and hostility. In a challenging environment in which many federal agencies struggle to maintain the trust of the public they serve and even of their own employees, the ombuds is uniquely situated to provide both pertinent information and assistance in resolving issues to constituents and the agency alike. The ability of the ombuds to provide a place perceived as safe—which can offer a ready, responsive, and respectful hearing and credible options—in itself builds trust. And trust is a commodity without which government in a democratic society cannot function effectively.

Accordingly, the Conference continues to urge Congress and the President to create, fund, and otherwise support ombuds offices across the government consistent with the recommendation articulated below. Further, the Conference urges those agencies that already have ombuds, and those that are contemplating creating ombuds offices, to align their office standards and practices with those included in this recommendation. In general, the Conference recommends these practices to the extent applicable in particular situations, regardless of whether an ombuds office or program is created by Congress or by an agency.

Although functionally the federal ombuds landscape is quite diverse, most federal ombuds share three *core standards of practice*—independence, confidentiality, and impartiality—and share common characteristics. The core standards are set forth in the standards adopted by the American Bar Association (ABA),[4] the International Ombudsman Association (IOA),[5] and the United States Ombudsman Association (USOA),[6] though with some variations, particularly with respect to confidentiality. These organizations' standards are generally followed, as applicable, and considered essential by the ombuds profession, both within and outside government. The further an ombuds office and the agency in which it resides deviate from the three core standards in practice, the more difficult it will be to defend whatever confidentiality the office does offer should it be subjected to legal challenge.

Most federal ombuds also share the following common characteristics: (1) Ombuds do not make decisions binding on the agency or provide formal rights-based processes for redress; (2) they have a commitment to fairness; and (3) they provide credible processes for receiving, reviewing, and assisting in the resolution of issues. The three core standards and these common characteristics, taken together, are central to the ombuds profession.

Agencies have the authority to establish ombuds offices or programs. Although legislation establishing a generally applicable template and standards for federal ombuds has not been enacted, the 1996 addition of the words ''use of ombuds'' to the definition of ''means of alternative dispute resolution'' in ADRA clarifies that, when the ombuds office is assisting in the resolution of issues that are raised to it under its mandate, it is covered by the Act's provisions.[7] The Act's coverage attaches to communications that take place when the constituent first approaches the ombuds office with an issue and continues to cover communications that occur until the case is, in effect, closed.[8] While ADRA's definition of ''alternative means of dispute resolution'' includes use of ombuds, federal agency ombuds programs would benefit from certain targeted amendments to ADRA to clarify certain definitions (*e.g.,* ''issue in controversy,'' ''neutral,'' ''party'') and other provisions as they apply to the work of ombuds, to expressly align them with current practice.

The research for this recommendation also identified three areas of potential conflict between (a) the requirements of ADRA § 574 and the scope of confidentiality that ombuds offer to constituents and (b) other legal requirements that may be applicable in certain situations. Federal ombuds should be aware of these matters and how they may affect particular ombuds programs:

(a) The relationships among their statutory duties to report information, the requirements of ADRA § 574(a)(3) on confidentiality, their agency's mission, and the professional standards to which they adhere. Any latitude they may have under ADRA § 574(d)(1) should be considered in reaching an understanding within the agency and with constituents of the breadth and limits of confidentiality consistent with statutory requirements.

ombuds, etc.). In this recommendation, the term ''ombuds'' will be used as the predominant term to be as inclusive as possible. For historical background on the use of ombuds in other countries and their potential value in the United States, see Walter Gellhorn, Ombudsmen and Others: Citizen Protectors in Nine Countries (1966); Walter Gellhorn, When Americans Complain: Governmental Grievance Procedures (1966).

[3] Carole Houk et al., A Reappraisal — The Nature and Value of Ombudsmen in Federal Agencies, *available at www.acus.gov/research-projects/ombudsman-federal-agencies-0.*

[4] ABA Standards for the Establishment and Operation of Ombuds Offices (2004) (hereinafter ''**ABA Standards**''), *available at https://www.americanbar.org/content/dam/aba/migrated/leadership/2004/dj/115. authcheckdam.pdf.*

[5] IOA Standards of Practice (2009), *available at https://www.ombudsassociation.org/IOA_Main/media/SiteFiles/IOA_Standards_of_Practice_Oct09.pdf.*

[6] USOA Governmental Ombudsman Standards (2003), *available at https://www.usombudsman.org/site-usoa/wp-content/uploads/USOA-STANDARDS1.pdf.*

[7] Further, ombuds are ''neutrals'' within the meaning of the Act including those ombuds who, after impartial review, advocate for specific processes or outcomes. *See* ABA Standards, *supra* note 4, at 14.

[8] The Act's coverage is generally understood to begin at intake in alternative dispute resolution offices and continue until closure even when the constituent's interaction with the office ends without a session process involving both parties. For example, guidance concerning ADRA confidentiality issued by the Federal Alternative Dispute Resolution Council in 2000 concluded that ADRA confidentiality applies to the intake and convening stages of ADR. *See* Confidentiality in Federal Alternative Dispute Resolution Programs, 65 FR 83,085, 83,090 (Dep't of Justice Dec. 29, 2000). Further, the Interagency ADR Working Group Steering Committee in its Guide states that ADR program administrators are ''neutrals when they are helping the parties resolve their controversy by, for example, discussing ADR options with the parties, coaching, and preparing them to negotiate . . . .'' *See* Interagency ADR Working Group Steering Comm., Protecting the Confidentiality of Dispute Resolution Proceedings 8 (2006). While ADRA covers dispute resolution communications occurring through the duration of the case, the neutral's obligation to maintain this confidentiality does not end with the closure of the case.

(b) The requirements and interrelationship of the Federal Records Act,[9] the Freedom of Information Act,[10] and the Privacy Act,[11] with regard to agency records and other documentation.

(c) The effect on confidentiality of the Federal Service Labor-Management Relations Statute,[12] pursuant to which the union may be entitled to notice and an opportunity to be present at meetings with bargaining unit employees (for those ombuds that have employees with a collective bargaining representative among their constituents, or who may have cause, in the course of resolving issues that have been brought to them, to engage with represented employees as well as management on issues affecting the terms and conditions of bargaining unit employees).

In addition, this recommendation addresses standards applicable to federal agency ombuds offices and related issues involved in creating such offices. The practices included in this recommendation are intended to highlight some overarching beneficial practices observed among federal ombuds and to supplement the recommended practices and guidance available from various ombuds professional organizations.

To foster continual improvement and accountability of individual ombuds offices, the recommendation advises that each ombuds office arrange for periodic evaluation of its management and program effectiveness. Evaluation of ombuds by colleagues within the office can be useful if the office is of sufficient size to make this feasible. Otherwise, any external evaluation should be conducted by individuals knowledgeable about the roles, functions, and standards of practice of federal ombuds. For example, peer evaluation using the expertise of similar types of ombuds in other offices or agencies, or by outside ombuds professionals, may be suitable.

Finally, the recommendation urges the designation of an entity to serve as a government-wide resource to address certain issues of common concern among agency ombuds that transcend organizational boundaries.

Recommendation

1. *Establishment and Standards.*

a. Agencies should consider creating additional ombuds offices to provide places perceived as safe for designated constituents to raise issues confidentially and receive assistance in resolving them without fear of retribution. They should ensure that the office is able to, and does, adhere to the three core standards of independence, confidentiality, and impartiality, as these standards are described in generally recognized sets of professional standards, which include those adopted by the American Bar Association, the International Ombudsman Association, and the United States Ombudsman Association, and they should follow, to the extent applicable, the procedural recommendations below. Existing offices with the ombuds title that do not adhere to these standards should consider modifying their title, where permitted, to avoid any confusion.

b. Ombuds offices created by executive action should be established or governed by a charter or other agency-wide directive specifying the office's mandate, standards, and operational requirements, so that others in the agency and the public are aware of the office's responsibilities.

2. *Legislative Considerations.*

a. Congress should consider creating additional ombuds offices. When Congress creates a new ombuds program, it should observe the procedural principles contained in this recommendation, to the extent applicable.

b. Any action by Congress creating or affecting the operations of agency ombuds offices, whether through amendment of the Administrative Dispute Resolution Act (ADRA), 5 U.S.C. 571–84, or other legislative action, should reinforce the core standards of independence, confidentiality, and impartiality. Any such actions should maintain clarity and uniformity of definitions and purpose for federal agency ombuds, while allowing for differences in constituencies (whether primarily internal or external), type of office (advocate, analytic, organizational, etc.), and agency missions.

3. *Leadership Support.*

a. Agency leadership should provide visible support, renewed as leadership changes, for the role of ombuds offices in the agency and their standards, including independence, confidentiality, and impartiality.

b. Agency leadership should consider carefully any specific recommendations for improved agency performance that are provided by agency ombuds.

4. *Independence.*

a. To promote the effectiveness and independence of ombuds offices, agencies should consider structuring ombuds offices so that they are perceived to have the necessary independence and are separate from other units of the agency. To ensure adequate support from agency leadership, ombuds offices should report to an agency official at the highest level of senior leadership. Ombuds offices should not have duties within the agency that might create a conflict with their responsibilities as a neutral, and their budgets should be publicly disclosed.

b. The agency should ensure that the ombuds has direct access to the agency head and to other senior agency officials, as appropriate. Whether by statute, regulation, or charter, ombuds should expressly be given access to agency information and records pertinent to the ombuds' responsibilities as permitted by law.

c. Ombuds and the agencies in which they are located should clearly articulate in all communications about the ombuds that the ombuds office is independent and specifically not a conduit for notice to the agency.

d. Federal ombuds should not be subject to retaliation, up to and including removal from the ombuds office, based on their looking into and assisting with the resolution of any issues within the ombuds' area of jurisdiction.

5. *Confidentiality.*

a. Consistent with the generally accepted interpretation of ADRA § 574, as applied to alternative dispute resolution offices, agencies should understand and support that the Act's requirements for confidentiality attach to communications that occur at intake and continue until the issue has been resolved or is otherwise no longer being handled by the ombuds, whether or not the constituent ever engages in mediation facilitated by the ombuds office. Restrictions on disclosure of such communications, however, should not cease with issue resolution or other indicia of closure within the ombuds office.

b. Agencies (or other authorizers) should articulate the scope and limits of the confidentiality offered by ombuds offices in their enabling documents (whether statute, regulation, charter or other memoranda), as well as on the agency Web site, in brochures, and in any other descriptions or public communications about the office utilized by the office or the agency.

c. Agency leadership and management should not ask for information falling within the scope of confidentiality offered by the ombuds office.

d. If information is requested from an ombuds during discovery in litigation, or in the context of an internal administrative proceeding in connection with a grievance or complaint, then the ombuds should seek to protect confidentiality to the fullest extent possible under the provisions of ADRA § 574, unless otherwise provided by law. Agencies should vigorously defend the confidentiality offered by ombuds offices.

6. *Impartiality.* Ombuds should conduct inquiries and investigations in an impartial manner, free from conflicts of interest. After impartial review, ombuds may appropriately advocate with regard to process. An ombuds established with advocacy responsibilities may also advocate for specific outcomes.

7. *Legal Issues.* Federal ombuds should consider potential conflicts in the following areas:

a. The relationships among their statutory duties to report information, the requirements of ADRA § 574(a)(3) on confidentiality, their agency's mission, and the professional standards to which they adhere.

b. The requirements and interrelationship of the Federal Records Act, the Freedom of Information Act, and the Privacy Act, with regard to agency records and other documentation.

c. The effect on confidentiality of the provision in the Federal Service Labor-Management Relations Statute, 5 U.S.C. 7114, where applicable, pursuant to which the union may be entitled to notice and an opportunity to be present at meetings with bargaining unit employees.

8. *Staffing.*

a. Agencies should reinforce the credibility of federal ombuds by appointment of ombuds with sufficient professional stature, who also possess the requisite knowledge, skills, and abilities. This should include, at a minimum,

[9] 44 U.S.C. Chaps. 21, 22, 29, 31, and 33.

[10] 5 U.S.C. 552 (2012).

[11] *Id.* § 552a.

[12] *Id.* §§ 7101–35; *see id.* § 7114.

knowledge of informal dispute resolution practices as well as, depending on the office mandate, familiarity with process design, training, data analysis, and facilitation and group work with diverse populations. Agency ombuds offices should also seek to achieve the necessary diversity of ombuds skills and backgrounds on their staffs to credibly handle all matters presented to the office.

b. While the spectrum of federal ombuds is too diverse to recommend a single federal position classification, job grade, and set of qualifications, agencies and the Office of Personnel Management should consider working collaboratively, in consultation with the relevant ombuds professional associations, to craft and propose appropriate job descriptions, classifications, and qualifications, as set forth in the preceding subsection, covering the major categories of federal ombuds.

9. *Training and Skills.*

a. To promote accountability and professionalism, agencies should provide training to ombuds with regard to standards and practice, whether offered by one of the ombuds professional organizations or working groups, or from within the government.

b. Ombuds should identify steps to build general competency and confidence within the office and to provide specific support to ombuds when cases become highly emotional or complex. More generally, as a regular practice to support and improve their skills, federal ombuds should participate in relevant professional working groups or ombuds association training programs.

c. Ombuds offices should consider the use of developmental assignments via details to other agencies or offices, as appropriate, supplemented by mentoring, which can be helpful as part of their training program.

10. *Access to Counsel.* To protect the independence and confidentiality of federal ombuds, agencies should ensure, consistent with available resources, that ombuds have access to legal counsel for matters within the purview of the ombuds, whether provided within the agency with appropriate safeguards for confidentiality, by direct hiring of attorneys by the ombuds office, or under an arrangement enabling the sharing across agencies of counsel for this purpose. Such counsel should be free of conflicts of interest.

11. *Physical Facilities.* To reinforce confidentiality and the perception of independence, to the fullest extent possible and consistent with agency resources, the agency should ensure that the physical ombuds office and telephonic and online communications systems and documentation enable discreet meetings and conversations.

12. *Evaluation.* Each ombuds office should, as a regular professional practice, ensure the periodic evaluation of both office management and program effectiveness for the purposes of continual improvement and accountability.

13. *Providing Information.*

a. Ombuds offices should provide information about relevant options to visitors to the ombuds office, including formal processes for resolving issues, and their requirements, so that visitors do not unintentionally waive these options by virtue of seeking assistance in the ombuds office. Correspondingly, ombuds offices should not engage in behavior that could mislead employees or other visitors about the respective roles of the ombuds and those entities that provide formal complaint processes.

b. Agencies should disclose publicly on their Web sites the identity, contact information, statutory or other basis, and scope of responsibility for their ombuds offices, to the extent permitted by law.

c. Agency ombuds offices should explore ways to document for agency senior leadership, without breaching confidentiality, the value of the use of ombuds, including identification of systemic problems within the agency and, where available, relevant data on cost savings and avoidance of litigation.

14. *Records Management.* Federal ombuds offices should work with agency records officials to ensure appropriate confidentiality protections for the records created in the course of the office's work and to ensure that ombuds records are included in appropriate records schedules.

15. *Agency-wide Considerations.*

a. Ombuds offices should undertake outreach and education to build effective relationships with those affected by their work. Outreach efforts should foster awareness of the services that ombuds offer, to promote understanding of ombuds (and agency) processes and to ensure that constituents understand the role of the ombuds and applicable standards.

b. To ensure that there is a mutual understanding of respective roles and responsibilities within the agency, ombuds offices should work proactively with other offices and stakeholders within their agencies to establish protocols for referrals and overlap, to build cooperative relationships and partnerships that will enable resolutions, and to develop internal champions. Such initiatives also help the ombuds to identify issues new to the agency, as well as patterns and systemic issues, and to understand how the ombuds can use the resources available to add the most value. Outreach should be ongoing to keep up with the turnover of agency officials and constituents and should utilize as many communications media as appropriate and feasible.

16. *Interagency Coordination.* An entity should be designated to serve as a central resource for agency ombuds to address matters of common concern.

Administrative Conference Recommendation 2016–6

Self-Represented Parties in Administrative Proceedings

Adopted December 14, 2016

Federal agencies conduct millions of proceedings each year, making decisions that affect such important matters as disability or veterans' benefits, immigration status, and home or property loans. In many of these adjudications, claimants appear unrepresented for part or all of the proceeding and must learn to navigate hearing procedures, which can be quite complex, without expert assistance. The presence of self-represented parties [1] in administrative proceedings can create challenges for both administrative agencies and for the parties seeking agency assistance. Further, the presence of self-represented parties raises a number of concerns relating to the consistency of outcomes and the efficiency of processing cases.

Because of these concerns, in the spring of 2015 the Department of Justice's Access to Justice Initiative asked the Administrative Conference to co-lead a working group on self-represented parties in administrative proceedings, and the Conference agreed. The working group, which operates under the umbrella of the Legal Aid Interagency Roundtable (LAIR), has been meeting since that time.[2] During working group meetings, representatives from a number of agencies, including the Social Security Administration (SSA), Executive Office for Immigration Review (EOIR), Board of Veterans' Appeals (BVA), Internal Revenue Service (IRS), Department of Health and Human Services (HHS), Department of Agriculture (USDA), and Department of Housing and Urban Development (HUD) participated and shared information about their practices and procedures relating to self-represented parties. In working group meetings, agency representatives agreed that proceedings involving self-represented parties are challenging, and expressed interest both in learning more about how other agencies and courts handle self-represented parties and in improving their own practices. This recommendation, and its accompanying report,[3] arose in response to those concerns.[4]

[1] The term ''self-represented'' is used to denote parties who do not have professional representation, provided by either a lawyer or an experienced nonlawyer. Representation by a non-expert family member or friend is included in this recommendation's use of the term ''self-represented.'' Administrative agencies generally use the term ''self-represented,'' in contrast to courts' use of the term *pro se.* Because this recommendation focuses on agency adjudication, it uses the term ''self-represented,'' while acknowledging that the two terms are effectively synonymous.

[2] LAIR was established in 2012 by the White House Domestic Policy Council and the Department of Justice. *See White House Legal Aid Interagency Roundtable,* U.S. Dep't of Just., *https://www.justice.gov/lair* (last visited Aug. 16, 2016). It was formalized by presidential memorandum in the fall of 2015. *See* Memorandum from the President to the Heads of Exec. Dep'ts and Agencies (Sept. 14, 2015), *https://www.whitehouse.gov/the-press-office/2015/09/24/presidential-memorandum-establishment-white-house-legal-aid-interagency.*

[3] Connie Vogelmann, Self-Represented Parties in Administrative Hearings (Sept. 7, 2016), *https://www.acus.gov/sites/default/files/documents/Self-Represented-Parties-Administrative-Hearings-Draft-Report.pdf.*

[4] This recommendation primarily targets the subset of administrative agencies that conduct their own administrative hearings. Components of a number of federal agencies—including HUD, HHS, and USDA—do not conduct hearings directly, and instead delegate adjudication responsibilities to state or local entities. Because the challenges facing these components are quite distinct, they are not addressed in this recommendation.

While civil courts have long recognized and worked to address the challenges introduced by the presence of self-represented parties, agencies have increasingly begun to focus on issues relating to self-representation only in recent years. Agencies are undertaking numerous efforts to accommodate self-represented parties in their adjudication processes.[5] Yet quantitative information on self-representation in the administrative context is comparatively scarce, and there is much insight to be gained from the civil courts in identifying problems and solutions pertaining to self-representation. Although there are important differences between procedures in administrative proceedings and those in civil courts, available information indicates that the two contexts share many of the same problems—and solutions—when dealing with self-represented parties.

Challenges related to self-represented parties in administrative proceedings can be broken down into two main categories: Those pertaining to the efficiency of the administrative proceeding and those relating to the outcome of the procedure.

From an efficiency standpoint, self-represented parties' lack of familiarity with agency procedures and administrative processes can cause delay both in individual cases and on a systemic level. Delays in individual cases may arise when self-represented parties fail to appear for scheduled hearings, file paperwork incorrectly or incompletely, do not provide all relevant evidence, or make incoherent or legally irrelevant arguments before an adjudicator. In the aggregate, self-represented parties also may require significant assistance from agency staff in filing their claims and appeals, which can be challenging given agencies' significant resource constraints. Finally, self-represented parties may create challenges for adjudicators, who may struggle to provide appropriate assistance to them while maintaining impartiality and the appearance of impartiality. These problems are exacerbated by the fact that many agencies hear significant numbers of cases by self-represented parties each year.

Self-represented parties also may face suboptimal outcomes in administrative proceedings compared to their represented counterparts, raising issues of fairness. Even administrative procedures that are designed to be handled without trained representation can be challenging for inexperienced parties to navigate, particularly in the face of disability or language or literacy barriers. Furthermore, missed deadlines or hearings may result in a self-represented party's case being dismissed, despite its merits. Self-represented parties often struggle to effectively present their cases and, despite adjudicators' best efforts, may receive worse results than parties with representation.

Civil courts face many of these same efficiency and consistency concerns, and in response have implemented wide-ranging innovations to assist self-represented parties. These new approaches have included in-person self-service centers; workshops explaining the process or helping parties complete paperwork; and virtual services such as helplines accessible via phone, email, text, and chat. Courts have also invested in efforts to make processes more accessible to self-represented parties from the outset, through the development of web resources, e-filing and document assembly programs, and plain language and translation services for forms and other documents. Finally, courts have also used judicial resources and training to support judges and court personnel in their efforts to effectively and impartially support self-represented parties.

These innovations have received extremely positive feedback from parties, and early reports indicate that they improve court efficiency and can yield significant cost savings for the judiciary.[6] Administrative agencies have also implemented, or are in the process of implementing, many similar innovations.[7] For instance, some agencies make use of pre-hearing conferences to reduce both the necessity and the complexity of subsequent hearings.[8]

This recommendation builds on the successes of both civil courts and administrative agencies in dealing with self-represented parties and makes suggestions for further improvement. In making this recommendation, the Conference makes no normative judgment on the presence of self-represented parties in administrative proceedings. This recommendation assumes that there will be circumstances in which parties will choose to represent themselves, and seeks to improve the resources available to those parties and the fairness and efficiency of the overall administrative process.

The recommendation is not intended to be one-size-fits-all, and not every recommendation will be appropriate for every administrative agency. To the extent that this recommendation requires additional expenditure of resources by agencies, innovations are likely to pay dividends in increased efficiency and consistency of outcome in the long term.[9] The goals of this recommendation are to improve both the ease with which cases involving self-represented parties are processed and the consistency of the outcomes reached in those cases.

Recommendation

Agency Resources

1. Agencies should consider investigating and implementing triage and diagnostic tools to direct self-represented parties to appropriate resources based on both the complexity of their case and their individual level of need. These tools can be used by self-represented parties themselves for self-diagnosis or can be used by agency staff to improve the consistency and accuracy of information provided.

2. Agencies should strive to develop a continuum of services for self-represented parties, from self-help to one-on-one guidance, that will allow parties to obtain assistance by different methods depending on need. In particular, and depending on the availability of resources, agencies should:

a. Use Web sites to make relevant information available to the public, including self-represented parties and entities that assist them, to access and expand e-filing opportunities;

b. Continue efforts to make forms and other important materials accessible to self-represented parties by providing them at the earliest possible stage in the proceeding in plain language, in both English and in other languages as needed, and by providing effective assistance for persons with special needs; and

c. Provide a method for self-represented parties to communicate in ''real-time'' with agency staff or agency partners, as appropriate.

3. Subject to the availability of resources and as permitted by agency statutes and regulations, agencies should provide training for adjudicators for dealing with self-represented parties, including providing guidance for how they should interact with self-represented parties during administrative proceedings. Specifically, training should address interacting with self-represented parties in situations of limited literacy or English proficiency or mental or physical disability.

Data Collection and Agency Coordination

4. Agencies should strive to collect the following information, subject to the availability of resources, and keeping in mind relevant statutes including the Paperwork Reduction Act, where applicable. Agencies should use the information collected to continually evaluate and revise their services for self-represented parties. In particular, agencies should:

a. Seek to collect data on the number of self-represented parties in agency proceedings. In addition, agencies should collect data on their services for self-represented parties and request program feedback from agency personnel.

b. Seek to collect data from self-represented parties about their experiences during the proceeding and on their use of self-help resources.

c. Strive to keep open lines of communication with other agencies and with civil courts, recognizing that in spite of differences in procedures, other adjudicators have important and transferable insights in working with self-represented parties.

Considerations for the Future

5. In the long term, agencies should strive to re-evaluate procedures with an eye toward accommodating self-represented parties. Proceedings are often designed to accommodate attorneys and other trained professionals. Agencies should evaluate the feasibility of navigating their system for an outsider, and make changes—as allowed by their organic statutes and regulations—to simplify their processes accordingly. Although creation of simplified procedures

[5] *Id.* at 28–50.

[6] Richard Zorza, *Trends in Self-Represented Litigation Innovation, in* Future Trends in State Courts 85 (Carol R. Flango et al. eds., 2006). *See generally John Greacen,* The Benefits and Costs of Programs to Assist Self-Represented Litigants (2009).

[7] Vogelmann, *supra* note 3, at 28–50.

[8] *Id.* at 32–33.

[9] *See generally* Greacen, supra note 6.

would benefit all parties, they would be expected to provide particular assistance to self-represented parties.

[FR Doc. 2016–31047 Filed 12–22–16; 8:45 am]

BILLING CODE 6110–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 19, 2016.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 23, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Economic Research Service

Title: Risk Preferences and Demand for Crop Insurance and Cover Crop Program.

OMB Control Number: 0536–NEW.

Summary of Collection: Federal crop insurance programs and soil conservation programs, including those that promote use of cover crops, can significantly alter the farm revenue risk profile for the farmers who adopt them. The Economic Research Service (ERS) currently models the demand for federal crop insurance and cover crop promotion programs as part of multiple research objectives. These economic models rely on traditional theories of farmer decision-making under risk, and over-predict participation rates for all crop insurance and cover crop programs. This data collection will use an experiment with university students to test alternate theories of decision-making under risk. ERS will be using a laboratory experiment to (1) characterize the relationship between cover crop usage and crop insurance purchase, and (2) explore how this relationship depends on individuals risk preferences and demographic characteristics. Data collection for this project is authorized by the 7 U.S.C. 2204(a).

Need and Use of the Information: The information to be collected under this proposed study is needed to provide evidence as to which theories best predict joint adoption of cover crop and crop insurance programs. This research will be exploratory in nature, and will be used to gain insights into specific economic behaviors regarding decision-making under risk. This research will not be used to generate population estimates, and the results from the proposed study design are not intended to be generalizable outside of the study participants. Results from this experiment will be used to inform future experimental research studies for risk management decision-making with more representative samples.

Description of Respondents: Individuals or households.

Number of Respondents: 2,000.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 861.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2016–30897 Filed 12–22–16; 8:45 am]

BILLING CODE 3410–18–P

DEPARTMENT OF COMMERCE

Census Bureau

Agency Information Collection Activities; Request for Comments; Revision of the Confidentiality Pledge Under Title 13 United States Code, Section 9

AGENCY: Census Bureau, U.S. Department of Commerce.

ACTION: Notice.

SUMMARY: Under 44 U.S.C. 3506(e) and 13 U.S.C. Section 9, the U.S. Census Bureau is seeking comments on revisions to the confidentiality pledge it provides to its respondents under Title 13, United States Code, Section 9. These revisions are required by the passage and implementation of provisions of the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223), which permit and require the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. More details on this announcement are presented in the **SUPPLEMENTARY INFORMATION** section below.

DATES: To ensure consideration, written comments must be submitted on or before February 21, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Robin J. Bachman, Policy Coordination Office, Census Bureau, HQ–8H028, Washington, DC 20233; 301–763–6440 (or via email at *pco.policy.office@census.gov*). Due to delays in the receipt of regular mail related to security screening, respondents are encouraged to use electronic communications.

SUPPLEMENTARY INFORMATION:

I. Abstract

Federal statistics provide key information that the Nation uses to measure its performance and make informed choices about budgets, employment, health, investments, taxes, and a host of other significant topics. The overwhelming majority of Federal surveys are conducted on a voluntary basis. Respondents, ranging from businesses to households to institutions, may choose whether or not to provide the requested information. Many of the

most valuable Federal statistics come from surveys that ask for highly sensitive information such as proprietary business data from companies or particularly personal information or practices from individuals. Strong and trusted confidentiality and exclusively statistical use pledges under Title 13, U.S.C. and similar statistical confidentiality pledges are effective and necessary in honoring the trust that businesses, individuals, and institutions, by their responses, place in statistical agencies.

Under the authority of Title 13, U.S.C. and similar statistical confidentiality protection statutes, many Federal statistical agencies make statutory pledges that the information respondents provide will be seen only by statistical agency personnel or their sworn agents, and will be used only for statistical purposes. Title 13, U.S.C. and similar statutes protect the confidentiality of information that agencies collect solely for statistical purposes and under a pledge of confidentiality. These acts protect such statistical information from administrative, law enforcement, taxation, regulatory, or any other non-statistical use and immunize the information submitted to statistical agencies from legal process. Moreover, many of these statutes carry criminal penalties of a Class E felony (fines up to $250,000, or up to five years in prison, or both) for conviction of a knowing and willful unauthorized disclosure of covered information.

As part of the Consolidated Appropriations Act for Fiscal Year 2016 signed on December 17, 2015, the Congress included the Federal Cybersecurity Enhancement Act of 2015 (H.R. 2029, Division N, Title II, Subtitle B, Sec. 223). This Act, among other provisions, permits and requires the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic. The technology currently used to provide this protection against cyber malware is known as Einstein 3A; it electronically searches Internet traffic in and out of Federal civilian agencies in real time for malware signatures.

When such a signature is found, Department of Homeland Security (DHS) personnel shunt the Internet packets that contain the malware signature aside for further inspection. Since it is possible that such packets entering or leaving a statistical agency's information technology system may contain a small portion of confidential statistical data, statistical agencies can no longer promise their respondents that their responses will be seen only by statistical agency personnel or their sworn agents. However, they can promise, in accordance with provisions of the Federal Cybersecurity Enhancement Act of 2015, that such monitoring can be used only to protect information and information systems from cybersecurity risks, thereby, in effect, providing stronger protection to the integrity of the respondents' submissions.

Consequently, with the passage of the Federal Cybersecurity Enhancement Act of 2015, the Federal statistical community has an opportunity to welcome the further protection of its confidential data offered by DHS' Einstein 3A cybersecurity protection program. The DHS cybersecurity program's objective is to protect Federal civilian information systems from malicious malware attacks. The Federal statistical system's objective is to ensure that the DHS Secretary performs those essential duties in a manner that honors the Government's statutory promises to the public to protect their confidential data. Given that the Department of Homeland Security is not a Federal statistical agency, both DHS and the Federal statistical system have been successfully engaged in finding a way to balance both objectives and achieve these mutually reinforcing objectives.

Accordingly, DHS and Federal statistical agencies, in cooperation with their parent departments, have developed a Memorandum of Agreement for the installation of Einstein 3A cybersecurity protection technology to monitor their Internet traffic and have incorporated an associated Addendum on Highly Sensitive Agency Information that provides additional protection and enhanced security handling of confidential statistical data. However, many current Title 13, U.S.C. and similar statistical confidentiality pledges promise that respondents' data will be seen only by statistical agency personnel or their sworn agents. Since it is possible that DHS personnel could see some portion of those confidential data in the course of examining the suspicious Internet packets identified by Einstein 3A sensors, statistical agencies need to revise their confidentiality pledges to reflect this process change.

Therefore, the U.S. Census Bureau is providing this notice to alert the public to the confidentiality pledge revisions in an efficient and coordinated fashion and to request public comments on the revisions. The following section contains the revised confidentiality pledge and a listing of the U.S. Census Bureau's current PRA OMB numbers and information collection titles for the Information Collections whose confidentiality pledges will change to reflect the statutory implementation of DHS' Einstein 3A monitoring for cybersecurity protection purposes.

II. Method of Collection

The following is the revised statistical confidentiality pledge for the Census Bureau's data collections:

The U.S. Census Bureau is required by law to protect your information. The Census Bureau is not permitted to publicly release your responses in a way that could identify you. Per the Federal Cybersecurity Enhancement Act of 2015, your data are protected from cybersecurity risks through screening of the systems that transmit your data.

The following listing includes Census Bureau information collections which are confidential under 13 U.S.C. Section 9, as well as information collections that the Census Bureau conducts on behalf of other agencies which are confidential under 13 U.S.C. Section 9 and for which the confidentiality pledge will also be revised.

OMB No.	Title of information collection
0607–0008	Manufacturers' Shipments, Inventories, and Orders Survey.
0607–0013	Annual Retail Trade Report.
0607–0049	Current Population Survey (CPS) Basic Demographics.
0607–0104	Advance Monthly Retail Trade Survey (MARTS).
0607–0110	Survey of Housing Starts, Sales, and Completions.
0607–0117	U.S. Census-Age Search.
0607–0151	The Boundary and Annexation Survey (BAS) & Boundary Validation Program (BVP).
0607–0153	Construction Progress Reporting Surveys.
0607–0175	Quarterly Survey of Plant Capacity Utilization.
0607–0179	Housing Vacancy Survey (HVS).

OMB No.	Title of information collection
0607–0189	Business and Professional Classification Report.
0607–0190	Monthly Wholesale Trade Survey.
0607–0195	Annual Wholesale Trade Survey (AWTS).
0607–0354	Annual Social and Economic Supplement to the Current Population Survey.
0607–0368	Special Census Program.
0607–0422	Service Annual Survey.
0607–0432	Quarterly Financial Report (QFR).
0607–0444	2014–2016 Company Organization Survey.
0607–0449	Annual Survey of Manufactures.
0607–0464	October School Enrollment Supplement to the Current Population Survey.
0607–0466	Current Population Survey, Voting and Registration Supplement.
0607–0561	Manufacturers' Unfilled Orders Survey.
0607–0610	Current Population Survey June Fertility Supplement.
0607–0717	Monthly Retail Trade Survey.
0607–0725	Generic Clearance for Questionnaire Pretesting Research.
0607–0757	2017 New York City Housing and Vacancy Survey.
0607–0782	Annual Capital Expenditures Survey.
0607–0795	Generic Clearance for Geographic Partnership Programs.
0607–0809	Generic Clearance for MAF and TIGER Update Activities.
0607–0810	The American Community Survey.
0607–0907	Quarterly Services Survey.
0607–0909	Information and Communication Technology Survey.
0607–0912	Business R&D and Innovation Survey.
0607–0921	2017 Economic Census—Commodity Flow Survey (CFS)—Advance Questionnaire.
0607–0932	2017 Economic Census—Commodity Flow Survey.
0607–0936	American Community Survey Methods Panel Tests.
0607–0963	2015 Management and Organizational Practices Survey.
0607–0969	Federal Statistical System Public Opinion Survey.
0607–0971	Generic Clearance for 2020 Census Tests to Research the Use of Automation in Field Data Collection Activities.
0607–0977	2014 Survey of Income and Program Participation (SIPP) Panel.
0607–0978	Generic Clearance for Internet Nonprobability Panel Pretesting.
0607–0983	Comparing Health Insurance Measurement Error (CHIME).
0607–0986	Annual Survey of Entrepreneurs.
0607–0987	The School District Review Program (SDRP).
0607–0988	The Redistricting Data Program.
0607–0989	2016 Census Test.
0607–0990	National Survey of Children's Health.
0607–0991	2017 Economic Census Industry Classification Report.
0607–0992	Address Canvassing Testing.
0607–XXXX	2017 Census Test—*currently submitted for clearance.*
0607–0760	Economic Census Round 3 Focus Group Discussion—*currently submitted for clearance.*
0607–XXXX	Collection of State Administrative Records Data—*currently submitted for clearance.*
0607–XXXX	2020 Census Local Update of Census Addresses Operation (LUCA)—*currently submitted for clearance.*
2528–0017	2015 American Housing Survey.
1220–0175	American Time Use Survey (ATUS).
1220–0050	Consumer Expenditure Quarterly and Diary Surveys (CEQ/CED).
1220–0100	Current Population Survey (CPS)—Basic Labor Force.
1121–0317	Identify Theft Supplement to the NCVS.
1121–0111	National Crime Victimization Survey 2015–2018.
3145–0141	National Survey of College Graduates (NSCG).
1018–0088	National Survey of Fishing, Hunting, and Wildlife-Associated Recreation.
1121–0260	2015 Police Public Contact Supplement.
1121–0184	2017 School Crime Supplement to the NCVS.
1121–0302	Supplemental Victimization Survey.
2528–0013	Survey of Market Absorption (SOMA).
2528–0276	Rental Housing Finance Survey (RHFS).
1905–0169	Manufacturing Energy Consumption Survey (MECSA).
2528–0029	Manufactured Housing Survey (MHS).
0935–0110	Medical Expenditure Panel Survey (MEPS).
1220–0187	ATUS-Eating and Health Supplement.
0536–0043	Food Security Supplement to the Current Population Survey.
1220–0153	Contingent Worker Supplement to the Current Population Survey—(Currently in **Federal Register** Notice Stage—has not been fully approved).
1220–0102	Veterans Supplement to the Current Population Survey.
0970–0416	Child Support Supplement to the Current Population Survey.
3064–0167	National Survey of Unbanked and Underbanked Households.
1220–0102	Volunteers Supplement.
1220–0104	Displaced Workers Supplement.
3135–0136	Survey of Public Participation in the Arts.
0660–0221	Computer and Internet Use.

III. Data

OMB Control Number: 0607–0993.

Form Number(s): None.

Affected Public: All survey respondents to Census Bureau data collections.

Legal Authority: 44 U.S.C. 3506(e) and 13 U.S.C. Section 9.

IV. Request for Comments

Comments are invited on the necessity and efficacy of the Census Bureau's revised confidentiality pledge above. Comments submitted in response to this notice will become a matter of public record.

Sheleen Dumas,

PRA Departmental Lead, Office of the Chief Information Officer.

[FR Doc. 2016–30959 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF090

Endangered and Threatened Species; Take of Anadromous Fish

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

ACTION: Applications for four new scientific research permits, two permit modifications, and four permit renewals.

SUMMARY: Notice is hereby given that NMFS has received ten scientific research permit application requests relating to Pacific salmon, steelhead, eulachon, and green sturgeon. The proposed research is intended to increase knowledge of species listed under the Endangered Species Act (ESA) and to help guide management and conservation efforts. The applications may be viewed online at: *https://apps.nmfs.noaa.gov/preview/preview_open_for_comment.cfm.*

DATES: Comments or requests for a public hearing on the applications must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m. Pacific standard time on January 23, 2017.

ADDRESSES: Written comments on the applications should be sent to the Protected Resources Division, NMFS, 1201 NE., Lloyd Blvd., Suite 1100, Portland, OR 97232–1274. Comments may also be sent by email to *nmfs.swr.apps@noaa.gov* (include the permit number in the subject line of email).

FOR FURTHER INFORMATION CONTACT: Shivonne Nesbit, Portland, OR (ph.: 503–231–6741), email: *Shivonne.Nesbit@noaa.gov*). Permit application instructions are available from the address above, or online at *https://apps.nmfs.noaa.gov.*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

The following listed species are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened California Coastal (CC); endangered Sacramento River winter-run (SRWR); threatened Central Valley spring-run (CVSR).

Coho salmon (*O. kisutch*): threatened Southern Oregon/Northern California Coast (SONCC); endangered Central California Coast (CCC).

Steelhead (*O. mykiss*): threatened Northern California (NC); threatened Central California Coast (CCC); threatened California Central Valley (CCV); threatened South-Central California Coast (S–CCC); endangered Southern California (SC).

North American green sturgeon (*Acipenser medirostris*): threatened southern distinct population segment (sDPS).

Eulachon (*Thaleichthys pacificus*): threatened sDPS.

Authority

Scientific research permits are issued in accordance with section 10(a)(1)(A) of the ESA (16 U.S.C. 1531 *et seq.*) and regulations governing listed fish and wildlife permits (50 CFR parts 222–226). NMFS issues permits based on findings that such permits: (1) Are applied for in good faith; (2) if granted and exercised, would not operate to the disadvantage of the listed species that are the subject of the permit; and (3) are consistent with the purposes and policy of section 2 of the ESA. The authority to take listed species is subject to conditions set forth in the permits.

Anyone requesting a hearing on an application listed in this notice should set out the specific reasons why a hearing on that application would be appropriate (see ADDRESSES). Such hearings are held at the discretion of the Assistant Administrator for Fisheries, NMFS.

Applications Received

Permit 19820

Dr. James Hobbs, Professor at the University of California in Davis, CA is seeking a five-year research permit to annually take juvenile SRWR and CVSR Chinook, CCC and CCV steelhead, and sDPS green sturgeon in the San Francisco Bay Area and tributaries. The purpose of this research is to determine the degree to which Longfin Smelt use tributaries of San Pablo and San Francisco bays as spawning and rearing habitat. This information would improve the understanding of how bay tributaries contribute to the overall population of Longfin Smelt. Although this study principally targets longfin smelt, SRWR and CVSR Chinook, CCC and CCV steelhead and sDPS green sturgeon may be encountered during sampling. Fish would be captured with beach seines, fyke nets, and trawls (otter and Kodiak). Captured fish would be identified by species, enumerated, and released. A sub-sample of 30 individuals per species would be measured. The researchers do not propose to kill any fish but a small number may die as an unintended result of research activities. This research will enhance the knowledge of the distribution of the species in bay tributaries that have not been previously monitored.

Permit 17292

NMFS' Southwest Fisheries Science Center (SWFSC) is seeking a five-year research permit to annually take adult and juvenile CC Chinook, CCC and SONCC coho, NC, S–CCC, SC and CCC steelhead. Sampling would be conducted in California on a variety of coastal salmonid populations. The purposes of this study are to: (1) Estimate population abundance and dynamics; (2) evaluate factors affecting growth, survival, reproduction and life-history patterns; (3) assess life-stage specific habitat use and movement; (4) evaluate physiological performance and tolerance; (5) determine the genetic structure of populations; (6) evaluate the effects of water management and habitat restoration; and (7) develop improved sampling and monitoring methods. The SWFSC proposes to capture fish using backpack electrofishing, hook and line angling, hand and/or dipnets, beach seines, fyke nets, panel, pipe or screw traps, and weirs. The SWFSC also proposes to observe adult and juvenile salmonids during spawning ground surveys and snorkel surveys. Some fish would anesthetized, measured, weighed, tagged (coded wire, elastomer, radio, acoustic, passive integrated transponder (PIT) or sonic), and tissue sampled for genetics identification. Intentional lethal take is proposed to support laboratory experiments using hatchery-origin fish whenever possible to examine fish physiology, environmental tolerance, and as part of

field-based research to assess performance, maternal origin (resident v. anadromous) and/or life-history and habitat use (freshwater, estuarine and marine). The research would benefit the affected species by providing critical information in support of the conservation, management, and recovery of Coastal California salmon stocks.

Permit 20524

The United States Geological Survey (USGS) is seeking a one-year permit to take juvenile CC, SRWR and CVSR Chinook, CCC coho, CCC, CCV, S–CCC, SC steelhead, and sDPS green sturgeon. The goal of the California Stream Quality Assessment (CSQA) is to assess the quality of streams in California by characterizing multiple water-quality factors that are stressors to aquatic life and evaluating the relation between these stressors and biological communities. Approximately ninety sites would be sampled for up to nine weeks for contaminants, nutrients, and sediment in water. Stream-bed sediment would be collected during the ecological survey for analysis of sediment chemistry and toxicity. Fish would be collected via backpack electrofishing. Captured fish would be held in aerated live wells and buckets and would be identified, enumerated and released. A subset of non-listed fish from each site will be sacrificed for mercury analysis. The researchers do not propose to kill any listed fish but a small number may die as an unintended result of research activities. This research will benefit listed species by providing information about the most critical factors affecting stream quality and thus generate insights about possible approaches to protecting the health of streams in the region.

Permit 20035

Stillwater Sciences is seeking a one-year permit to take juvenile SONCC coho in the Salmon and Scott River floodplains (California). Fish would be captured by beach seine or minnow traps. The study is part of a larger comprehensive planning effort that would lead to strategic restoration of floodplains and mine tailings in the Salmon and Scott rivers. The purpose of this research is to assess mercury contamination in fish and invertebrates. Non-listed fish would be collected and sacrificed for tissue testing of mercury contamination. The sampling has the potential to capture juvenile SONCC coho salmon. As part of this project, information would be collected on coho (*e.g.,* locations where individuals were observed and/or captured, habitat conditions) because this information will help determine the presence and distribution of coho—especially in the Salmon River where there is a paucity of such data. The researchers do not propose to kill any listed fish but a small number may die as an unintended result of research activities. The project would benefit listed species by providing data on mercury contamination, data that will be used to direct restoration efforts.

Permit 17428–2M

The U.S. Fish and Wildlife Service (FWS) is seeking to modify a five-year permit that allows them to annually take juvenile CCV steelhead, juvenile SRWR and CVSR Chinook salmon, and juvenile sDPS green sturgeon at rotary screw traps in the American River in Sacramento County, California. The purposes of this study are to: (1) Assess population-level abundance, production, condition, survival, and outmigration timing of juvenile salmonids; (2) evaluate the effectiveness of restoration actions; and (3) generate data that can be incorporated into life cycle models. Captured fish would be anesthetized, measured, weighed, tagged (acoustic or PIT), have a tissue sample taken, allowed to recover, and released. The modification is requested because the original permit application underestimated the number of CCV steelhead and SRWR and CVSR Chinook salmon that would be caught in the American River. The FWS is requesting a higher take limit and seeking to add green sturgeon because multiple years of trapping data suggest the authorized take limit needs to be adjusted. The researchers would avoid adult salmonids, but some may be encountered as an unintentional result of sampling. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities. The project would benefit listed species by providing data that will be used to infer biological responses to ongoing habitat restoration activities, and direct future management activities to enhance the abundance, production, and survival of juvenile salmon and steelhead in the American River.

Permit 17299–3M

The SWFSC is seeking to modify a five-year permit that currently allows them to annually take juvenile CCV steelhead, juvenile SRWR and CVSR Chinook salmon. The sampling would take place in the Sacramento River and its tributaries. The purpose of this study is to document the survival, movement, habitat use and physiological capacity of Chinook salmon and steelhead and their predators in the Sacramento River basin. The SWFSC proposes to capture fish using hand and/or dipnets, beach seines, hook and line angling, and both backpack and boat-operated electrofishing. Captured fish would be anesthetized, tagged (sonic, acoustic, or PIT) and released. A subsample would have tissue samples taken. The SWFSC proposes to intentionally kill 50 CVSR juvenile chinook. From these, the researchers would collect otoliths for age/growth analysis, organ tissue for isotope, biochemical, and genomic expression assays and parasite infections. They would also collect stomach contents for diet analysis and tag effects/retention studies. Any CVSR fish that are unintentionally killed would be used in place of the intentional mortalities.

The permit would be modified to include (1) boat electroshocking, (2) PIT-tagging at screw trap locations in lieu of and/or in addition to acoustic tagging, (3) tissue and otolith sampling, and (4) the intentional directed mortality discussed above. The research would benefit the affected species by providing information to support the conservation, restoration, and management of Central Valley salmon stocks.

Permit 16531–2R

FISHBIO Environmental is seeking to renew a five-year research permit to take juvenile and adult CCV steelhead and CVSR Chinook in the Merced River (California). The purpose of this study is to obtain data on the habitat needs of fall-run Chinook and to assess the status of steelhead/rainbow trout in the Merced River. Fish would be captured at rotary screw traps and passively observed at a resistance board weir equipped with an infrared camera and during snorkel surveys. Fish captured at the screw traps would be anesthetized, identified by species, measured, weighed and released. A sub-sample of juvenile fall-run Chinook would be marked with a photonic dye to determine trap efficiency. Scale samples would be collected from up to 50 juvenile fall-run Chinook each week and from a small number of juvenile and adult O. mykiss during the season. Although fall-run Chinook are the researchers' primary target, they would also collect data rainbow trout/steelhead. This research would benefit listed salmon by identifying factors that limit fish production in the Merced River.

Permit 15542–2R

Normandeau Associates is seeking to renew a five-year research permit to take juvenile and adult CCV steelhead in Lower Putah Creek in the lower Sacramento Basin (California). The purpose of this study is to monitor the distribution and relative abundance of fish populations in lower Putah Creek downstream of the Putah Diversion Dam. Fish would be captured by backpack and boat electrofishing. Captured fish would be identified by species, measured, weighed, allowed to recover, and released. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities. This research would benefit listed steelhead by providing information on fish response to river flows and on the distribution and diversity of rainbow trout/steelhead in Putah Creek.

Permit 16318–2R

Hagar Environmental Services is seeking to renew a five-year research permit to take juvenile CCC coho, CCC and S–CCC steelhead in the San Lorenzo-Soquel and Salinas subbasins. The purpose of this study is to assess salmonid habitat, presence, and abundance in order to inform watershed management and establish baseline population abundances before habitat conservation measures are implemented. The researchers would use backpack electrofishing and beach seines to capture the fish and would observe them during snorkel surveys. Captured fish would be enumerated, measured, and examined. Scale samples would be taken from a limited subset of individuals. Some salmonids would be PIT-tagged for a mark-recapture abundance estimation and to assess movement patterns. Snorkel surveys would be used in place of capture whenever possible. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities. This research would benefit listed species by providing population, distribution and habitat data that will be used to draft a Habitat Conservation Plan for the City of Santa Cruz.

Permit 10093–2R

The California Department of Fish and Wildlife (CDFW) is seeking to renew a five-year permit to take adult and juvenile CC Chinook, CCC and SONCC coho, and NC, S–CCC, SC and CCC steelhead. The project goal is to restore salmon and steelhead productivity in coastal California streams through a comprehensive restoration program. The specific goals of this research project are to assess fish abundance and distribution in coastal streams. Fish would be captured by backpack electrofishing, beach seine, minnow traps, and weirs, and they would be observed during snorkel and spawning ground surveys. Some fish would be anesthetized, measured, weighed, tagged, and tissue sampled for genetic information. The researchers do not expect to kill any listed salmonids but a small number may die as an unintended result of the research activities. This research would benefit listed species by providing data to assess restoration projects and direct future habitat restoration needs.

This notice is provided pursuant to section 10(c) of the ESA. NMFS will evaluate the applications, associated documents, and comments submitted to determine whether the applications meet the requirements of section 10(a) of the ESA and Federal regulations.

The final permit decisions will not be made until after the end of the 30-day comment period. NMFS will publish notice of its final action in the **Federal Register**.

Dated: December 19, 2016.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE980

Takes of Marine Mammals Incidental to Specified Activities; St. George Reef Lighthouse Restoration, Maintenance, and Tour Operations at Northwest Seal Rock, Del Norte County, California

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

ACTION: Notice; proposed incidental harassment authorization; request for comments.

SUMMARY: NMFS has received an application from the St. George Reef Lighthouse Preservation Society (Society), for an Incidental Harassment Authorization (IHA) to take marine mammals, by harassment incidental to conducting aircraft operations, lighthouse renovation, light maintenance activities, and tour operations on the St. George Reef Lighthouse Station on Northwest Seal Rock (NWSR) in the northeast Pacific Ocean. The proposed dates for this action would be February 19, 2017 through February 18, 2018. Pursuant to the Marine Mammal Protection Act, NMFS is requesting comments on its proposal to issue an IHA to the Society to incidentally take, by Level B harassment only, marine mammals during the specified activity.

DATES: NMFS must receive comments and information on or before January 23, 2017.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910. The mailbox address for providing email comments is *ITP.McCue@noaa.gov.* Comments sent via email to *ITP.McCue@noaa.gov,* including all attachments, must not exceed a 25-megabyte file size.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other to addresses or individual, or received after the comment period ends. All comments received are a part of the public record and NMFS will post them for public viewing to *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the commenter is publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

An electronic copy of the application may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.htm.*

The Environmental Assessment (EA) specific to conducting aircraft operations, restoration, and maintenance work on the lighthouse is also available at the same internet address. Information in the EA and this notice collectively provide the environmental information related to the proposed issuance of the IHA for public review and comment. The public may also view documents cited in this notice, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Laura McCue, NMFS, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Summary of Request

On October 14, 2016, NMFS received an application from the Society for the taking of marine mammals incidental to restoration, maintenance, and tour operations at St. George Reef Lighthouse (Station) located on Northwest Seal Rock offshore of Crescent City, California in the northeast Pacific Ocean. NMFS determined the application complete and adequate on December 12, 2016.

The Society proposes to conduct aircraft operations, lighthouse renovation, and periodic maintenance on the Station's optical light system on a monthly basis. The proposed activity would occur on a monthly basis over one weekend, November through April. The Society currently has an IHA that is valid through February 18, 2017. This IHA would start on February 19, 2017, to avoid a lapse in authorization, and would be valid for one year. The following specific aspects of the proposed activities would likely to result in the take of marine mammals: Acoustic and visual stimuli from (1) helicopter landings/takeoffs; (2) noise generated during restoration activities (*e.g.,* painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.,* bulb replacement and automation of the light system); and (4) human presence. Thus, NMFS anticipates that take, by Level B harassment only, of California sea lions (*Zalophus californianus*); Pacific harbor seals (*Phoca vitulina*); Steller sea lions (*Eumetopias jubatus*) of the eastern U.S. Stock; and northern fur seals (*Callorhinus ursinus*) could result from the specified activity.

Description of the Specified Activity

Overview

To date, NMFS has issued five IHAs to the Society for the conduct of the same activities from 2010 to 2016 (75 FR 4774, January 29, 2010; 76 FR 10564, February 25, 2011; 77 FR 8811, February 15, 2012; 79 FR 6179, February 3, 2014; and 81 FR 9440, February 23, 2016). This is the Society's sixth request for an annual IHA as their current IHA will expire on February 18, 2017.

The Station, listed in the National Park Service's National Register of Historic Places, is located on NWSR offshore of Crescent City, California in the northeast Pacific Ocean. The Station, built in 1892, rises 45.7 meters (m) (150 feet (ft)) above sea level. The structure consists of hundreds of granite blocks topped with a cast iron lantern room and covers much of the surface of the islet. The purpose of the project is to restore the lighthouse, to conduct tours, and to conduct annual and emergency maintenance on the Station's optical light system.

Dates and Duration

The Society proposes to conduct the activities (aircraft operations, lighthouse restoration, and maintenance activities) at a maximum frequency of one session per month. The proposed duration for each session would last no more than three days (*e.g.,* Friday, Saturday, and Sunday). The proposed IHA, if issued, would be effective from February 19, 2017 through February 18, 2018 with restrictions on the Society conducting activities from May 1, 2017 to October 31, 2017. NMFS refers the reader to the *Detailed Description of Activities* section later in this notice for more information on the scope of the proposed activities.

Specified Geographic Region

The Station is located on a small, rocky islet (41°50′24″ N., 124°22′06″ W.) approximately 9 kilometers (km) (6.0 miles (mi)) in the northeast Pacific Ocean, offshore of Crescent City, California (41°46′48″ N.; 124°14′11″ W.). NWSR is approximately 91.4 meters (m) (300 feet (ft)) in diameter that peaks at 5.18 m (17 ft) above mean sea level.

Detailed Description of Activities

Aircraft Operations

Because NWSR has no safe landing area for boats, the proposed restoration activities would require the Society to transport personnel and equipment from the California mainland to NWSR by a small helicopter. Helicopter landings take place on top of the engine room (caisson) which is approximately 15 m (48 ft) above the surface of the rocks on NWSR. The landing zone has been relocated nearer the edge of the caisson, increasing the distance of the rotor from the lighthouse tower by the required footage. The Society plans to charter a Raven R44 helicopter, owned and operated by Air Shasta Rotor and Wing, LLC. The Raven R44, which seats three passengers and one pilot, is a compact-sized (1134 kilograms (kg), 2500 pounds (lbs)) helicopter with two-bladed main and tail rotors. Both sets of rotors are fitted with noise-attenuating blade tip caps that would decrease flyover noise.

The Society proposes to transport no more than 15 work crew members and equipment to NWSR for each session and estimates that each session would require no more than 34 helicopter landings/takeoffs per month (see below for number per day). During landing, the helicopter would land on the caisson to allow the work crew members to disembark and retrieve their equipment located in a basket attached to the underside of the helicopter. The helicopter would then return to the mainland to pick up additional personnel and equipment.

Proposed schedule: The Society would conduct a maximum of 16 flights (8 arrivals and eight departures) for the first day. The first flight would depart from Crescent City Airport at approximately 9 a.m. for a 6-minute flight to NWSR. The helicopter would land and takeoff immediately after offloading personnel and equipment every 20 minutes (min). The total duration of the first day's aerial operations could last for approximately three hours (hrs) and 26 min and would end at approximately 12:34 p.m. Crew members would remain overnight at the Station and would not return to the mainland on the first day.

For the second day, the Society would conduct a maximum of 10 flights (five arrivals and five departures) to transport additional materials on and off the islet,

if needed. The first flight would depart from Crescent City Airport at 9 a.m. for a 6-min flight to NWSR. The total duration of the second day's aerial operations could last up to three hrs. Second-day operations are only conducted if needed; flights on the second day do not normally occur.

For the final day of operations, the Society could conduct a maximum of eight helicopter flights (four arrivals and four departures) to transport the remaining crew members and equipment/material back to the Crescent City Airport. The total duration of the third day's helicopter operations in support of restoration could last up to two hrs and 14 min.

Lighthouse Restoration Activities

Restoration and maintenance activities would involve the removal of peeling paint and plaster, restoration of interior plaster and paint, refurbishing structural and decorative metal, reworking original metal support beams throughout the lantern room and elsewhere, replacing glass as necessary, upgrading the present electrical system; and annual light beacon maintenance.

Emergency Light Maintenance

If the beacon light fails, the Society proposes to send a crew of two to three people to the Station by helicopter to repair the beacon light. For each emergency repair event, the Society proposes to conduct a maximum of four flights (two arrivals and two departures) to transport equipment and supplies. The helicopter may remain on site or transit back to shore and make a second landing to pick up the repair personnel.

In the case of an emergency repair between May 1, 2016, and October 31, 2016, the Society would consult with the NMFS' Westcoast Regional Office (WRO) biologists to best determine the timing of the trips to the lighthouse, on a case-by-case basis, based upon the existing environmental conditions and the abundance and distribution of any marine mammals present on NWSR. The regional biologists would have real-time knowledge regarding the animal use and abundance of the NWSR at the time of the repair request and would make a decision regarding when the Society could conduct trips to the lighthouse during the emergency repair time window that would have the least practicable adverse impact to marine mammals. The WRO biologists would also ensure that the Society's request for incidental take during emergency repairs would not exceed the number of incidental take authorized in the proposed IHA.

Sound Sources and Sound Characteristics

NMFS expects that acoustic stimuli resulting from the proposed helicopter operations; noise from maintenance and restoration activities; and human presence have the potential to harass marine mammals, incidental to the conduct of the proposed activities.

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this notice. Sound pressure is the sound force per unit area, and is usually measured in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level (SPL) is the ratio of a measured sound pressure and a reference level. The commonly used reference pressure is 1 μPa for under water, and the units for SPLs are dB re: 1 μPa. The commonly used reference pressure is 20 μPa for in air, and the units for SPLs are dB re: 20 μPa.

SPL (in decibels (dB)) = 20 log (pressure/reference pressure).

SPL is an instantaneous measurement expressed as the peak, the peak-peak, or the root mean square (rms). Root mean square is the square root of the arithmetic average of the squared instantaneous pressure values. All references to SPL in this document refer to the rms unless otherwise noted. SPL does not take into account the duration of a sound.

R44 Helicopter Sound Characteristics

Noise testing performed on the R44 Raven Helicopter, as required for Federal Aviation Administration approval, required an overflight at 150 m (492 ft) above ground level, 109 knots and a maximum gross weight of 1,134 kg (2,500 lbs). The noise levels measured on the ground at this distance and speed were 81.9 dB re: 20 μPa (A-weighted) for the model R44 Raven I, or 81.0 dB re: 20 μPa (A-weighted) for the model R44 Raven II (NMFS, 2007).

Based on this information, we expect that the received sound levels at the landing area on the Station's caisson would increase above 81–81.9 dB re: 20 μPa (A-weighted).

Restoration and Maintenance Sound Characteristics

Any noise associated with these activities is likely to be from light construction (*e.g.,* sanding, hammering, or use of hand drills). The Society proposes to confine all restoration activities to the existing structure which would occur on the upper levels of the Station. Pinnipeds hauled out on NWSR do not have access to the upper levels of the Station.

Description of Marine Mammals in the Area of the Specified Activity

Table 1 provides the following information: All marine mammal species with possible or confirmed occurrence in the proposed activity area; information on those species' regulatory status under the MMPA and the Endangered Species Act (ESA) of 1973 (16 U.S.C. 1531 *et seq.*); abundance; occurrence and seasonality in the activity area. NMFS refers the public the draft 2016 NMFS Marine Mammal Stock Assessment Report available online at: *http://www.nmfs.noaa.gov/pr/sars/* for further information on the biology and distribution of these species.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY HAUL OUT ON NORTHWEST SEAL ROCK, NOVEMBER 2015 THROUGH NOVEMBER 2016

Species	Stock	Regulatory status [1 2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Occurrence and seasonality
California sea lion (*Zalophus californianus*).	U.S.	MMPA—NC ESA—NL.	296,750 (n/a; 153,337; 2011) ...	9,200	Year-round presence.
Steller sea lion (*Eumetopias jubatus*).	Eastern Distinct Population Segment.	MMPA—D ESA—DL	60,131–74,448 (n/a; 36,551; 2013).	1,645	Year-round presence.
Pacific harbor seal (*Phoca vitulina*).	California	MMPA—NC ESA—NL.	30,968 (n/a; 27,348; 2012)	1,641	Occasional, spring.

TABLE 1—GENERAL INFORMATION ON MARINE MAMMALS THAT COULD POTENTIALLY HAUL OUT ON NORTHWEST SEAL ROCK, NOVEMBER 2015 THROUGH NOVEMBER 2016—Continued

Species	Stock	Regulatory status [1] [2]	Stock abundance (CV, N_{min}, most recent abundance survey) [3]	PBR	Occurrence and seasonality
Northern fur seal (*Callorhinus ursinus*).	California Breeding	MMPA—D ESA—NL	14,050 (n/a; 7,524; 2013)	451	Rare.

[1] MMPA: D = Depleted, S = Strategic, NC = Not Classified.
[2] ESA: EN = Endangered, T = Threatened, DL = Delisted, NL = Not listed.
[3] 2016 draft NMFS Stock Assessment Reports: Carretta *et al.* (2015) and Muto *et al.* (2015).

Eastern Distinct Population Segment of Steller Sea Lions

Steller sea lions consist of two distinct population segments: The western and eastern distinct population segments (eDPS and wDPS, respectively) divided at 144° West longitude (Cape Suckling, Alaska). The western segment of Steller sea lions inhabit central and western Gulf of Alaska, Aleutian Islands, as well as coastal waters and breed in Asia (*e.g.,* Japan and Russia). The eastern segment includes sea lions living in southeast Alaska, British Columbia, California, and Oregon. The eDPS includes animals born east of Cape Suckling, AK (144° W) and the latest abundance estimate for the stock is 60,131 to 74,448 animals, with PBR at 1,645 animals (Muto *et al.,* 2015).

Steller sea lions range along the North Pacific Rim from northern Japan to California (Loughlin *et al.,* 1984), with centers of abundance and distribution in the Gulf of Alaska and Aleutian Islands, respectively. The species is not known to migrate, but individuals disperse widely outside of the breeding season (late May through early July), thus potentially intermixing with animals from other areas.

The eDPS of Steller sea lions breeds on rookeries located in southeast Alaska, British Columbia, Oregon, and California. There are no rookeries located in Washington State. Steller sea lions give birth in May through July and breeding commences a couple of weeks after birth. Pups are weaned during the winter and spring of the following year.

Despite the wide-ranging movements of juveniles and adult males in particular, exchange between rookeries by breeding adult females and males (other than between adjoining rookeries) appears low, although males have a higher tendency to disperse than females (Trujillo *et al.,* 2004; Hoffman *et al.,* 2006). A northward shift in the overall breeding distribution has occurred, with a contraction of the range in southern California and new rookeries established in southeastern Alaska (Pitcher *et al.,* 2007). Overall, counts of non-pups at trend sites in California and Oregon have been relatively stable or increasing slowly since the 1980s (Allen and Angliss 2012).

Steller sea lion numbers at NWSR ranged from 20 to 355 animals (CCR 2001). Counts of Steller sea lions during the spring (April–May), summer (June–August), and fall (September–October), averaged 68, 110, and 56, respectively (CCR 2001). A multi-year survey at NWSR between 2000 and 2004 showed Steller sea lion numbers ranging from 175 to 354 in July (M. Lowry, NMFS/SWFSC, unpubl. data). The Society presumes that winter use of NWSR by Steller sea lion to be minimal, due to inundation of the natural portion of the island by large swells.

For the 2010 season, the Society reported that no Steller sea lions were present in the vicinity of NWSR during restoration activities (SGRLPS 2010). Based on the monitoring report for the 2011 season, the maximum numbers of Steller sea lions present during the April and November 2011, work sessions was 2 and 150 animals, respectively (SGRLPS 2012). During the 2012 season, the Society did not observe any Steller sea lions present on NWSR during restoration activities. The Society did not conduct any operations for the 2013–2014, 2014–2015, and 2015–2016 seasons.

California Sea Lion

The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals, with PBR at 9,200 individuals, and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2015).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2015). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until weaning between four and 10 months of age (Allen and Angliss 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females range as far north as Washington and Oregon, presumably following prey.

Crescent Coastal Research (CCR) conducted a three-year (1998–2000) survey of the wildlife species on NWSR for the Society. They reported that counts of California sea lions on NWSR varied greatly (from 6 to 541) during the observation period from April 1997 through July 2000. CCR reported that counts for California sea lions during the spring (April–May), summer (June–August), and fall (September–October), averaged 60, 154, and 235, respectively (CCR 2001).

The most current counts for the month of July by NMFS (2000 through 2004) have been relatively low as the total number of California sea lions recorded in 2000 and 2003 was three and 11, respectively (M. Lowry, NMFS, SWFSC, unpublished data). Based on the monitoring report for the 2011 season, the maximum numbers of California sea lions present during the April and November, 2011 work sessions was 2 and 160 animals, respectively (SGRLPS 2012). There were no California sea lions present during the March, 2012 work session (SGRLPS 2012).

Northern Fur Seal

Northern fur seals occur from southern California north to the Bering Sea and west to the Sea of Okhotsk and Honshu Island of Japan. NMFS

recognizes two separate stocks of northern fur seals within U.S. waters: An Eastern Pacific stock distributed among sites in Alaska, British Columbia; and a California stock (including San Miguel Island and the Farallon Islands). The estimated population of the California stock is 14,050 animals with PBR at 451 animals (Carretta *et al.,* 2015).

Northern fur seals breed in Alaska and migrate along the west coast during fall and winter. Due to their pelagic habitat, they are rarely seen from shore in the continental United States, but individuals occasionally come ashore on islands well offshore (*i.e.,* Farallon Islands and Channel Islands in California). During the breeding season, approximately 45 percent of the worldwide population inhabits the Pribilof Islands in the Southern Bering Sea, with the remaining animals spread throughout the North Pacific Ocean (Caretta *et al.,* 2015).

CCR observed one male northern fur seal on Northwest Seal Rock in October, 1998 (CCR 2001). It is possible that a few animals may use the island more often than indicated by the CCR surveys, if they were mistaken for other otariid species (*i.e.,* eared seals or fur seals and sea lions) (M. DeAngelis, NMFS, pers. comm., 2007).

For the 2010, 2011, and 2012 work seasons, the Society did not observe any Northern fur seals present on NWSR during restoration activities (SGRLPS 2010; 2011; 2012).

Pacific Harbor Seal

Harbor seals are widely distributed in the North Atlantic and North Pacific. Two subspecies exist in the Pacific: *Phoca vitulina stejnegeri* in the western North Pacific, near Japan, and *P. v. richardii* in the eastern North Pacific. The latter subspecies inhabits coastal and estuarine areas from Mexico to Alaska (Carretta *et al.,* 2014) and is the only stock present in the action area. Previous assessments of the status of harbor seals have recognized three stocks along the west coast of the continental U.S.: (1) California, (2) Oregon and Washington outer coast waters, and (3) inland waters of Washington; however, the exact placement of the boundary was arbitrary. The estimated population of the California stock of Pacific harbor seals is approximately 30,968 animals, with PBR at 1,641 animals (Carretta *et al.,* 2015).

In California, over 500 harbor seal haul out sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Females nurse their pups for an average of 24 days and pups are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups. The nearest harbor seal rookery relative to the proposed project site is at Castle Rock National Wildlife Refuge, located approximately located 965 m (0.6 mi) south of Point St. George, and 2.4 km (1.5 mi) north of the Crescent City Harbor in Del Norte County, California (USFWS, 2007).

CCR noted that harbor seal use of NWSR was minimal, with only one sighting of a group of 6 animals, during 20 observation surveys. They hypothesized that harbor seals may avoid the islet because of its distance from shore, relatively steep topography, and full exposure to rough and frequently turbulent sea swells. For the 2010 and 2011 seasons, the Society did not observe any Pacific harbor seals present on NWSR during restoration activities (SGRLPS 2010; 2011). During the 2012 season, the Society reported sighting a total of two harbor seals present on NWSR (SGRLPS 2012).

Other Marine Mammals in the Proposed Action Area

California (southern) sea otters (*Enhydra lutris nereis*), listed as threatened under the ESA and categorized as depleted under the MMPA, usually range in coastal waters within 2 km (1.2 mi) of the mainland shoreline. Neither CCR nor the Society has encountered California sea otters on NWSR during the course of the four-year wildlife study (CCR 2001; SGRLPS 2010; 2011; 2012) nor has the Society encountered this species during the course of the previous five IHAs. The U.S. Fish and Wildlife Service (USFWS) manages the sea otter and NMFS will not consider this species further in this notice.

Potential Effects of the Specified Activities on Marine Mammals and Their Habitat

This section includes a summary and discussion of the ways that components (*e.g.,* personnel presence) of the specified activity, including mitigation, may impact marine mammals and their habitat. The *Estimated Take by Incidental Harassment* section later in this document will include a quantitative analysis of the number of individuals that are expected to be taken during this activity. The *Negligible Impact Analysis* section will include the analysis of how this specific activity would impact marine mammals and will consider the content of this section, the *Estimated Take by Incidental Harassment* section, and the *Proposed Mitigation* section to draw conclusions regarding the likely impacts of this activity on the reproductive success or survivorship of individuals and from that consideration, the likely impacts of this activity on the affected marine mammal populations or stocks.

Acoustic and visual stimuli generated by: (1) Helicopter landings/takeoffs; (2) restoration activities (*e.g.,* painting, plastering, welding, and glazing); (3) maintenance activities (*e.g.,* bulb replacement and automation of the light system); and (4) human presence may have the potential to cause behavioral disturbance.

Aircraft Presence and Noise

Pinnipeds have the potential to be disturbed by airborne and underwater noise generated by the engine of the aircraft (Born *et al.,* 1999; Richardson *et al.,* 1995). Data on underwater TTS-onset in pinnipeds exposed to pulses are limited to a single study which exposed two California sea lions to single underwater pulses from an arc-gap transducer and found no measurable TTS following exposures up to 183 dB re: 1 µPa (peak-to-peak) (Finneran *et al.,* 2003).

Researchers have demonstrated temporary threshold shift (TTS) in certain captive odontocetes and pinnipeds exposed to strong sounds (reviewed in Southall *et al.,* 2007). In 2004, researchers measured auditory fatigue to airborne sound in harbor seals, California sea lions, and Northern elephant seals after exposure to non-pulse noise for 25 minutes (Kastak *et al.,* 2004). In the study, the harbor seal experienced approximately 6 dB of temporary threshold shift (TTS) at 99 dB re: 20 µPa. The authors identified onset of TTS in the California sea lion at 122 dB re: 20 µPa. The northern elephant seal experienced TTS-onset at 121 dB re: 20 µPa (Kastak *et al.,* 2004).

There is a dearth of information on acoustic effects of helicopter overflights on pinniped hearing and communication (Richardson *et al.,* 1995) and to NMFS' knowledge, there has been no specific documentation of TTS, let alone permanent threshold shift (PTS), in free-ranging pinnipeds exposed to helicopter operations during realistic field conditions (Baker *et al.,* 2012; Scheidat *et al.,* 2011).

In 2008, NMFS issued an IHA to the USFWS for the take of small numbers of Steller sea lions and Pacific harbor

seals, incidental to rodent eradication activities on an islet offshore of Rat Island, AK, conducted by helicopter. The 15-minute aerial treatment consisted of the helicopter slowly approaching the islet at an elevation of over 1,000 ft (304.8 m); gradually decreasing altitude in slow circles; and applying the rodenticide in a single pass and returning to Rat Island. The gradual and deliberate approach to the islet resulted in the sea lions present initially becoming aware of the helicopter and calmly moving into the water. Further, the USFWS reported that all responses fell well within the range of Level B harassment (*i.e.,* limited, short-term displacement resulting from aircraft noise due to helicopter overflights).

As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 dB re: 20 μPa) non-pulse sounds often leave haul out areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007). Per Richardson *et al.* (1995), approaching aircraft generally flush animals into the water and noise from a helicopter is typically directed down in a ''cone'' underneath the aircraft.

It is likely that the initial helicopter approach to NWSR would cause a subset, or all of the marine mammals hauled out to depart the rock and flush into the water. The physical presence of aircraft could also lead to non-auditory effects on marine mammals involving visual or other cues. Airborne sound from a low-flying helicopter or airplane may be heard by marine mammals while at the surface or underwater. In general, helicopters tend to be noisier than fixed wing aircraft of similar size and underwater sounds from aircraft are strongest just below the surface and directly under the aircraft. Noise from aircraft would not be expected to cause direct physical effects, but have the potential to affect behavior. The primary factor that may influence abrupt movements of animals is engine noise, specifically changes in engine noise. Responses by mammals could include hasty dives or turns, change in course, or flushing and stampeding from a haul out site. There are few well documented studies of the impacts of aircraft overflight over pinniped haul out sites or rookeries, and many of those that exist, are specific to military activities (Efroymson *et al.,* 2001).

Several factors complicate the analysis of long- and short-term effects for aircraft overflights. Information on behavioral effects of overflights by military aircraft (or component stressors) on most wildlife species is sparse. Moreover, models that relate behavioral changes to abundance or reproduction, and those that relate behavioral or hearing effects thresholds from one population to another are generally not available. In addition, the aggregation of sound frequencies, durations, and the view of the aircraft into a single exposure metric is not always the best predictor of effects and it may also be difficult to calculate. Overall, there has been no indication that single or occasional aircraft flying above pinnipeds in water cause long term displacement of these animals (Richardson *et al.,* 1995). The Lowest Observed Adverse Effects Levels (LOAEL) are rather variable for pinnipeds on land, ranging from just over 150 m (492 ft) to about 2,000 m (6,562 ft) (Efroymson *et al.,* 2001). A conservative (90th percentile) distance effects level is 1,150 m (3,773 ft). Most thresholds represent movement away from the overflight. Bowles and Stewart (1980) estimated an LOAEL of 305 m (1,000 ft) for helicopters (low and landing) in California sea lions and harbor seals observed on San Miguel Island, CA; animals responded to some degree by moving within the haul out and entering into the water, stampeding into the water, or clearing the haul out completely. Both species always responded with the raising of their heads. California sea lions appeared to react more to the visual cue of the helicopter than the noise.

If pinnipeds are present on NWSR, it is likely that a helicopter landing at the Station would cause some number of the pinnipeds on NWSR to flush; however, when present, they appear to show rapid habituation to helicopter landing and departure (CCR, 2001; Guy Towers, SGRLPS, *pers.com.*). According to the CCR Report (2001), while up to 40 percent of the California and Steller sea lions present on NWSR have been observed to enter the water on the first of a series of helicopter landings, as few as zero percent have flushed on subsequent landings on the same date. In fact, the Society reported that during the November 2011 work session, Steller sea lions and California sea lions exhibited minimal ingress and egress from NWSR during helicopter approaches and departures (SGRLPS, 2011).

Human Presence

The appearance of Society personnel may have the potential to cause Level B harassment of marine mammals hauled out on the small island in the proposed action area. Disturbance includes a variety of effects, including subtle to conspicuous changes in behavior, movement, and displacement. Disturbance may result in reactions ranging from an animal simply becoming alert to the presence of the Society's restoration personnel (*e.g.,* turning the head, assuming a more upright posture) to flushing from the haul out site into the water. NMFS does not consider the lesser reactions to constitute behavioral harassment, or Level B harassment takes, but rather assumes that pinnipeds that move greater than two body lengths to longer retreats over the beach, or if already moving, a change of direction of greater than 90 degrees in response to the presence of surveyors, or pinnipeds that flush into the water, are behaviorally harassed, and thus subject to Level B taking. NMFS uses a 3-point scale (Table 2) to determine which disturbance reactions constitute take under the MMPA. Levels two and three (movement and flush) are considered take, whereas level one (alert) is not. Animals that respond to the presence of the Society's restoration personnel by becoming alert, but do not move or change the nature of locomotion as described, are not considered to have been subject to behavioral harassment.

TABLE 2—DISTURBANCE SCALE OF PINNIPED RESPONSES TO IN-AIR SOURCES TO DETERMINE TAKE

Level	Type of response	Definition
1	Alert	Seal head orientation or brief movement in response to disturbance, which may include turning head towards the disturbance, craning head and neck while holding the body rigid in a u-shaped position, changing from a lying to a sitting position, or brief movement of less than twice the animal's body length.
2*	Movement	Movements in response to the source of disturbance, ranging from short withdrawals at least twice the animal's body length to longer retreats over the beach, or if already moving a change of direction of greater than 90 degrees.

TABLE 2—DISTURBANCE SCALE OF PINNIPED RESPONSES TO IN-AIR SOURCES TO DETERMINE TAKE—Continued

Level	Type of response	Definition
3*	Flush	All retreats (flushes) to the water.

*Only Levels 2 and 3 are considered take, whereas Level 1 is not.

Reactions to human presence, if any, depend on species, state of maturity, experience, current activity, reproductive state, time of day, and many other factors (Richardson *et al.,* 1995; Southall *et al.,* 2007; Weilgart 2007). These behavioral reactions from marine mammals are often shown as: Changing durations of surfacing and dives, number of blows per surfacing, or moving direction and/or speed; reduced/increased vocal activities; changing/cessation of certain behavioral activities (such as socializing or feeding); visible startle response or aggressive behavior; avoidance of areas; and/or flight responses (*e.g.,* pinnipeds flushing into the water from haul outs or rookeries). If a marine mammal does react briefly to human presence by changing its behavior or moving a small distance, the impacts of the change are unlikely to be significant to the individual, let alone the stock or population. However, if visual stimuli from human presence displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on individuals and populations could be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart, 2007).

Disturbances resulting from human activity can impact short- and long-term pinniped haul out behavior (Renouf *et al.,* 1981; Schneider and Payne, 1983; Terhune and Almon, 1983; Allen *et al.,* 1984; Stewart, 1984; Suryan and Harvey, 1999; and Kucey and Trites, 2006). Numerous studies have shown that human activity can flush harbor seals off haul out sites (Allen *et al.,* 1984; Calambokidis *et al.,* 1991; Suryan and Harvey 1999; and Mortenson *et al.,* 2000) or lead Hawaiian monk seals (*Neomonachus schauinslandi*) to avoid beaches (Kenyon 1972). In one case, human disturbance appeared to cause Steller sea lions to desert a breeding area at Northeast Point on St. Paul Island, Alaska (Kenyon 1962).

In cases where vessels actively approached marine mammals (*e.g.,* whale watching or dolphin watching boats), scientists have documented that animals exhibit altered behavior such as increased swimming speed, erratic movement, and active avoidance behavior (Acevedo, 1991; Trites and Bain, 2000; Williams *et al.,* 2002; Constantine *et al.,* 2003), reduced blow interval (Richter *et al.,* 2003), disruption of normal social behaviors (Lusseau 2003; 2006), and the shift of behavioral activities which may increase energetic costs (Constantine *et al.,* 2003; 2004).

In 1997, Henry and Hammil (2001) conducted a study to measure the impacts of small boats (*i.e.,* kayaks, canoes, motorboats and sailboats) on harbor seal haul out behavior in Metis Bay, Quebec, Canada. During that study, the authors noted that the most frequent disturbances (n=73) were caused by lower speed, lingering kayaks, and canoes (33.3 percent) as opposed to motorboats (27.8 percent) conducting high speed passes. The seal's flight reactions could be linked to a surprise factor by kayaks and canoes which approach slowly, quietly, and low on the water making them look like predators. However, the authors note that once the animals were disturbed, there did not appear to be any significant lingering effect on the recovery of numbers to their pre-disturbance levels. In conclusion, the study showed that boat traffic at current levels has only a temporary effect on the haul out behavior of harbor seals in the Metis Bay area.

In 2004, Acevedo-Gutierrez and Johnson (2007) evaluated the efficacy of buffer zones for watercraft around harbor seal haul out sites on Yellow Island, Washington. The authors estimated the minimum distance between the vessels and the haul out sites; categorized the vessel types; and evaluated seal responses to the disturbances. During the course of the seven-weekend study, the authors recorded 14 human-related disturbances which were associated with stopped powerboats and kayaks. During these events, hauled out seals became noticeably active and moved into the water. The flushing occurred when stopped kayaks and powerboats were at distances as far as 453 and 1,217 ft (138 and 371 m) respectively. The authors note that the seals were unaffected by passing powerboats, even those approaching as close as 128 ft (39 m), possibly indicating that the animals had become tolerant of the brief presence of the vessels and ignored them. The authors reported that on average, the seals quickly recovered from the disturbances and returned to the haul out site in less than or equal to 60 minutes. Seal numbers did not return to pre-disturbance levels within 180 minutes of the disturbance less than one quarter of the time observed. The study concluded that the return of seal numbers to pre-disturbance levels and the relatively regular seasonal cycle in abundance throughout the area counter the idea that disturbances from powerboats may result in site abandonment (Johnson and Acevedo-Gutierrez, 2007). As a general statement from the available information, pinnipeds exposed to intense (approximately 110 to 120 decibels re: 20 μPa) non-pulsed sounds often leave haul out areas and seek refuge temporarily (minutes to a few hours) in the water (Southall *et al.,* 2007).

Stampede

There are other ways in which disturbance, as described previously, could result in more than Level B harassment of marine mammals. They are most likely to be consequences of stampeding, a potentially dangerous occurrence in which large numbers of animals succumb to mass panic and rush away from a stimulus. These situations are: (1) Falling when entering the water at high-relief locations; (2) extended separation of mothers and pups; and (3) crushing of pups by large males during a stampede. However, NMFS does not expect any of these scenarios to occur at NWSR. There is the risk of injury if animals stampede towards shorelines with precipitous relief (*e.g.,* cliffs). However, there are no cliffs on NWSR. The haul out sites consist of ridges with unimpeded and non-obstructive access to the water. If disturbed, the small number of hauled-out adult animals may move toward the water without risk of encountering barriers or hazards that would otherwise prevent them from leaving the area. Moreover, the proposed area would not be crowded with large numbers of Steller sea lions, further eliminating the possibility of potentially injurious mass movements of animals attempting to vacate the haul out. Thus, in this case, NMFS considers the risk of injury, serious injury, or death to hauled-out animals as very low.

Anticipated Effects on Marine Mammal Habitat

The only habitat modification associated with the proposed activity is

the restoration of a light station which would occur on the upper levels of Northwest Seal Rock which are not used by marine mammals. Thus, NMFS does not expect that the proposed activity would have any effects on marine mammal habitat and NMFS expects that there will be no long- or short-term physical impacts to pinniped habitat on NWSR.

The Society would remove all waste, discarded materials and equipment from the island after each visit. The proposed activities will not result in any permanent impact on habitats used by marine mammals, including prey species and foraging habitat. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals (*i.e.,* the potential for temporary abandonment of the site), previously discussed in this notice.

NMFS does not anticipate that the proposed restoration activities would result in any permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (*i.e.,* fish and invertebrates). Based on the preceding discussion, NMFS does not anticipate that the proposed activity would have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations.

Proposed Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses. NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks, their habitat (50 CFR 216.104(a)(11)).

Time and Frequency: The Society would conduct restoration activities at maximum of once per month over the course of the year, with the exception of between May 1, 2017 through October 31, 2017. Each restoration session would last no more than three days. Maintenance of the light beacon would occur only in conjunction with restoration activities.

Helicopter Approach and Timing Techniques: The Society would ensure that its helicopter approach patterns to the Station and timing techniques would be conducted at times when marine mammals are less likely to be disturbed. To the extent possible, the helicopter should approach NWSR when the tide is too high for the marine mammals to haul out on NWSR. Additionally, since the most severe impacts (stampede) precede rapid and direct helicopter approaches, the Society's initial approach to the Station must be offshore from the island at a relatively high altitude (*e.g.,* 800–1,000 ft, or 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from area with the lowest pinniped density. If for any safety reasons (*e.g.,* wind condition) the Society cannot conduct these types of helicopter approach and timing techniques, they must postpone the restoration and maintenance activities for that day.

Avoidance of Visual and Acoustic Contact with People on Island: The Society would instruct its members and restoration crews to avoid making unnecessary noise and not expose themselves visually to pinnipeds around the base of the Station. Although CCR reported no impacts from these activities in the 2001 CCR study, it is relatively simple for the Society to avoid this potential impact. The door to the lower platform shall remain closed and barricaded to all tourists and other personnel since the lower platform is used at times by pinnipeds.

Mitigation Conclusions

NMFS has carefully evaluated the Society's proposed mitigation measures in the context of ensuring that we prescribe the means of affecting the least practicable impact on the affected marine mammal species and stocks and their habitat. The evaluation of potential measures included consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed here:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals exposed to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to vessel or visual presence that NMFS expects to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on the evaluation of the Society's proposed measures, NMFS has preliminarily determined that the proposed mitigation measures provide the means of effecting the least practicable impact on marine mammal species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring

In order to issue an incidental take authorization for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for IHAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result

in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that NMFS expects to be present in the proposed action area.

The Society submitted a marine mammal monitoring plan in Section 13 of their IHA application. NMFS or the Society may modify or supplement the plan based on comments or new information received from the public during the public comment period.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in our understanding of the likely occurrence of marine mammal species in the vicinity of the action (*i.e.,* presence, abundance, distribution, and/or density of species).

2. An increase in our understanding of the nature, scope, or context of the likely exposure of marine mammal species to any of the potential stressor(s) associated with the action (*e.g.,* sound or visual stimuli), through better understanding of one or more of the following: The action itself and its environment (*e.g.,* sound source characterization, propagation, and ambient noise levels); the affected species (*e.g.,* life history or dive pattern); the likely co-occurrence of marine mammal species with the action (in whole or part) associated with specific adverse effects; and/or the likely biological or behavioral context of exposure to the stressor for the marine mammal (*e.g.,* age class of exposed animals or known pupping, calving or feeding areas).

3. An increase in our understanding of how individual marine mammals respond (behaviorally or physiologically) to the specific stressors associated with the action (in specific contexts, where possible, *e.g.,* at what distance or received level).

4. An increase in our understanding of how anticipated individual responses, to individual stressors or anticipated combinations of stressors, may impact either: The long-term fitness and survival of an individual; or the population, species, or stock (*e.g.,* through effects on annual rates of recruitment or survival).

5. An increase in our understanding of how the activity affects marine mammal habitat, such as through effects on prey sources or acoustic habitat (*e.g.,* through characterization of longer-term contributions of multiple sound sources to rising ambient noise levels and assessment of the potential chronic effects on marine mammals).

6. An increase in understanding of the impacts of the activity on marine mammals in combination with the impacts of other anthropogenic activities or natural factors occurring in the region.

7. An increase in our understanding of the effectiveness of mitigation and monitoring measures.

8. An increase in the probability of detecting marine mammals (through improved technology or methodology), both specifically within the safety zone (thus allowing for more effective implementation of the mitigation) and in general, to better achieve the above goals.

As part of its IHA application, the Society proposes to sponsor marine mammal monitoring, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the proposed IHA. These include:

A NMFS approved, experienced biologist will be present on the first flight of each day of activity. This observer will be able to identify all species of pinnipeds expected to use the island, and qualified to determine age and sex classes when viewing conditions allow. The observer would record data including species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the activities, including location, date, and time of the event. In addition, the Society would record observations regarding the number and species of any marine mammals either observed in the water or hauled out.

Aerial photographic surveys may provide the most accurate means of documenting species composition, age and sex class of pinnipeds using the project site during human activity periods. The Society should complete aerial photo coverage of the island from the same helicopter used to transport the Society's personnel to the island during restoration trips. The Society would take photographs of all marine mammals hauled out on the island at an altitude greater than 300 m (984 ft) by a skilled photographer, on the first flight of each day of activities. These photographs will be forwarded to a biologist capable of discerning marine mammal species. Data shall be provided to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The original photographs can be made available to us or other marine mammal experts for inspection and further analysis.

Proposed monitoring requirements in relation to the Society's proposed activities would include species counts, numbers of observed disturbances, and descriptions of the disturbance behaviors during the restoration activities, including location, date, and time of the event. In addition, the Society would record observations regarding the number and species of any marine mammals either observed in the water or hauled out.

The Society can add to the knowledge of pinnipeds in the proposed action area by noting observations of: (1) Unusual behaviors, numbers, or distributions of pinnipeds, such that any potential follow-up research can be conducted by the appropriate personnel; (2) tag-bearing carcasses of pinnipeds, allowing transmittal of the information to appropriate agencies and personnel; and (3) rare or unusual species of marine mammals for agency follow-up.

If at any time injury, serious injury, or mortality of the species for which take is authorized should occur, or if take of any kind of any other marine mammal occurs, and such action may be a result of the Society's activities, the Society would suspend survey activities and contact NMFS immediately to determine how best to proceed to ensure that another injury or death does not occur and to ensure that the applicant remains in compliance with the MMPA.

Summary of Previous Monitoring

The Society complied with the mitigation and monitoring required under the previous authorizations (2010–2012). They did not conduct any operations for the 2013–2016 seasons. However, in compliance with the 2012 Authorization, the Society submitted a final report on the activities at the Station, covering the period of February 15, 2012 through April 30, 2012. During the effective dates of the 2012 IHA, the Society conducted one work session in March, 2012. The Society's aircraft operations and restoration activities on NWSR did not exceed the activity levels analyzed under the 2012 authorization. During the March 2012 work session, the Society observed two harbor seals hauled out on NWSR. Both animals (a juvenile and an adult) departed the rock, entered the water, and did not return to the Station during the duration of the activities.

Proposed Reporting

The Society would submit a draft report to NMFS' Office of Protected Resources no later than 90 days after the expiration of the proposed IHA, if issued. The report will include a summary of the information gathered pursuant to the monitoring requirements set forth in the proposed IHA. The Society will submit a final report to the NMFS within 30 days after

receiving comments from NMFS on the draft report. If the Society receives no comments from NMFS on the report, NMFS will consider the draft report to be the final report.

The report will describe the operations conducted and sightings of marine mammals near the proposed project. The report will provide full documentation of methods, results, and interpretation pertaining to all monitoring. The report will provide:

1. A summary and table of the dates, times, and weather during all research activities.

2. Species, number, location, and behavior of any marine mammals observed throughout all monitoring activities.

3. An estimate of the number (by species) of marine mammals exposed to human presence associated with the Society's activities.

4. A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization, such as an injury (Level A harassment), serious injury, or mortality (*e.g.,* stampede), Society personnel shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant Westcoast Regional Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description and location of the incident (including water depth, if applicable);
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Society shall not resume its activities until NMFS is able to review the circumstances of the prohibited take. We will work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

In the event that the Society discovers an injured or dead marine mammal, and the marine mammal observer determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as we describe in the next paragraph), the Society will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant Westcoast Regional Stranding Coordinator. The report must include the same information identified in the paragraph above this section. Activities may continue while NMFS reviews the circumstances of the incident. NMFS would work with the Society to determine whether modifications in the activities are appropriate.

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant Westcoast Regional Stranding Coordinator within 24 hours of the discovery. Society personnel will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us. The Society can continue their survey activities while NMFS reviews the circumstances of the incident.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All anticipated takes would be by Level B harassment, involving temporary changes in behavior. NMFS expects that the proposed mitigation and monitoring measures would minimize the possibility of injurious or lethal takes. NMFS considers the potential for take by injury, serious injury, or mortality as remote. NMFS expects that the presence of Society personnel could disturb of animals hauled out on NWSR and that the animals may alter their behavior or attempt to move away from the Society's personnel.

As discussed earlier, NMFS assumes that pinnipeds that move greater than two body lengths to longer retreats over the beach, or if already moving, a change of direction of greater than 90 degrees in response to the presence of surveyors, or pinnipeds that flush into the water, are behaviorally harassed, and thus subject to Level B taking (Table 2).

Based on the Society's previous monitoring reports, NMFS estimates that approximately 2880 California sea lions (calculated by multiplying the maximum number California sea lions present on NWSR (160) by 18 days of the restoration and maintenance activities), 2700 Steller sea lions (NMFS' estimate of the maximum number of Steller sea lions that could be present on NWSR (150) by 18 days of activity), 108 Pacific harbor seals (calculated by multiplying the maximum number of harbor seals present on NWSR (6) by 18 days), and 18 Northern fur seals (calculated by multiplying the maximum number of northern fur seals present on NWSR (1) by 18 days) could be potentially affected by Level B behavioral harassment over the course of the IHA. NMFS bases these estimates of the numbers of marine mammals that might be affected on consideration of the number of marine mammals that could be disturbed appreciably by approximately 51 hours of aircraft operations during the course of the activity. These incidental harassment take numbers represent less than one percent of the affected stocks of California sea lions, Pacific harbor seals, and Northern fur seals, and less than five percent of the stock of Steller sea lions (Table 3). However, actual take may be slightly less if animals decide to haul out at a different location for the day or if animals are foraging at the time of the survey activities.

TABLE 3—THE PERCENTAGE OF STOCK AFFECTED BY THE NUMBER OF TAKES PER SPECIES

Species	Take number	Stock abundance	Percent of stock
California sea lion *(Zalophus californianus)*	2,880	296,750	0.975
Steller sea lion (*Eumetopias jubatus*)	2,790	60,131–74,448	4.64–3.75
Pacific harbor seal (*Phoca vitulina*)	36	30,968	0.35
Northern fur seal (*Callorhinus ursinus*)	18	14,050	.12

Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area, NMFS does not expect any injury or mortality to pinnipeds to occur and NMFS has not authorized take by Level A harassment for this proposed activity.

Encouraging and Coordinating Research

The Society would share observations and counts of marine mammals and all observed disturbances to the appropriate state and federal agencies at the conclusion of the survey.

Analysis and Preliminary Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). The lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population level effects) forms the basis of a negligible impact finding. An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

Although the Society's survey activities may disturb a small number of marine mammals hauled out on NWSR, NMFS expects those impacts to occur to a small, localized group of animals for a limited duration (*e.g.,* six hours in one day). Marine mammals would likely become alert or, at most, flush into the water in reaction to the presence of the Society's personnel during the proposed activities. Disturbance will be limited to a short duration, allowing marine mammals to reoccupy NWSR within a short amount of time. Thus, the proposed action is unlikely to result in long-term impacts such as permanent abandonment of the area because of the availability of alternate areas for pinnipeds to avoid the resultant acoustic and visual disturbances from the restoration activities and helicopter operations. Results from previous monitoring reports also show that the pinnipeds returned to NWSR and did not permanently abandon haul out sites after the Society conducted their activities.

The Society's activities would occur during the least sensitive time (*e.g.,* November through April, outside of the pupping season) for hauled out pinnipeds on NWSR. Thus, pups or breeding adults would not be present during the proposed activity days.

Moreover, the Society's mitigation measures regarding helicopter approaches and restoration site ingress and egress would minimize the potential for stampedes and large-scale movements. Thus, the potential for large-scale movements and stampede leading to injury, serious injury, or mortality is low.

Any noise attributed to the Society's proposed helicopter operations on NWSR would be short-term (approximately six min per trip). We would expect the ambient noise levels to return to a baseline state when helicopter operations have ceased for the day. As the helicopter landings take place 15 m (48 ft) above the surface of the rocks on NWSR, NMFS presumes that the received sound levels would increase above 81–81.9 dB re: 20 μPa (A-weighted) at the landing pad. However, we do not expect that the increased received levels of sound from the helicopter would cause TTS or PTS because the pinnipeds would flush before the helicopter approached NWSR; thus increasing the distance between the pinnipeds and the received sound levels on NWSR during the proposed action.

If pinnipeds are present on NWSR, Level B behavioral harassment of pinnipeds may occur during helicopter landing and takeoff from NWSR due to the pinnipeds temporarily moving from the rocks and lower structure of the Station into the sea due to the noise and appearance of helicopter during approaches and departures. It is expected that all or a portion of the marine mammals hauled out on the island will depart the rock and slowly move into the water upon initial helicopter approaches. The movement to the water would be gradual due to the required controlled helicopter approaches (see *Proposed Mitigation* for more details), the small size of the aircraft, the use of noise-attenuating blade tip caps on the rotors, and behavioral habituation on the part of the animals as helicopter trips continue throughout the day. During the sessions of helicopter activity, if present on NWSR, some animals may be temporarily displaced from the island and either raft in the water or relocate to other haul outs.

Sea lions have shown habituation to helicopter flights within a day at the project site and most animals are expected to return soon after helicopter activities cease for that day. By clustering helicopter arrival/departures within a short time period, we expect animals present to show less response to subsequent landings. NMFS anticipates no impact on the population size or breeding stock of Steller sea lions, California sea lions, Pacific harbor seals, or Northern fur seals.

In summary, NMFS anticipates that impacts to hauled-out pinnipeds during the Society's proposed helicopter operations and restoration/maintenance activities would be behavioral harassment of limited duration (*i.e.,* less than three days a month) and limited intensity (*i.e.,* temporary flushing at most). NMFS does not expect stampeding, and therefore injury or mortality to occur (see *Proposed Mitigation* for more details). Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the proposed monitoring and mitigation measures, NMFS preliminarily finds that the total marine mammal take from the Society's proposed survey activities will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers

As mentioned previously, NMFS estimates that the Society's proposed activities could potentially affect, by Level B harassment only, four species of marine mammal under our jurisdiction. For each species, these estimates are small numbers (less than one percent of the affected stocks of California sea lions, Pacific harbor seals, and Northern fur seals, and less than five percent of the stock of Steller sea lions) relative to the population size (Table 3).

Based on the analysis contained in this notice of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, NMFS preliminarily finds that the Society's proposed activities would take small numbers of marine mammals relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

There are no relevant subsistence uses of marine mammals implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

NMFS does not expect that the Society's proposed helicopter operations and restoration/maintenance activities would affect any species listed under the ESA. Therefore, NMFS has determined that a Section 7 consultation under the ESA is not required.

National Environmental Policy Act (NEPA)

To meet our NEPA requirements for the issuance of an IHA to the Society, NMFS has prepared an EA specific to conducting aircraft operations and restoration and maintenance work on the St. George Reef Light Station. The EA, titled ''Issuance of an Incidental Harassment Authorization to Take Marine Mammals by Harassment Incidental to Conducting Aircraft Operations, Lighthouse Restoration and Maintenance Activities, and Tour Operations on St. George Reef Lighthouse Station in Del Norte County, California,'' evaluated the impacts on the human environment of our authorization of incidental Level B harassment resulting from the specified activity in the specified geographic region. An electronic copy of the EA and the Finding of No Significant Impact (FONSI) for this activity is available on the Web site at: *http://www.nmfs.noaa.gov/pr/permits/incidental/research.html.*

Proposed Authorization

As a result of these preliminary determinations, NMFS proposes issuing an IHA to the Society for conducting helicopter operations and maintenance and restoration activities on the St. George Lighthouse Station in the northeast Pacific Ocean, February 19, 2017 through February 18, 2018, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements.

Draft Proposed Authorization

This section contains the draft text for the proposed IHA. NMFS proposes to include this language in the IHA, if issued.

Proposed Authorization Language

The St. George Reef Lighthouse Preservation Society (Society), P.O. Box 577, Crescent City, CA 95531, is hereby authorized under section 101(a)(5)(D) of the Marine Mammal Protection Act (16 U.S.C. 1371(a)(5)(D)) and 50 CFR 216.107, to harass marine mammals incidental to conducting helicopter operations and restoration and maintenance work on the St. George Reef Light Station (Station) on Northwest Seal Rock (NWSR) in the Northeast Pacific Ocean.

1. This Incidental Harassment Authorization (IHA) is valid from February 19, 2017 through February 18, 2018. The Society may not conduct operations from May 1, 2017 through October 31, 2017.

2. This IHA is valid only for activities associated with helicopter operations, lighthouse restoration and maintenance activities, and human presence (See items 2(a)–(d)) on the Station on NWSR (41°50′24″ N., 124°22′06″ W.) in the Northeast Pacific Ocean.

a. The use of a small, compact, 4-person helicopter with two-bladed main and tail rotors fitted with noise-attenuating blade tip caps to transit to and from NWSR;

b. Restoration activities (*e.g.,* painting, plastering, welding, and glazing) conducted on the Station;

c. Maintenance activities (*e.g.,* bulb replacement and automation of the light system) conducted on the Station; and

d. Emergency repair events (*e.g.,* the failure of the PATON beacon light) outside of the three-day work session.

e. Human presence.

3. General Conditions

a. A copy of this IHA must be in the possession of the Society, its designees, and work crew personnel operating under the authority of this IHA.

b. The species authorized for taking are the California sea lion (*Zalophus californianus*), Pacific Harbor seal (*Phoca vitulina*), the eastern Distinct Population Segment of Steller sea lion (*Eumetopias jubatus*), and the eastern Pacific stock of northern fur seal (*Callorhinus ursinus*).

c. The taking, by Level B harassment only, is limited to the species listed in condition 3(b). Authorized take: California sea lion (2880); Steller sea lion (2790); Pacific harbor seal (36); and northern fur seal (18).

d. The taking by Level A harassment, injury or death of any of the species listed in item 3(b) of the IHA or the taking by harassment, injury or death of any other species of marine mammal is prohibited and may result in the modification, suspension, or revocation of this IHA.

e. In the case of an emergency repair event (*i.e.,* failure of the PATON beacon light) between May 1, 2017 through October 31, 2017, the Society will consult with the ARA, Westcoast Region, NMFS, to best determine the timing of an emergency repair trip to the Station.

a. The Westcoast Region NMFS marine mammal biologist will make a decision regarding when the Society can schedule helicopter trips to the NWSR during the emergency repair time window and will ensure that such operations will have the least practicable adverse impact to marine mammals.

b. The ARA, Westcoast Region, NMFS will also ensure that the Society's request for incidental take during an emergency repair event would not exceed the number of incidental take authorized in this IHA.

4. Cooperation

The holder of this IHA is required to cooperate with the NMFS and any other Federal, state, or local agency authorized to monitor the impacts of the activity on marine mammals.

5. Mitigation Measures

In order to ensure the least practicable impact on the species listed in condition 3(b), the holder of this IHA is required to:

a. Conduct restoration and maintenance activities at the Station at a maximum of one session per month between February 19, 2017 and February 18, 2018. Each restoration session will be no more than three days in duration. Maintenance of the light beacon will occur only in conjunction with the monthly restoration activities.

b. Ensure that helicopter approach patterns to the NWSR will be such that the timing techniques are least disturbing to marine mammals. To the extent possible, the helicopter should approach NWSR when the tide is too high for the marine mammals to haul out on NWSR.

c. Avoid rapid and direct approaches by the helicopter to the station by approaching NWSR at a relatively high altitude (*e.g.,* 800–1,000 ft; 244–305 m). Before the final approach, the helicopter shall circle lower, and approach from area where the density of pinnipeds is the lowest. If for any safety reasons (*e.g.,* wind conditions or visibility) such helicopter approach and timing techniques cannot be achieved, the Society must abort the restoration and maintenance session for that day.

d. Provide instructions to the Society's members, the restoration crew, and if applicable, to tourists, on appropriate conduct when in the vicinity of hauled-out marine mammals. The Society's members, the restoration crew, and if applicable, tourists, will avoid making unnecessary noise while on NWSR and must not view pinnipeds around the base of the Station.

e. Ensure that the door to the Station's lower platform shall remain closed and barricaded at all times.

6. Monitoring

The holder of this IHA is required to:

a. Have a NMFS-approved experienced biologist will be present on the first flight of each day of activities.

b. Record the date, time, and location (or closest point of ingress) of each visit to the NWSR.

c. Collect the following information for each visit:

i. Information on the numbers (by species) of marine mammals observed during the activities;

ii. The estimated number of marine mammals (by species) that may have been harassed during the activities;

iii. Any behavioral responses or modifications of behaviors that may be attributed to the specific activities (*e.g.,* flushing into water, becoming alert and moving, rafting); and

iv. Information on the weather, including the tidal state and horizontal visibility.

d. Employ a skilled, aerial photographer to document marine mammals hauled out on NWSR.

i. The photographer will complete a photographic survey of NWSR using the same helicopter that will transport Society personnel to the island during restoration trips.

ii. Photographs of all marine mammals hauled-out on the island shall be taken at an altitude greater than 300 m (984 ft) during the first arrival flight to NWSR.

iii. The Society and/or its designees will forward the photographs to a biologist capable of discerning marine mammal species. The Society shall provide the data to us in the form of a report with a data table, any other significant observations related to marine mammals, and a report of restoration activities (see Reporting). The Society will make available the original photographs to NMFS or to other marine mammal experts for inspection and further analysis.

7. Reporting Requirements

Final Report: The holder of this IHA is required to submit a draft monitoring report to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, 13th Floor, Silver Spring, MD 20910, no later than 90 days after the project is completed. The report must contain the following information:

a. A summary of the dates, times, and weather during all helicopter operations, restoration, and maintenance activities.

b. Species, number, location, and behavior of any marine mammals, observed throughout all monitoring activities.

c. An estimate of the number (by species) of marine mammals that are known to have been exposed to visual and acoustic stimuli associated with the helicopter operations, restoration, and maintenance activities.

d. A description of the implementation and effectiveness of the monitoring and mitigation measures of the IHA and full documentation of methods, results, and interpretation pertaining to all monitoring.

8. Reporting Prohibited Take

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury, or mortality (*e.g.,* stampede, etc.), the Society shall immediately cease the specified activities and immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, NMFS, and the Assistant Westcoast Regional Stranding Coordinator.

The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

The Society shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with the Society to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. The Society may not resume their activities until notified by us via letter, email, or telephone.

9. Reporting an Injured or Dead Marine Mammal With an Unknown Cause of Death

In the event that the Society discovers an injured or dead marine mammal, and the observer determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as we describe in the next paragraph), the Society will immediately report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, and the Assistant Westcoast Regional Stranding Coordinator. The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with the Society to determine whether modifications in the activities are appropriate.

The report must include the same information identified in the paragraph above. Activities may continue while we review the circumstances of the incident. We will work with the Society to determine whether modifications in the activities are appropriate.

10. Reporting an Injured or Dead Marine Mammal Not Related to the Society's Activities

In the event that the Society discovers an injured or dead marine mammal, and the lead visual observer determines that the injury or death is not associated with or related to the authorized activities (*e.g.,* previously wounded

animal, carcass with moderate to advanced decomposition, or scavenger damage), the Society will report the incident to the Chief, Permits and Conservation Division, Office of Protected Resources, and the Assistant Westcoast Regional Stranding Coordinator, within 24 hours of the discovery.

The Society's staff will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

11. This IHA may be modified, suspended or withdrawn if the holder fails to abide by the conditions prescribed herein, or if the authorized taking is having a more than a negligible impact on the species or stock of affected marine mammals.

Request for Public Comments

NMFS requests comments on our analysis, the draft IHA, and any other aspect of this notice of proposed IHA for the proposed activities. Please include any supporting data or literature citations with your comments to help inform our final decision on the Society's request for an IHA.

Dated: December 16, 2016.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–30785 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF099

Nominations to the Marine Fisheries Advisory Committee

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

ACTION: Notice; request for nominations.

SUMMARY: Nominations are being sought for appointment by the Secretary of Commerce to fill vacancy openings on the Marine Fisheries Advisory Committee (MAFAC or Committee) that will be pending late April 2017. MAFAC is the only Federal advisory committee with the responsibility to advise the Secretary of Commerce (Secretary) on all matters concerning living marine resources that are the responsibility of the Department of Commerce. The Committee makes recommendations to the Secretary to assist in the development and implementation of Departmental regulations, policies, and programs critical to the mission and goals of NMFS. Nominations are encouraged from all interested parties involved with or representing interests affected by NMFS actions in managing living marine resources. Nominees should possess demonstrable expertise in a field related to the management of living marine resources and be able to fulfill the time commitments required for two annual meetings and year round subcommittee work. Individuals serve for a term of three years for no more than two consecutive terms if re-appointed. NMFS is seeking qualified nominees to fill upcoming vacancies being created by term limits.

DATES: Nominations must be postmarked or have an email date stamp on or before February 6, 2017.

ADDRESSES: Nominations should be sent to Heidi Lovett, MAFAC Assistant Director, NMFS Office of Policy, 14th Floor, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Heidi Lovett, MAFAC Assistant Director; (301) 427–8034; email: *heidi.lovett@noaa.gov.*

SUPPLEMENTARY INFORMATION: The MAFAC was approved by the Secretary on December 28, 1970, and subsequently chartered under the Federal Advisory Committee Act, 5 U.S.C. App. 2, on February 17, 1971. The Committee meets twice a year with supplementary subcommittee meetings as determined necessary by the Committee Chair and Subcommittee Chairs. No less than 15 and no more than 21 individuals may serve on the Committee. Membership is comprised of highly qualified, diverse individuals representing commercial, recreational, subsistence, and aquaculture fisheries interests; seafood industry; environmental organizations; academic institutions; tribal and consumer groups; and other living marine resource interest groups from a balance of U.S. geographical regions, including the Western Pacific and Caribbean.

A MAFAC member cannot be a Federal employee, member of a Regional Fishery Management Council, registered Federal lobbyist, State employee, or agent of a foreign principal. Selected candidates must pass a security check and submit a financial disclosure form. Membership is voluntary, and except for reimbursable travel and related expenses, service is without pay.

Each nomination submission should include the nominee's name, a cover letter describing the nominee's qualifications and interest in serving on the Committee, curriculum vitae or resume of the nominee, and no more than three supporting letters describing the nominee's qualifications and interest in serving on the Committee. Self-nominations are acceptable. The following contact information should accompany each nominee's submission: Name, address, telephone number, fax number, and email address (if available).

Nominations should be sent to Heidi Lovett (see **ADDRESSES**) and must be received by February 6, 2017. The full text of the Committee Charter and its current membership can be viewed at the NMFS' Web page at *www.nmfs.noaa.gov/mafac.htm.*

Dated: December 20, 2016.

Jennifer Lukens,

Director for the Office of Policy, National Marine Fisheries Service.

[FR Doc. 2016–31040 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF095

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) Groundfish Plan Team will hold a two day meeting.

DATES: The meeting will be begin at 9 a.m. on Wednesday January 11, 2017, and end at 5 p.m. on Thursday January 12, 2017, to view the agenda see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting will be held at the Alaska Fishery Science Center Traynor Room 2076, 7600 Sand Point Way NE., Building 4, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252; telephone (907) 271–2809.

FOR FURTHER INFORMATION CONTACT: Diana Stram or Jim Armstrong, Council staff; telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION:

Agenda

Wednesday, January 11, 2017 Through Thursday January 12, 2017

The Joint *Groundfish* Plan Team will provide recommendations on NPFMC stock prioritization results specifically on the following: (a) Evaluate the results of the prioritization process applied to North Pacific g*roundfish,* (b) develop a proposal for how to use those results to support planning, (c) discuss any recommended changes from status quo and whether those changes are supported/justified, and (d) discuss the implications and where assessments may occur at lower frequency, discuss potential interim actions to support management.

The Agenda is subject to change, and the latest version will be posted, at *http://www.npfmc.org/fishery-management-plan-team/goa-bsai-groundfish-plan-team/.*

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Shannon Gleason at (907) 271–2809 at least 7 business days prior to the meeting date.

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

Dated: December 19, 2016.

Tracey L. Thompson,

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

[FR Doc. 2016–30819 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: Comments must be received on or before—1/22/2017.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following services are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Services

Service Type: Sustainment, Restoration, and Modernization (SRM) Service
Mandatory for: US Army, DPW, Fort Riley, KS (excluding Residential Housing Areas and including Forbes Air Field, Topeka, KS), Fort Riley, KS
Mandatory Source(s) of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: US Army Corps of Engineers, Huntsville Engineering & Support Center, Huntsville, AL
Service Type: Janitorial Service and Grounds Maintenance Service
Mandatory for: Federal Aviation Administration, Flight Inspection Field Office, 4185 Martin Luther King Jr. Drive, Atlanta, GA
Mandatory Source(s) of Supply: Bobby Dodd Institute, Inc., Atlanta, GA
Contracting Activity: Dept of Transportation, Federal Aviation Administration
Service Type: Mail and Courier Service
Mandatory for: US Customs and Border Protection, New York Field Office Mail Room, One World Trade Center, 285 Fulton Street, New York, NY
Mandatory Source(s) of Supply: The Corporate Source, Inc., New York, NY
Contracting Activity: U.S. Customs and Border Protection, Border Enforcement Center Div
Service Type: Base Operations Support Service
Mandatory for: Naval Facilities Engineering Command Northwest, North Sound Facilities, 1101 Tautog Circle, Silverdale, WA
Mandatory Source(s) of Supply: Skookum Educational Programs, Bremerton, WA
Contracting Activity: Dept of the Navy, NAVFAC NORTHWEST

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s): 2510–00–535–6797—Side Rack, Vehicle
2510–00–571–6968—Side Rack, Vehicle
2510–00–860–0517—Side Rack, Vehicle
2510–00–860–0523—Side Rack, Vehicle
2510–01–180–1099—Stake, Vehicle Body
Mandatory Source(s) of Supply: UNKNOWN
Contracting Activity: Defense Logistics Agency Land and Maritime
NSN(s)—Product Name(s): 7520–00–162–6153—Stand, Calendar Pad, for 3″ x 3–3/4″ refill, Gray
7520–00–139–4341—Stand, Calendar Pad, for 3″ x 3–3/4″ refill, Beige
NPA: LC Industries, Inc.,
Mandatory Source(s) of Supply: LC Industries, Inc., Durham, NC
Contracting Activity: General Services Administration, New York, NY
NSN(s)—Product Name(s): 7195–01–567–9523—Bulletin Board, Fabric, 36″ x 24″, Plastic Frame
Mandatory Source(s) of Supply: The Lighthouse for the Blind, Inc. (Seattle Lighthouse), Seattle, WA
Contracting Activities: Department of Veterans Affairs, Strategic Acquisition Center, General Services Administration, Philadelphia
NSN(s)—Product Name(s): 6515–00–NIB–0480—Glove Powdered, Perry Orthopaedic
Mandatory Source(s) of Supply: Bosma Industries for the Blind, Inc., Indianapolis, IN
Contracting Activity: Department of Veterans Affairs

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2016–31054 Filed 12–22–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from the Procurement List.

SUMMARY: This action adds services to the Procurement List that will be provided by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products and services from the Procurement List previously furnished by such agencies.

DATES: Effective Date—1/22/2017.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On 10/7/2016 (81 FR 69789–69790) and 11/10/2016 (81 FR 78996–78997), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will provide the services to the Government.

2. The action will result in authorizing small entities to provide the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the services proposed for addition to the Procurement List.

End of Certification

Services

Service Type: Retail Operation Support Service
Mandatory for: GSA FAS, GSA Global Supply Store, 5250 Gibson Avenue, Joint Base Elmendorf Richardson, AK
Mandatory Source(s) of Supply: M.C. Resource Management, Anchorage, AK
Contracting Activity: General Services Administration, Federal Acquisition Service, Washington, DC
Service Type: Mailroom Support Service
Mandatory for: U.S. Air National Guard, Air National Guard Readiness, Center Receiving & Document Control Center, Joint Base Andrews, MD
Mandatory Source(s) of Supply: ServiceSource, Inc., Oakton, VA
Contracting Activity: Dept of the Army, W39L USA NG READINESS CENTER
Service Type: Document Control and Conversion Support Service
Mandatory for: Federal Communications Commission, FCC HQ, Washington, DC
Mandatory Source(s) of Supply: Linden Resources, Inc., Arlington, VA
Contracting Activity: U.S. Federal Communications Commission, Office of Managing Director, Enterprise Acquisition Center, Washington, DC

Deletions

On 11/10/2016 (81 FR 78996–78997) and 11/18/2016 (81 FR 81744–81745), the Committee for Purchase From People Who Are Blind or Severely Disabled published notices of proposed deletions from the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products and services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the products and services deleted from the Procurement List.

End of Certification

Accordingly, the following products and services are deleted from the Procurement List:

Products

NSN(s)—Product Name(s):
7510–01–545–3778—DAYMAX System, 2015, Calendar Pad, Type II
7510–01–545–3782—DAYMAX System, 2015, Calendar Pad, Type I
Mandatory Source(s) of Supply: Anthony Wayne Rehabilitation Center for Handicapped and Blind, Inc., Fort Wayne, IN
Contracting Activity: General Services Administration, New York, NY

Services

Service Type: Document Destruction Service
Mandatory Source(s) of Supply: Source America (Prime Contractor)
Contracting Activity: Dept. of the Treasury/Internal Revenue Service, Washington, DC
Mandatory for:
Internal Revenue Service Offices at the following locations:
Defiance: 208 Perry St, Defiance, OH
Lorain: 300 Broadway, Lorain, OH
Painesville: 8 North State Street, Painesville, OH
Steubenville: 500 Market Street, Steubenville, OH
Warrendale: 547 Keystone Drive, Warrendale, PA
Weaver Industries, Inc., Akron, OH (Subcontractor)
Creekside IV: 12 Cadillac Dr., Ste 400, Brentwood, TN
The Orange Grove Center, Inc., Chattanooga, TN (Subcontractor)
11620 Caroline Road, Philadelphia, PA
9815 B Roosevelt Blvd., Philadelphia, PA
Opportunity Center, Incorporated, Wilmington, DE (Subcontractor)
Greensboro: 2303 W Meadowview Road, Greensboro, NC
Winston Salem: 251 N Main Street, Winston Salem, NC
OE Enterprises, Inc., Hillsborough, NC (Subcontractor)
201 Como Park Blvd., Cheektowaga, NY
1314 Griswald Plaza, Erie, PA
7th & State Street, Erie, PA
Lifetime Assistance, Inc., Rochester, NY (Subcontractor)
2628 S Cherry Avenue, Fresno CA
5104 N. Blyth, Fresno CA
890 West Ashlan, Fresno CA
1728 Van Ness, Fresno CA
The ARC Fresno/Madera Counties, Fresno, CA (Subcontractor)
Indy Bldg: 7525 East 39th Street,

Indianapolis, IN
Evansville: 7409 Eagle Crest Blvd., Evansville, IN
Shares Inc., Shelbyville, IN (Subcontractor)
Mobile: 1110 Montlimar Dr., Mobile, AL
One Pensacola Plaza: 125 W Romana Street, Pensacola, FL
Wiregrass Rehabilitation Center, Inc., Dothan, AL (Subcontractor)
675 W. Moana Lane, Reno, NV
Beacon Group, Inc., Tucson, AZ (Subcontractor)
921 N. Nova Boulevard, Holly Hill, FL
Challenge Enterprises of North Florida, Inc., Green Cove Springs, FL (Subcontractor)
Cross Point Tower One: 900 Chelmsford Street, Lowell, MA
53 North Sixth Street, New Bedford, MA
AccessPoint RI, Cranston, RI (Subcontractor)
Jackson: 234 Louis Glick Hwy, Jackson, MI
Community Enterprises of St. Clair County, Port Huron, MI (Subcontractor)
Multiple Locations Chicago IL
Glenkirk, Northbrook, IL (Subcontractor)
Grand Rapids: 678 Front Street NW., Grand Rapids, MI
Portage: 8075 Creekside Drive, Portage, MI
South Bend: One Michiana Square, South Bend, IN
Benton Harbor: 777 Riverview Drive, Benton Harbor, MI
Gateway, Berrien Springs, MI (Subcontractor-Deleted)
101 Park Deville Drive, Columbia, MO
919 Jackson Street, Chillicothe, MO
3702 W. Truman Blvd., Suite 113, Jefferson City, MO
Mission: 5799 Broadmoor St., Mission, KS
JobOne, Independence, MO (Subcontractor)
10 Metrotech Center, New York, NY
10 Richmond Terrace, New York, NY
107 Charles Lindbergh Blvd., Garden City, NY
30 Montgomery Street, Jersey City, NJ
518A East Main Street, Riverhead, NY
NYSARC, Inc., NYC Chapter, New York, NY (Subcontractor)
Beaufort: 1212 Charles Street, Beaufort, SC
Florence County Disabilities and Special Needs Board, Florence, SC (Subcontractor)
Chillicothe: 1534 North Bridge St., Chillicothe, OH
The Plains: 70 N. Plains Road, The Plains, OH
Zanesville: 710 Main St., Zanesville, OH
Greene, Inc., Xenia, OH (Subcontractor)
11 South 12th Street Richmond, VA
600 Main Street Richmond, VA
Goodwill Services, Inc., Richmond, VA (Subcontractor)
6021 Durand Avenue, Suite 600, Racine, WI
Janesville: 20 E Milwaukee St., Ste. 204, Janesville, WI
Sheboygan: 2108 Kohler Memorial Dr., Sheboygan, WI
Goodwill Industries of Southeastern Wisconsin, Milwaukee, WI (Subcontractor)
2201 Cantu Court, Sarasota, FL
300 Lock Road, Deerfield Beach, FL
Goodwill Industries of South Florida, Miami, FL (Subcontractor)
Effingham: 405 South Banker Street, Effingham, IL
United Cerebral Palsy of the Land of Lincoln, Springfield, IL (Subcontractor)
Springfield: 3333 S. National Ave, Springfield, MO
El Dorado: 1115 North Madison Ave, El Dorado, AR
Pine Bluff: 100 East 8th Ave, Pine Bluff, AR
United Cerebral Palsy of Central Arkansas Little Rock, AR (Subcontractor)
Corporate Plaza 1: 8100 Corporate Drive, Hyattsville, MD
Customer Service Site: 120 Charles Street, Baltimore, MD
Athelas Institute, Inc., Hyattsville, MD (Subcontractor)

Patricia Briscoe,

Deputy Director, Business Operations, (Pricing and Information Management).

[FR Doc. 2016–31053 Filed 12–22–16; 8:45 am]

BILLING CODE 6353–01–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its Social Innovation Fund (SIF) Application Instructions. These instructions combine the previously approved SIF Application Instructions (OMB Control Number 3045–0155) and SIF Pay for Success Application Instructions (OMB Control Number 3045–0167) into one document. The application instructions will be used by organizations requesting funding for a SIF project.

Copies of the information collection request can be obtained by contacting the office listed in the Addresses section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 21, 2017.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Social Innovation Fund, Attention: Lois Nembhard, Director (Acting); 250 E St SW., Ste. 300, Washington, DC 20525.

(2) By hand delivery or by courier to the CNCS mailroom on the fourth floor at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) Electronically through *www.regulations.gov.*

Individuals who use a telecommunications device for the deaf (TTY–TDD) may call 1–800–833–3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Lois Nembhard, 202–606–3223, or by email at *innovation@cns.gov.*

SUPPLEMENTARY INFORMATION:

CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

Background

This collection will be used by organizations applying to become Social Innovation Fund intermediaries. Applications will be submitted primarily via eGrants.

Current Action

This is a new information collection request. These instructions combine the previously approved SIF Application Instructions (OMB Control Number 3045–0155) and SIF Pay for Success Application Instructions (OMB Control Number 3045–0167) into one document.

The information collection will otherwise be used in the same manner as the existing application. CNCS also seeks to continue using the current application until the revised application is approved by OMB. The current application is due to expire on January 31, 2017.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: Social Innovation Fund Application Instructions.

OMB Number: None.

Agency Number: None.

Affected Public: Organizations applying to be Social Innovation Fund intermediaries.

Total Respondents: 50.

Frequency: Annual.

Average Time per Response: Averages 24 hours.

Estimated Total Burden Hours: 1,200.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Authority: 44 U.S.C. Sec. 3506(c)(2)(A)

Dated: December 19, 2016.

Lois Nembhard,

Director (Acting), Social Innovation Fund.

[FR Doc. 2016–31012 Filed 12–22–16; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Notice of Intent To Grant an Exclusive Patent License

AGENCY: Air Force Materiel Command, Department of the Air Force, Department of Defense.

ACTION: Notice of intent.

SUMMARY: Pursuant to the Bayh-Dole Act and implementing regulations, the Department of the Air Force hereby gives notice of its intent to grant an exclusive patent license agreement to The University of North Carolina at Charlotte, a public university duly organized, validly existing, and in good standing in the State of North Carolina, having a place of business at 9201 University City Blvd., Charlotte, NC 28223.

DATES: Written objections must be filed no later than fifteen (15) calendar days after the date of publication of this Notice.

ADDRESSES: Submit written objections to the Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Room 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; or Email: *afmclo.jaz.tech@us.af.mil.* Include Docket No. AFD–1436 in the subject line of the message.

FOR FURTHER INFORMATION CONTACT: Air Force Materiel Command Law Office, AFMCLO/JAZ, 2240 B Street, Rm 260, Wright-Patterson AFB, OH 45433–7109; Facsimile: (937) 255–3733; Email: *afmclo.jaz.tech@us.af.mil.*

SUPPLEMENTARY INFORMATION: The Department of the Air Force intends to grant the exclusive patent license agreement for the invention described in: U.S. Patent No. 9,362,324, entitled, ''PHOTODETECTOR FOCAL PLANE ARRAY SYSTEMS AND METHODS,'' filed December 31, 2014, and issued June 7, 2016.

The Department of the Air Force may grant the prospective license unless a timely objection is received that sufficiently shows the grant of the license would be inconsistent with the Bayh-Dole Act or implementing regulations. A competing application for a patent license agreement, completed in compliance with 37 CFR 404.8 and received by the Air Force within the period for timely objections, will be treated as an objection and may be considered as an alternative to the proposed license.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2016–30989 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–10–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery, Honor Subcommittee and the Remember and Explore Subcommittee Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open subcommittee meetings.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory subcommittee meetings of the Honor Subcommittee and the Remember and Explore Subcommittee of the Advisory Committee on Arlington National Cemetery (ACANC). These meetings are open to the public. For more information about the Committee and the Subcommittees, please visit *http://www.arlingtoncemetery.mil/AboutUs/FocusAreas.aspx.*

DATES: The Honor Subcommittee will meet from 9:00 a.m. to 11:00 a.m. and the Remember and Explore Subcommittee will meet from 1:00 p.m. to 2:30 p.m. on Monday, January 23, 2017.

ADDRESSES: Arlington National Cemetery Welcome Center, Conference Room, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Designated Federal Officer (Alternate) for the Committee and the Subcommittees, in writing at Arlington National Cemetery, Arlington, VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: This subcommittee meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meetings: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and

recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the committee's advice and recommendations. The primary purpose of the Honor Subcommittee is to provide independent recommendations of methods to address the long-term future of Arlington National Cemetery, including how best to extend the active burials and on what ANC should focus once all available space has been used, the placement of commemorative monuments and the manner in which to ensure the living history of the cemetery is preserved. The primary purpose of the Remember & Explore Subcommittee is improving the quality of visitors' experiences, now and for generations to come, to review and provide recommendations on preserving and caring for the marble components of the Tomb of the Unknown Soldier (TUS), and reviewing proposed commemorative monuments requested for placement in the cemetery.

Proposed Agenda: The Honor Subcommittee will receive an update on the ANC Administrative building renovation plan, continue discussions with VSO and MSO regarding preserving the life of active burials, and the Army's Report to Congress as required by Public Law 114–158. The Remember and Explore Subcommittee will receive information about VA procedures to capture data to measure family satisfaction with VA service, a presentation regarding ANC notable gravesites, and receive an update to ANC Amphitheater repairs.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Arlington National Cemetery conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the subcommittee, in response to the stated agenda of the open meeting or in regard to the subcommittee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the subcommittee. The Designated Federal Officer will review all timely submitted written comments or statements with the subcommittee Chairperson, and ensure the comments are provided to all members of the subcommittee before the meeting. Written comments or statements received after this date may not be provided to the subcommittee until its next meeting. Pursuant to 41 CFR 102–3.140d, the subcommittee is not obligated to allow the public to speak or otherwise address the subcommittee during the meeting. However, interested persons may submit a written statement or a request to speak for consideration by the subcommittee. After reviewing any written statements or requests submitted, the subcommittee Chairperson and the Designated Federal Officer may choose to invite certain submitters to present their comments verbally during the open portion of this meeting or at a future meeting. The Designated Federal Officer in consultation with the subcommittee Chairperson, may allot a specific amount of time for submitters to present their comments verbally.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–30983 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery Meeting Notice

AGENCY: Department of the Army, DoD.

ACTION: Notice of open committee meeting.

SUMMARY: The Department of the Army is publishing this notice to announce the following Federal advisory committee meeting of the Advisory Committee on Arlington National Cemetery (ACANC). The meeting is open to the public. For more information about the Committee, please visit *http://www.arlingtoncemetery.mil/AboutUs/FocusAreas.aspx.*

DATES: The Committee will meet from 10:00 a.m. to 2:30 p.m. on Tuesday, January 24, 2017.

ADDRESSES: Arlington National Cemetery Welcome Center, Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Mr. Timothy Keating; Designated Federal Officer (Alternate) for the Committee and the Subcommittees, in writing at Arlington National Cemetery, Arlington VA 22211, or by email at *timothy.p.keating.civ@mail.mil,* or by phone at 1–877–907–8585.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Sunshine in the Government Act of 1976 (U.S.C. 552b, as amended) and 41 Code of the Federal Regulations (CFR 102–3.150).

Purpose of the Meeting: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of the Army independent advice and recommendations on Arlington National Cemetery, including, but not limited to, cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations.

Proposed Agenda: The Committee will receive ANC leadership remarks regarding the current State of ANC, an update to the Tomb of Remembrance construction and policy, the status of the World War One Memorial display, and the status of Army's Report to Congress as required by Public Law 114–158.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis. The Arlington National Cemetery conference room is readily accessible to and usable by persons with disabilities. For additional information about public access procedures, contact Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, at the email address or telephone number listed in the **FOR FURTHER INFORMATION CONTACT** section.

Written Comments and Statements: Pursuant to 41 CFR 102–3.105(j) and

102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act, the public or interested organizations may submit written comments or statements to the Committee, in response to the stated agenda of the open meeting or in regard to the Committee's mission in general. Written comments or statements should be submitted to Mr. Timothy Keating, the subcommittee's Alternate Designated Federal Officer, via electronic mail, the preferred mode of submission, at the address listed in the **FOR FURTHER INFORMATION CONTACT** section. Each page of the comment or statement must include the author's name, title or affiliation, address, and daytime phone number. Written comments or statements being submitted in response to the agenda set forth in this notice must be received by the Designated Federal Officer at least seven business days prior to the meeting to be considered by the Committee. The Designated Federal Officer will review all timely submitted written comments or statements with the Committee Chairperson, and ensure the comments are provided to all members of the Committee before the meeting. Written comments or statements received after this date may not be provided to the Committee until its next meeting. Pursuant to 41 CFR 102–3.140d, the Committee is not obligated to allow a member of the public to speak or otherwise address the Committee during the meeting. Members of the public will be permitted to make verbal comments during the Committee meeting only at the time and in the manner described below. If a member of the public is interested in making a verbal comment at the open meeting, that individual must submit a request, with a brief statement of the subject matter to be addressed by the comment, at least three (3) business days in advance to the Committee's Designated Federal Official, via electronic mail, the preferred mode of submission, at the addresses listed in the **FOR FURTHER INFORMATION CONTACT** section. The Designated Federal Official will log each request, in the order received, and in consultation with the Committee Chair determine whether the subject matter of each comment is relevant to the Committee's mission and/or the topics to be addressed in this public meeting. A 15-minute period near the end of meeting will be available for verbal public comments. Members of the public who have requested to make a verbal comment and whose comments have been deemed relevant under the process described above, will be allotted no more than three (3) minutes during this period, and will be invited to speak in the order in which their requests were received by the Designated Federal Official.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–30996 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[Docket Number DARS–2016–0043; OMB Control Number 0704–0398]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Describing Agency Needs

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. The Office of Management and Budget (OMB) has approved this information collection requirement for use through March 31, 2017. DoD proposes that OMB extend its approval for an additional three years.

DATES: DoD will consider all comments received by February 21, 2017.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0398, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Email: osd.dfars@mail.mil*. Include OMB Control Number 0704–0398 in the subject line of the message.
- *Fax:* 571–372–6094.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Tom Ruckdaschel, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov* approximately two to three days after submission to verify posting. Please allow 30 days for posting of comments submitted by postal mail.

FOR FURTHER INFORMATION CONTACT: Mr. Tom Ruckdaschel, telephone 571–372–6088. The information collection requirements addressed in this notice are available at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html*. Paper copies are available from Mr. Tom Ruckdaschel, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

SUPPLEMENTARY INFORMATION: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the 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 the use of automated collection techniques or other forms of information technology.

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 211, Describing Agency Needs, and related clause at DFARS 252.211.

Needs and Uses:

a. The information collected under DFARS provision 252.211–7004, Alternate Preservation, Packaging, and Packing, is used by DoD contracting officers to evaluate and award contracts using commercial or industrial preservation, packaging, or packing if the offeror chooses to propose such alternates.

b. The information collected under DFARS provision 252.211–7005, Substitutions for Military or Federal Specifications and Standards, is used by DoD contracting officers to verify that a Single Process Initiative (SPI) process proposed by an offeror is a valid replacement for a military or Federal specification or standard.

c. The information collected under DFARS 252.211–7007, Reporting of Government-Furnished Property, strengthens the accountability and end-to-end traceability of Government-furnished property (GFP) within DoD. Through electronic notification of physical receipt, the contracting officer is made aware that GFP has arrived at the contractor's facility. The DoD logistics community uses the information as a data source of available DoD equipment. In addition, the DoD organization responsible for contract

administration uses the data to test the adequacy of the contractor's property management system.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Number of Respondents: 641.

Responses per Respondent: 102 (approximately).

Number of Responses: 65,573.

Hours per Response: 0.27 (approximately).

Estimated Hours: 17,836.

Frequency: On occasion.

Summary of Information Collection

a. DFARS 252.211–7004 allows potential offerors to propose alternatives to military preservation, packaging, or packing specifications. Specifically, the offeror may include in its offer two unit prices in the format specified in the clause: One price based on use of the military specifications, and another price based on commercial or industry preservation, packaging, or packing of equal or better protection that the military.

b. DFARS provision 252.211–7005 permits offerors to propose SPI processes as alternatives to military or Federal specifications and standards cited in DoD solicitations for previously developed items. As defined in the clause, ''SPI process'' means a management or manufacturing process that has been accepted previously by a DoD Management Council for use in lieu of a specific military or Federal specification or standard a specific facilities. When proposing SPI processes, offerors identify the proposed SPI process, specific facility to which it will apply, and the specific contract line items, which will be affected.

c. DFARS clause 252.211–7007 requires contractors to report to the Item Unique Identification (IUID) Registry all serially-managed Government-furnished property (GFP), as well as contractor receipt of non-serially managed items. ''Serially managed item'' means an item designated by DoD to be uniquely tracked, controlled, or managed in maintenance, repair, and/or supply systems by means of its serial number. The clause provides a list of specific data elements contractors are to report to the IUID registry, as well as procedures for updating the registry.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2016–31015 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (DAC–IPAD); Notice of Federal Advisory Committee Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense is publishing this notice to announce the following Federal Advisory Committee meeting of the Defense Advisory Committee on Investigation, Prosecution, and Defense of Sexual Assault in the Armed Forces (''the DAC–IPAD'' or ''the Committee''). The meeting is open to the public.

DATES: A meeting of the DAC–IPAD will be held on Thursday, January 19, 2017. The public session will begin at 10:00 a.m. and end at 4:45 p.m.

ADDRESSES: Holiday Inn Arlington at Ballston, Grand Ballroom, 4610 N. Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Julie Carson, DAC–IPAD, One Liberty Center, Suite 150, 875 N. Randolph Street, Arlington, Virginia 22203. Phone: (703) 693–3849.

SUPPLEMENTARY INFORMATION: This public meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.50(a).

Purpose of the Meeting: In section 546 of the National Defense Authorization Act for Fiscal Year 2015 (Pub. L. 113–291), as modified by section 537 of the National Defense Authorization Act for Fiscal Year 2016 (Pub. L. 114–92), Congress tasked the DAC–IPAD to advise the Secretary of Defense on the investigation, prosecution, and defense of allegations of rape, forcible sodomy, sexual assault, and other sexual misconduct involving members of the Armed Forces. This will be the first public meeting held by the DAC–IPAD. At this meeting, the Committee will receive presentations on the Federal Advisory Committee Act, the court-martial process, the history of sexual assault issues in the Armed Forces, and recent legislation on sexual assault. The Committee will also be briefed on the work of the two predecessor federal advisory committees tasked with reviewing military sexual assault issues—the Response Systems to Adult Sexual Assault Crimes Panel and the Judicial Proceedings Panel. The Committee will then conduct a planning session.

Agenda

8:30 a.m.–10:00 a.m. Administrative Work (41 CFR 102–3.160, not subject to notice & open meeting requirements)
10:00 a.m.–10:30 a.m. Welcome and Introduction
—Alternate Designated Federal Official Opens Meeting
—Remarks of the Chair
—Remarks by DoD Official
—Introduction of Members
10:30 a.m.—11:30 a.m. Federal Advisory Committee Act Brief
—Ms. Elaine Crowley, Office of the General Counsel, Department of Defense
11:30 a.m.—12:30 p.m. Overview of the Court-Martial Process
—Mr. Dwight Sullivan, Office of the General Counsel, Department of Defense
12:30 p.m.—1:15 p.m. Lunch
1:15 p.m.—2:15 p.m. Legislative Highlights and the History of Sexual Assault Issues in the Armed Forces Since 2012
—Captain Warren Record, JAGC, U.S. Navy, Chair, Joint Service Committee on Military Justice
2:15 p.m.—3:15 p.m. History of the Response Systems to Adult Sexual Assault Crimes Panel and the Judicial Proceedings Panel
—Ms. Maria Fried, Office of the General Counsel, Department of Defense
3:15 p.m.—4:30 p.m. Committee Planning Session
4:30 p.m.—4:45 p.m. Public Comment
4:45 p.m. Meeting Adjourned

Availability of Materials for the Meeting: A copy of the January 19, 2017 public meeting agenda and any updates or changes to the agenda, including the location and individual speakers not identified at the time of this notice, as well as other materials provided to Committee members for use at the public meeting, may be obtained at the meeting.

Public's Accessibility to the Meeting: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is limited and is on a first-come basis. In the event the Office of Personnel Management closes the government due to inclement weather or any other reason, please consult the Web site for any changes to public meeting dates or time.

Special Accommodations: Individuals requiring special accommodations to access the public meeting should contact the DAC–IPAD at

whs.pentagon.em.mbx.dacipad@mail.mil at least five (5) business days prior to the meeting so that appropriate arrangements can be made.

Procedures for Providing Public Comments: Pursuant to 41 CFR 102–3.140 and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written comments to the DAC–IPAD about its mission and topics pertaining to this public session. Written comments must be received by the Committee at least five (5) business days prior to the meeting date so that they may be made available to the Committee members for their consideration prior to the meeting. Written comments should be submitted via email to the DAC–IPAD at *whs.pentagon.em.mbx.dacipad@mail.mil* in the following formats: Adobe Acrobat or Microsoft Word. Please note that since the Committee operates under the provisions of the Federal Advisory Committee Act, as amended, all written comments will be treated as public documents and will be made available for public inspection. If members of the public are interested in making an oral statement pertaining to the agenda for the public meeting, a written statement must be submitted as above along with a request to provide an oral statement. After reviewing the written comments and the oral statement, the Chairperson and the Designated Federal Official will determine who will be permitted to make an oral presentation of their issue during the public comment portion of this meeting. This determination is at the sole discretion of the Chairperson and Designated Federal Official, will depend on the time available and relevance to the Committee's activities for that meeting, and will be on a first-come basis. When approved in advance, oral presentations by members of the public will be permitted from 4:30 p.m. to 4:45 p.m. on January 19, 2017 in front of the Committee members.

Committee's Designated Federal Official: The DAC–IPAD's Designated Federal Official is Mr. Dwight Sullivan, Associate Deputy General Counsel for Military Justice, U.S. Department of Defense, Office of the General Counsel, 1600 Defense Pentagon, Room 3B747, Washington, DC 20301–1600.

Dated: December 20, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–30992 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Charter Renewal of Department of Defense Federal Advisory Committee

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that it is renewing the charter for the Department of Defense Medicare-Eligible Retiree Health Care Board of Actuaries (''the Board'').

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Advisory Committee Management Officer for the Department of Defense, 703–692–5952.

SUPPLEMENTARY INFORMATION: The Board's charter is being renewed under the provisions of 10 U.S.C. 1114(a)(1) and in accordance with the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended) and 41 CFR 102–3.50(a). The Board's charter and contact information for the Board's Designated Federal Officer (DFO) can be found at *http://www.facadatabase.gov/.*

The Board provides independent advice and recommendations related to actuarial matters associated with the Department of Defense Medicare-Eligible Retiree Health Care Fund (''the Fund'') and other related matters. The Board, pursuant to 10 U.S.C. 1115(c), shall report to the Secretary of Defense annually on the actuarial status of the Fund and shall furnish its advice and opinion on matters referred to it by the Secretary of Defense.

The Board consists of three members from among qualified professional actuaries who are members of the Society of Actuaries. All members of the Board are appointed to provide advice on behalf of the Government on the basis of their best judgment without representing any particular point of view and in a manner that is free from conflict of interest. Special Government Employee members are entitled, pursuant to 10 U.S.C. 1114(a)(3), to receive pay at the daily equivalent of the annual rate of basic pay of the highest rate of basic pay under the General Schedule of subchapter III of chapter 53 of 5 U.S.C., for each day the member is engaged in the performance of duties vested in the Board. All members are entitled to reimbursement for official Board-related travel and per diem.

The public or interested organizations may submit written statements to the Board membership about the Board's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Board. All written statements shall be submitted to the DFO for the Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

Dated: December 20, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–30994 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0118]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: Pursuant to the Privacy Act of 1974, and Office of Management and Budget (OMB) Circular No. A–130, notice is hereby given that the Department of Defense proposes to change a system of records, WUSU 07, ''USUHS Grievance Records,'' last published at 79 FR 40076 on July 11, 2014. This system of records is used to administer and process grievances filed by Uniformed Services University of the Health Sciences (USUHS) employees. Department of Defense (DoD) employees, including USUHS employees, are entitled to present disputes under the DoD Administrative Grievance System and have them considered expeditiously, fairly, and impartially, and have them be resolved as quickly as possible. The data is also used to produce statistical and management reports for USUHS leadership.

Changes to the system of record notice include rewording of the system name and categories of individuals. The notification, record access, and contesting record procedures have been updated to ensure the information is accurate and current. To provide clarity to the public, the applicable routine uses are now delineated, and the purpose has been revised to state that this system of records covers all USUHS employees, not just those covered by a collective bargaining agreement. In addition, minor administrative corrections were made to the system location and safeguards.

DATES: Comments will be accepted on or before January 23, 2017. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

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

* *Federal Rulemaking 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, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPD2), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties, and Transparency Division Web site at *http://dpcld.defense.gov/.*

The proposed system report, as required by U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 7, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4 of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' revised November 28, 2000 (December 12, 2000 65 FR 77677).

Dated: December 20, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

WUSU 07

SYSTEM NAME:

USUHS Grievance Records (July 11, 2014, 79 FR 40076)

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''Uniformed Services University of the Health Sciences Grievance Records (July 11, 2014, 79 FR 40076).''

SYSTEM LOCATION:

Delete entry and replace with ''Uniformed Services University of the Health Sciences (USUHS), Civilian Human Resources Directorate (CHR), 4301 Jones Bridge Road, Bethesda, MD 20814–4712.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''USUHS employees who have submitted grievances.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''To track, analyze and mitigate grievances filed by USUHS employees. Utilizing this information allows USUHS civilian personnel employer relations officers to track grievances, to analyze findings from an investigation, and to research the success and/or failure of mitigation efforts.''

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Delete entry and replace with ''In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3).

LAW ENFORCEMENT ROUTINE USE:

If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

DISCLOSURE WHEN REQUESTING INFORMATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

DISCLOSURE OF REQUESTED INFORMATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

CONGRESSIONAL INQUIRIES DISCLOSURE ROUTINE USE:

Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

DISCLOSURE TO THE OFFICE OF PERSONNEL MANAGEMENT ROUTINE USE:

A record from a system of records subject to the Privacy Act and maintained by a DoD Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

DISCLOSURE TO THE DEPARTMENT OF JUSTICE FOR LITIGATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice

for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

DISCLOSURE OF INFORMATION TO THE NATIONAL ARCHIVES AND RECORDS ADMINISTRATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

DISCLOSURE TO THE MERIT SYSTEMS PROTECTION BOARD ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

DATA BREACH REMEDIATION PURPOSES ROUTINE USE:

A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in locked file cabinets, with access restricted to authorized USUHS employees who have a demonstrated need-to-know.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Chief, Workforce Relations Division, Civilian Human Resources Directorate, Uniformed Services University of the Health Sciences, 4301 Jones Bridge Road, Bethesda, MD 20814–4712.

Signed, written requests should contain the full name, address and the signature of the subject individual, along with the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' ''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff, Freedom of Information Act Requester Service Center, Office of Freedom of Information, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed, written requests should contain the full name, address and the signature of the subject individual, along with the name and number of this system of records notice.

In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: 'I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).'

If executed within the United States, its territories, possessions, or commonwealths: 'I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).' ''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The Office of the Secretary of Defense (OSD) rules for accessing records, contesting contents and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.''

* * * * *

[FR Doc. 2016–30990 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Public Scoping Meeting and Intent To Prepare an Environmental Impact Statement for Proposed Pascagoula River Drought Resiliency Project, George County and Jackson County, Mississippi

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers, Mobile District (USACE) has received an application (File Number SAM–2014–00653–MBM) for a Department of Army Permit from the Pat Harrison Waterway District and George County Board of Supervisors to construct two water supply lakes: A 1,715-acre upper lake on Little Cedar Creek and a 1,153-acre lower lake on Big Cedar Creek, in George and Jackson Counties, Mississippi. The applicant believes that the proposed water supply lakes are needed to supply water to the Pascagoula River during future extreme droughts resulting from the effects of climate change and to maintain flow regimes necessary to meet critical environmental, ecological, and economic needs. The applicant estimates that the proposed project would impact approximately 1,201.7 acres of wetlands, 41.6 miles of stream channels, and 24.8 acres of open water. Based on the potential impacts, both individually and cumulatively, the USACE intends to prepare an Environmental Impact Statement (EIS) in compliance with the National Environmental Policy Act to render a final decision on the permit application. The purpose of this Notice of Intent is to inform the public, agencies, and organizations of the time and location of the public scoping meeting and invite public participation in the

Environmental Impact Statement (EIS) process.

DATES: The scoping period will commence with the publication of this notice. This scoping period for providing comments on relevant issues and factors that should be considered for study in the EIS will end on February 6, 2017.

ADDRESSES: You may submit written comments by mail to the U.S. Army Corps of Engineers, ATTN: Regulatory Division, Post Office Box 2288, Mobile, AL 36628. You may submit written comments by email to *michael.b.moxey@usace.army.mil* or submit online at *http://www.georgecountylakesEIS.com*. Documents pertinent to the proposed project may be examined at the Web site located at *http://www.georgecountylakesEIS.com*.

FOR FURTHER INFORMATION CONTACT: Mr. Michael B. Moxey, Special Projects Manager, U.S. Army Corps of Engineers, at (251) 694–3771.

SUPPLEMENTARY INFORMATION: The USACE Mobile District intends to prepare an EIS on the proposed Pascagoula River Drought Resiliency Project. The Pat Harrison Waterway District and the George County Board of Supervisors propose this project and are co-applicants for the Department of the Army Permit (Application Number SAM–2014–00653–MBM). The primary Federal involvement associated with the proposed action is the discharge of dredge or fill material into waters of the United States, including jurisdictional wetlands and streams pursuant to Section 404 of the Clean Water Act (33 U.S.C. 1344).

1. *Background:* The applicant proposes to construct two water supply lakes located in south George County and north Jackson County, Mississippi as a drought resiliency project. The proposed upper dam is located on Little Cedar Creek, and the proposed lower dam is located on Big Cedar Creek; both tributaries to the Pascagoula River. The applicant's stated purpose for the two water storage lakes is to provide secondary water sources to sustain the Pascagoula River at a target minimum flow of 917 cubic feet per second (CFS) as measured at the U.S. Geological Survey (USGS) gage station 02479000 on the Pascagoula River at Merrill, Mississippi during extreme prolonged drought conditions through 2060. The applicant believes that the effects of climate change will increase drought severity, frequency and duration in the future. Severe prolonged droughts occurred in 1936 and in 2000. In 2007 the Pascagoula River fell below 917 CFS in mid-November, while in 2011 the Pascagoula River approached 917 CFS in mid-June and fell below 917 CFS for a brief time in early September. Water from the Okatibbee Reservoir, located in Lauderdale County, Mississippi, has been used to augment stream flows during low flow events prior to 2000. The applicant proposes to release water from the two connected lakes when insufficient flow occurs, to sustain the target 917 cubic feet per second (CFS) minimum flows in the Pascagoula River during prolonged severe droughts. The applicant would also strive to sustain recreational uses on both lakes to the greatest extent possible.

2. *Scoping and Public Involvement Process:* The purpose of the Environmental Impact Statement (EIS) scoping process is to identify relevant issues and factors that will affect the scope of the environmental analysis and alternatives in the EIS. All previous comments received by from Federal and state agencies, professional environmental organizations, and the public are being evaluated in this scoping procedure. Based on comments already received in response to the September 4, 2015 public notice, some areas of potential significant impact that may need to be studied in detail during the EIS process could include, but are not limited to the following:

(a) Proposed water storage and availability;

(b) Stream hydrologic and hydraulic regimes;

(c) Secondary and cumulative Impacts;

(d) Alternatives to the proposed action;

(e) Threatened and Endangered Species;

(f) Fish, wildlife, and critical habitats;

(g) Cultural resources/historic properties;

(h) Water quality;

(i) Impacts to wetlands and streams;

(j) Mitigation.

3. *Purpose and Need:* The applicant's stated purpose for the two connected lakes is to provide sufficient surface water storage to (1) restore the sub-surface water table levels and to (2) allow the stored water to be released as needed during extreme prolonged droughts to maintain the Pascagoula River flow above the established minimum of 917 CFS as measured at the USGS gage station 02479000 located on the Pascagoula River at Merrill, Mississippi through 2060, in light of projected more frequent, severe and longer droughts in the basin due to the effects of climate change. The applicant stated that maintaining the minimum 7Q10 flow (the lowest 7-day average flow that occurs on average once every 10 years) of 917 CFS is necessary for the river to meet critical environmental, ecological, and economic needs. In addition to its primary drought resiliency purpose, the Pat Harrison Waterway District proposes to operate and maintain the lakes for public recreational use.

4. *Alternatives:* An evaluation of alternatives to the applicant's preferred alternative initially being considered includes a No Action alternative, alternatives that would avoid, minimize and compensate for impacts to the aquatic environment, alternatives utilizing other best management practices, and other reasonable alternatives developed through the project scoping process that may also meet the identified purpose and need. Reasonable alternatives could include, but are not limited to, alternate site locations for the lake, alternate site layouts that may have less impact on the environment, alternate sources of water to supplement flow in the Pascagoula River, or alternate practices to mitigate low flow events in the Pascagoula River. The scoping and evaluation phase of the EIS process will help in the determination of reasonable alternatives to be studied in details for the project.

5. *Additional Resources to be Evaluated:* Resource areas to be evaluated that have been identified to date include the following: Potential direct effects to waters of the United States including aquatic species, environmental justice, socioeconomic environment, recreation and recreational resources, aesthetics, public health and safety, navigation, erosion and accretion, cumulative impacts, public benefit and needs of the people along with potential effects on the human environment.

6. *Public Scoping Meeting:* A public scoping meeting will be held on January 24, 2017, from 5:00–8:00 p.m. at the George County Senior Citizens Building, 7102 Highway 198 East, Lucedale, MS 39452. The scoping meeting will begin with an informal open house from 5:00 p.m. to 6:30 p.m. to allow review of project information presented as board displays and other materials. At 6:30 p.m., the U.S. Army Corps of Engineers (USACE) will provide an informal presentation on the proposed project, and discuss the Environmental Impact Statement (EIS) process. The USACE is soliciting comments from all interested parties on issues and factors that should be considered for the scope and content of the EIS. The USACE will announce the public scoping meeting through local news media and the Web page at

http://www.georgecountylakesEIS.com at least 15 days prior to the meeting. Comments are encouraged from the public as well as Federal, state, and local agencies and officials, Indian tribes, and other interested parties so that the scope of the EIS may be properly identified.

7. *Coordination:* The proposed action is being coordinated with a number of Federal and State agencies, including the U.S. Environmental Protection Agency, U.S. Fish and Wildlife Service, Mississippi Department of Environmental Quality, and Mississippi Department of Marine Resources. These agencies were requested by the USACE to be cooperating agencies for the EIS per Council on Environmental Quality regulations at 40 CFR 1501.6. Collaboration with other agencies, including state resource protection agencies, is anticipated during the EIS process.

8. *Availability of the Draft EIS:* The U.S. Army Corps of Engineers will advertise the availability of a Draft Environmental Impact Statement when it becomes available for the public review.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2016–30988 Filed 12–22–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

Intent To Prepare an Integrated Feasibility Study/Environmental Impact Statement for the San Francisquito Creek Flood Risk Management Study, San Mateo and Santa Clara Counties, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The Department of the Army and the San Francisquito Creek Joint Powers Authority (SFCJPA) hereby give notice of intent to prepare an integrated Feasibility Study/Environmental Impact Statement (FS/EIS) for the San Francisquito Creek Flood Risk Management Project in San Mateo and Santa Clara Counties, CA to consider opportunities to reduce fluvial flooding, to reduce the risk to public safety due to flooding consistent with protecting the Nation's environment, in accordance with national environmental statutes, applicable executive orders, and other Federal planning requirements. The U.S. Army Corps of Engineers (USACE) is the lead agency for this project under NEPA. The SFCJPA is the lead agency for this project under the California Environmental Quality Act (CEQA) and will be preparing a separate Environmental Impact Report (EIR).

DATES: Written comments from all interested parties are encouraged and must be received on or before 5:00 p.m. on February 17, 2017.

ADDRESSES: Written comments and requests for information should be sent to Eric Jolliffe, U.S. Army Corps of Engineers, San Francisco District, 1455 Market St., 17th floor, San Francisco, CA 94103, *eric.f.jolliffe@usace.army.mil*.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Jolliffe, (415) 503–6869.

SUPPLEMENTARY INFORMATION: The San Francisquito Creek watershed encompasses an area of approximately 45 square miles, extending from the ridge of the Santa Cruz Mountains to San Francisco Bay in California. The majority of the watershed lies in the Santa Cruz Mountains and Bay Foothills northwest of Palo Alto; the remaining 7.5 square miles lie on the San Francisquito alluvial fan near San Francisco Bay.

The San Francisquito Creek watershed contains mainstem San Francisquito Creek and the main tributary streams of West Union Creek, Corte Madera Creek, Bear Creek and Los Trancos Creek. Los Trancos Creek and lower San Francisquito Creek form the boundary between San Mateo and Santa Clara counties. The reaches are divided up as follows: Reach 1 extends from San Francisco Bay to the upstream face of Highway 101; Reach 2 extends from Highway 101 to El Camino Real; Reach 3 continues from El Camino Real to Sand Hill Road; and Reach 4 continues from Sand Hill Road to the ridge of the Santa Cruz Mountains. This FS/EIS will investigate flood risk management solutions related to breakout flow in Reach 2 only. The entire watershed will be considered when developing solutions to address flooding in Reach 2.

The non-Federal sponsor for the Feasibility phase of the study is the SFCJPA. The SFCJPA is comprised of the following member agencies: the City of Palo Alto; the City of Menlo Park; the City of East Palo Alto; the Santa Clara Valley Water District; and the San Mateo County Flood Control District.

1. Background. The carrying capacity of San Francisquito Creek is affected by the presence of development, vegetation, sedimentation, land subsidence, levee settlement, erosion, and culverts and bridges in the project area. Erosion has caused the undermining of roads and structures in many places throughout the watershed. Flooding on San Francisquito Creek affects the cities of Menlo Park and East Palo Alto in San Mateo County, and the city of Palo Alto in Santa Clara County.

Flooding from San Francisquito Creek has been a common occurrence. The most recent flood event occurred in December 2012, and the flood of record occurred in February 1998, when the Creek overtopped its banks in several areas, affecting approximately 1,700 residential and commercial structures and causing more than $26.6 million in property damages. After these floods, the SFCJPA was formed to pursue flood control and restoration opportunities in the area.

The current USACE Feasibility Study is a continuation of the authority passed on May 22, 2002 by the Committee on Transportation and Infrastructure of the United States House of Representatives, which is in accordance with Section 4 of the Flood Control Act of 1941. The resolution reads as follows:

''*Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That, the Secretary of the Army, in accordance with Section 4 of the Flood Control Act of 1941, is hereby requested to conduct a study of the Guadalupe River and Tributaries, California, to determine whether flood damage reduction, environmental restoration and protection, storm water retention, water conservation and supply, recreation and other allied purposes are advisable in the interest of the San Francisquito Creek Watershed, including San Francisquito Creek, Santa Clara and San Mateo Counties, California.*''

2. Proposed Action. The integrated FS/EIS will consider the environmental impact of potential flood risk management projects with the end goal of reducing flood damage in the San Francisquito Creek Watershed.

3. Project Alternatives. The integrated FS/EIS will include four alternatives.

a. *No Action:* Alternative 1 is the No Action Plan. With the No Action Plan (which is the ''Future Without-Project Condition''), it is assumed that no long-term actions would be taken to reduce flood damage along San Francisquito Creek; flood control improvements would consist of emergency fixes to damage areas, consistent with available funding.

b. Alternative 2 includes replacing bridges and widening channel constriction points to provide additional channel capacity in Reach 2 between Highway 101 and El Camino Real. Under this alternative, bridges and channel constrictions or ''bottlenecks''

that cause creek flows to back up and rise would be widened to increase channel conveyance and thus reduce water surface elevation. Included in this widening is a proposed project element to align the channel with a CalTrans project to increase flow capacity at Highway 101 and adjacent frontage roads. Impacts from these activities will be evaluated in the FS/EIS.

c. Alternative 3 includes constructing floodwalls along the channel. This Alternative would consider the addition of floodwalls in Reach 2 as a stand-alone measure and in combination with the bridge replacement and channel widening in Alternative 2.

d. Alternative 4 would consider the addition of a bypass culvert as a stand-alone measure and in combination with the bridge replacement and channel widening in Alternative 2. This alternative may include floodwalls, though at a reduced scale compared to Alternative 3. This alternative includes a new bypass inlet located a few hundred feet upstream from University Avenue that would divert high flows to a culvert beneath Woodland Avenue or a street in Palo Alto. A box culvert would follow a roadway in the downstream direction for approximately 1.0 to 1.5 miles to an outlet structure where high flows would be returned to the creek.

4. Environmental Considerations. In all cases, environmental considerations will include riparian habitat, aquatic habitat, sediment budget, fish passage, recreation, public access, aesthetics, cultural resources, and environmental justice as well as other potential environmental issues of concern.

5. Scoping Process. The USACE and SFCJPA are seeking input from interested federal, state, and local agencies, Native American representatives, and other interested private organizations and parties through provision of this notice and holding of a scoping meeting. The purpose of this meeting is to solicit input regarding the environmental issues of concern and the alternatives that should be discussed in the integrated FS/EIS. The public scoping meeting will be held on January 18, 2017 at 6:30 p.m. at the Laurel School Upper Campus, 275 Elliott Drive in Menlo Park, CA.

6. Availability of integrated FS/EIS. The public will have an additional opportunity in the NEPA process to comment on the proposed alternatives after the draft integrated FS/EIS is released to the public in 2017. It is being issued pursuant to section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508).

John C. Morrow,

Lieutenant Colonel, Corps of Engineers District Engineer.

[FR Doc. 2016–30985 Filed 12–22–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Matagorda Ship Channel, TX, Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of Intent.

SUMMARY: The U.S. Army Corps of Engineers (USACE) intends to prepare a Draft Integrated Feasibility Report and Environmental Impact Statement (DIFR–EIS) to assess the social, economic and environmental effects of widening and deepening the Matagorda Ship Channel (MSC) in Calhoun and Matagorda counties, Texas. The DIFR–EIS will evaluate potential impacts of a range of alternatives, including the No Action alternative, structural and non-structural alternatives which address proposed navigation improvements in the study area. The DIFR–EIS will also present an assessment of impacts associated with the placement of dredged material, including potential new upland, confined placement areas, beneficial use of dredged material sites, and at Ocean Dredged Material Disposal Sites (ODMDS). The U.S. Environmental Protection Agency, as the lead Federal agency for designation of an ODMDS under Section 102 of the Marine Protection, Research and Sanctuaries Act of 1972, will utilize this assessment and public comments on the DIFR–EIS to evaluate the potential designation of a new ODMDS. The non-Federal sponsor for the study is the Calhoun Port Authority.

DATES: Comments on the scope of the DIFR–EIS will be accepted through February 13, 2017.

ADDRESSES: Scoping comments may be sent to: *MSC-Feasibility@usace.army.mil* or to USACE, Galveston District, (Attn: RPEC Coastal Section), P.O. Box 1229, Galveston, TX 77553–1229.

FOR FURTHER INFORMATION CONTACT: Galveston District Public Affairs Office at 409–766–3004 or *swgpao@usace.army.mil.*

SUPPLEMENTARY INFORMATION:

1. *Authority.* The study is authorized under Section 216 of the 1970 Rivers and Harbor Act, Public Law 91–611, 91st Congress, H.R. 19877, dated 31 December 1970.

2. *Proposed Action.* The study will evaluate a range of alternatives for deepening and widening the MSC from offshore in the Gulf of Mexico (Gulf) through the Point Comfort turning basin. Modifications to the existing 26-mile long navigation channel are needed to reduce transportation costs and increase operational efficiencies of maritime commerce movement through the channel. The existing MSC is comprised of an entrance channel about 4 miles long from the Gulf through a man-made cut across Matagorda Peninsula. The bayside channel is about 22 miles long across Matagorda and Lavaca Bays to Point Comfort with a turning basin at Point Comfort. Offshore and through the Matagorda Peninsula, the channel has a 300-foot bottom width and is maintained at a depth of 40 feet mean lower low water (MLLW). Generally, in Matagorda and Lavaca Bays, the channel has a 200-foot wide bottom width and is authorized to a project depth of 38 feet MLLW. In addition to No Action, specific alternatives to be evaluated are expected to include nonstructural measures, structural alternatives to modify the bayside channels of the MSC at depths ranging from –38 feet to –50 feet MLLW and at widths ranging from 200 feet to 400 feet, and alternatives to modify and extend the Entrance Channel to depths ranging from –40 feet to –55 fee MLLW and at widths ranging from 300 feet to 600 feet. The DIFR–EIS will also evaluate the impacts and potential benefits of a dredged material management plan (DMMP) for the material that would generated by construction and operation of the modified channel.

3. *Scoping.* A scoping meeting will be held on January 24, 2017 at the Bauer Civic Center, 2300 Highway 35 North, Port Lavaca, TX 77979, from 5:30 to 7:30 p.m. USACE requests public scoping comments to: (a) Identify the affected public and agency concerns; (b) identify the scope of significant issues to be addressed in the DIFR–EIS; (c) identify the critical problems, needs, and significant resources that should be considered in the DIFR–EIS; and (d) identify reasonable measures and alternatives that should be considered in the DIFR–EIS. Scoping comments are requested to be postmarked by February 13, 2017.

4. *Coordination.* Further coordination with environmental agencies will be conducted under the National

Environmental Policy Act, the Fish and Wildlife Coordination Act, the Clean Water Act, the Clean Air Act, the National Historic and Preservation Act, the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Protection, Research and Sanctuaries Act and the Coastal Zone Management Act under the Texas Coastal Management Program, among others.

5. *Availability of DIFR–EIS.* The DIFR–EIS is currently scheduled for release for public review and comment in April 2018.

Dated: December 14, 2016.

Lars N. Zetterstrom,

Colonel, U.S. Army, Commanding.

[FR Doc. 2016–30986 Filed 12–22–16; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2016–OM–0108]

Privacy Act of 1974; System of Records

AGENCY: Office of Management, Department of Education.

ACTION: Notice of an altered system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (the Department or ED) publishes this notice of an altered system of records entitled ''Student Loan Repayment Benefits Case Files'' (18–05–15). The system contains records and related correspondence on employees who are being considered for student loan repayment benefits under the Department's Personnel Manual Instruction 537–1 entitled ''Repayment of Federal Student Loans,'' as well as individuals who have been approved for and are receiving such benefits. The information maintained in the system of records entitled ''Student Loan Repayment Benefits Case Files'' consists of one or more of the following: Request letters from selecting officials or supervisors with supporting documentation; employees' (or potential employees') names, home and work addresses, Social Security numbers, student loan account numbers, loan balances, repayment schedules, repayment histories, and repayment status; and the loan holders' names, addresses, and telephone numbers. The information that will be maintained in the altered system of records will be collected through various sources, including directly from the individual to whom the information applies, lending institutions holding student loans for the individual to whom the information applies, officials of the Department, and official Department documents.

DATES: Submit your comments on this altered system of records notice on or before January 23, 2017.

The Department filed a report describing the altered system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), on December 15, 2016. This altered system of records will become effective on the later of: (1) The expiration of the 40-day period for OMB review on January 24, 2017 unless OMB waives 10 days of the 40-day review period for compelling reasons shown by the Department; or (2) January 23, 2017, unless the altered system of records notice needs to be changed as a result of public comment or OMB review. The Department will publish any changes resulting from public comment or OMB review.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery, or hand delivery. We will not accept comments submitted by fax or by email or those submitted after the comment period. To ensure that we do not receive duplicate copies, please submit your comments only once. In addition, please include the Docket ID at the top of your comments.

- *Federal eRulemaking Portal:* Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''help'' tab.
- *Postal Mail, Commercial Delivery, or Hand Delivery:* If you mail or deliver your comments about this altered system of records, address them to: Cassandra Cufee-Graves, Director, Office of Human Resources, Learning and Development Division, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–4573.

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

Assistance to Individuals with Disabilities in Reviewing the Rulemaking Record: On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Cassandra Cufee-Graves, Director, Office of Human Resources, Learning and Development Division. Telephone: (202) 453–5588.

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

SUPPLEMENTARY INFORMATION:

Introduction: The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of an altered system of records maintained by the Department. The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b. The Privacy Act applies to information about an individual that contains individually identifiable information that is retrieved by a unique identifier associated with each individual, such as a name or Social Security number. The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.'' The Privacy Act requires each agency to publish notices of systems of records in the **Federal Register** and to prepare reports for OMB whenever the agency publishes a new system of records or makes a significant change to an established system of records. Each agency is also required to send copies to the Chair of the Senate Committee on Governmental Affairs and the Chair of the House Committee on Government Reform. These reports are intended to permit an evaluation of the probable or potential effect of the proposal on the privacy or other rights of individuals.

The Student Loan Repayment Benefits Case Files (18–05–15) system of records was last published in the **Federal Register** on May 29, 2002 (67 FR 37411). The system is being altered to add a routine use to permit the Department to make a disclosure in the case of a breach of personally identifiable information in the system as well as a routine use to

permit the Department to make a disclosure to labor organizations when relevant and necessary to their duties of exclusive representation. We are also making changes to how the information is stored, noting that hard copy files are stored in locked file cabinets and electronic files are stored on the SharePoint platform on the Department's network. There are also updates in retrievability as records can be retrieved by name or the ED organization that the individual is employed by, as well as added references to SharePoint in the explanation of the system of record's safeguarding of information.

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

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

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

Dated: December 19, 2016.

Andrew Jackson,

Assistant Secretary for Management.

18–05–15

SYSTEM NAME:

Student Loan Repayment Benefits Case Files.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Human Resources, Learning and Development Division, Office of Management, U.S. Department of Education (Department), 400 Maryland Avenue SW., Washington, DC 20202–4573.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains records and related correspondence on employees who are being considered for student loan repayment benefits under the Department's Personnel Manual Instruction 537–1 entitled ''Repayment of Federal Student Loans,'' as well as individuals who have been approved for and are receiving such benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains correspondence and other documents related to requests made by selecting officials or supervisors to offer student loan repayment benefits to recruit or retain highly qualified employees. This system contains: (1) Request letters from selecting officials or supervisors with supporting documentation; (2) employees' (or potential employees') names, home and work addresses, Social Security numbers, student loan account numbers, loan balances, repayment schedules, repayment histories, and repayment status; and (3) the loan holders' names, addresses, and telephone numbers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Floyd D. Spence National Defense Authorization Act of Fiscal Year 2001 (Pub. L. 106–398); 5 U.S.C. 5379, as amended, and implementing regulations at 5 CFR part 537.

PURPOSE(S):

These records are maintained to determine eligibility and benefits and to process requests to offer student loan repayment benefits to employees under authority set forth at 5 U.S.C. 5379. The Department uses these records to prepare its reports for the Office of Personnel Management (OPM) as is required by 5 CFR 537.110. The Department will also refer information from this system to loan holders for collection activities in the case of any student loan default or delinquency that becomes known to the Department in the course of determining an employee's (or potential employee's) eligibility for student loan repayment benefits because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. These disclosures may be made on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act), under a computer matching agreement.

(1) *Personnel Management Disclosure.* The Department may disclose as a routine use to OPM any records or information in this system of records that OPM requests or requires pursuant to OPM's oversight and regulatory functions.

(2) *Salary Offset or Debt Collection Disclosures.* The Department may disclose records in this system to other Federal agencies, hearing or court officials, and present employers of an employee in order for the Department to obtain repayment, if an employee fails to complete the period of employment under a service agreement and fails to reimburse the Department the amount of any student loan repayment benefits the employee received from the Department.

(3) *Disclosure to Other Federal Agencies.* The Department may disclose records in this system to its payroll processing provider in order to calculate tax withholdings and disburse payments of student loan repayment benefits to loan holders on behalf of employees approved to receive this benefit.

(4) *Disclosure to Student Lending Institutions or Loan Holders.* The Department may disclose to student lending institutions or loan holders records from this system as a routine use disclosure in order to obtain information (such as the borrower's account number, original and current loan balance, repayment schedule, repayment history, and current repayment status) to allow the Department to determine an employee's or potential employee's initial and continuing eligibility for this benefit, to facilitate accurate payments to student loan holders on behalf of eligible employees, and to ensure the Department discontinues making student loan repayments to individuals who do not remain eligible for them during the period of the service agreement. The Department also may disclose to loan holders records from this system of records as a routine use disclosure in the event it becomes known to the Department during the course of its program eligibility determinations that an individual is past due, delinquent, or in default of a federally insured student loan so that the Department can facilitate the loan holder's collection of any past due, delinquent, or defaulted student loans,

because of the Department's mission responsibilities for Federal student loan programs and its role in promoting their responsible use by student borrowers.

(5) *Disclosure for Use by Other Law Enforcement Agencies.* The Department may disclose information to any Federal, State, local, or foreign agency, or other public authority responsible for enforcing, investigating, or prosecuting violations of administrative, civil, or criminal law or regulation, if that information is relevant to any enforcement, regulatory, investigative, or prosecutorial responsibility within the receiving entity's jurisdiction.

(6) *Enforcement Disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the Department may disclose the relevant records to the appropriate agency, whether foreign, Federal, State, tribal, or local, charged with the responsibility of investigating or prosecuting that violation or charged with enforcing or implementing the statute, executive order, rule, regulation, or order issued pursuant thereto.

(7) *Litigation and Alternative Dispute Resolution (ADR) Disclosures.*

(a) *Introduction.* In the event that one of the parties listed below is involved in litigation or ADR, or has an interest in litigation or ADR, the Department may disclose certain records to the parties described in paragraphs (b), (c) and (d) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department; or

(ii) Any Department employee in his or her official capacity; or

(iii) Any Department employee in his or her individual capacity if the Department of Justice (DOJ) has agreed or has been requested to provide or arrange for representation for the employee;

(iv) Any Department employee in his or her individual capacity where the Department requests representation for or has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(b) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the DOJ.

(c) *Adjudicative Disclosures.* If the Department determines that disclosure of certain records to an adjudicative body before which the Department is authorized to appear, or an individual or entity designated by the Department or otherwise empowered to resolve or mediate disputes, is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the adjudicative body, individual, or entity.

(d) *Parties, Counsels, Representatives, and Witnesses.* If the Department determines that disclosure of certain records to a party, counsel, representative, or witness is relevant and necessary to litigation or ADR, the Department may disclose those records as a routine use to the party, counsel, representative, or witness.

(8) *Employment, Benefit, and Contracting Disclosure.*

(a) *For Decisions by the Department.* The Department may disclose a record to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent records, or to another public authority or professional organization, if necessary to obtain information relevant to a Department decision concerning the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

(b) *For Decisions by Other Public Agencies and Professional Organizations.* The Department may disclose a record to a Federal, State, local, or foreign agency or other public authority or professional organization, in connection with the hiring or retention of an employee or other personnel action, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit, to the extent that the record is relevant and necessary to the receiving entity's decision on the matter.

(9) *Employee Grievance, Complaint, or Conduct Disclosure.* The Department may disclose a record in this system of records to another agency of the Federal Government if the record is relevant to one of the following proceedings regarding a present or former employee of the Department: A complaint, a grievance, or a disciplinary or competency determination proceeding. The disclosure may only be made during the course of the proceeding.

(10) *Freedom of Information Act (FOIA) and Privacy Act Advice Disclosure.* The Department may disclose records to DOJ or the Office of Management and Budget (OMB) if the Department concludes that disclosure is desirable or necessary in determining whether particular records are required to be disclosed under the FOIA or the Privacy Act.

(11) *Disclosure to the Department of Justice.* The Department may disclose records to the DOJ to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the program covered by this system.

(12) *Congressional Member Disclosure.* The Department may disclose records to a member of Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The member's right to the information is no greater than the right of the individual who requested it.

(13) *Contract Disclosure.* If the Department contracts with an entity for the purposes of performing any function that requires disclosure of records in this system to employees of a contractor, the Department may disclose the records to those employees. Before entering into such a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(14) *Disclosure in the Course of Responding to a Breach of Data.* The Department may disclose records from this system to appropriate agencies, entities, and persons when: (a) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (b) the Department has determined that as a result of the suspected or confirmed compromise, there is a risk of harm to economic or property interests, identity theft, fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (c) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

(15) *Labor Organization Disclosure.* The Department may disclose records from this system of records to an arbitrator to resolve disputes under a negotiated grievance procedure or to officials of labor organizations recognized under 5 U.S.C. chapter 71 when relevant and necessary to their duties of exclusive representation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b)(12): The Department may disclose to a consumer reporting agency information regarding a claim by the Department that is determined to be valid and overdue as follows: (1) The name, address, taxpayer identification number, and other information necessary to establish the identity of the individual responsible for the claim; (2) the amount, status, and history of the claim; and (3) the program under which the claim arose. The Department may disclose the information specified in this paragraph under 5 U.S.C. 552a(b)(12) and the procedures contained in subsection 31 U.S.C. 3711(e). A consumer reporting agency to which these disclosures may be made is defined at 31 U.S.C. 3701(a)(3).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in hard copy in locked file cabinets and electronically on the SharePoint platform, which runs on the Department's network (EDUCATE).

RETRIEVABILITY:

Records are retrievable by the name of the individual or by the organization within the Department where the individual works.

SAFEGUARDS:

All physical access to the building where this system of records is maintained is controlled and monitored by security personnel who check each individual entering the building for an employee or visitor badge. Hard copy records are stored in locked metal filing cabinets, with access limited to personnel whose duties require access. Electronic records are stored on the SharePoint network, which runs on the Department's network (EDUCATE). The network complies with the security controls and procedures described in the Federal Information Security Management Act (FISMA), National Institute of Standards and Technology (NIST) Special Publications, and Federal Information Processing Standards (FIPS). Some specific security controls in place include:

Operating systems and infrastructure devices are hardened in accordance with NIST and Department guidance.

Intrusion Detection Systems are deployed at the Intranet and Internet edges and are actively monitored by the Security Operations Center (SOC).

Vulnerability scans are conducted periodically to ensure supporting systems and all applications are at the highest state of security and are patched accordingly.

This security system limits data access to Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. Personal computers used to access the electronic records are password protected and passwords are changed periodically throughout the year.

RETENTION AND DISPOSAL:

Service agreements between the Department and an employee and related supporting documents resulting in approval for program benefits will be retained for a period of three years after the employee satisfies the terms and conditions of the agreement. All other documents will be retained in accordance with the National Archives and Records Administration (NARA) General Records Schedules (GRS) 1.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Human Resources, Learning and Development Division, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–4573.

NOTIFICATION PROCEDURE:

If you wish to inquire whether a record exists regarding you in this system, you should contact the system manager at the address listed above. You must provide your name, name of organization, and subject matter. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURES:

If you wish to request access to your records, you should contact the system manager at the address listed above. You must comply with the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURES:

If you wish to request an amendment to your records, you should contact the system manager at the address listed above. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information in this system of records is obtained from the individual to whom the information applies, lending institutions holding student loans for the individual to whom the information applies, officials of the Department, and official Department documents.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2016–30960 Filed 12–22–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Revision of a Currently Approved Information Collection for the State Energy Program

AGENCY: U.S. Department of Energy.

ACTION: Submission for Office of Management and Budget (OMB) review; public comment request.

SUMMARY: The Department of Energy (DOE) invites public comment on a revision of a currently approved collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The information collection requests a revision and three-year extension of its State Energy Program, OMB Control Number 1910–5126.

The proposed action will continue the collection of information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously.

Comments are invited on: (a) Whether the revision of the currently approved 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 pertaining to the approved collection of information, including the validity of the methodology and assumptions used; (c) ways to further enhance the quality, utility, and clarity of the information being collected; and (d) ways to further minimize the burden regarding the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this revision to an approved information collection must be received on or before February 21, 2017. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to

Sallie Glaize, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, *Email: Sallie.Glaize@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or

copies of the information collection instrument and instructions should be directed to:

Gregory Davoren, U.S. Department of Energy, 1000 Independence Ave. SW., Washington, DC 20585, Phone: (202) 287–1706, Fax: (412) 386–5835, *Email: Gregory.Davoren@ee.doe.gov.*

Additional information and reporting guidance concerning the State Energy Program (SEP) is available for review at the following Web site: *http://www1.eere.energy.gov/wip/sep.html.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–5126; (2) Information Collection Request Title: State Energy Program; (3) Type of Review: Revision of a Currently Approved Information Collection; (4) Purpose: To collect information on the status of grantee activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously; (5) Annual Estimated Number of Respondents: 56; (6) Annual Estimated Number of Total Responses: 224; (7) Annual Estimated Number of Burden Hours: 7,600; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $304,000.

Statutory Authority: Title V, Subtitle E of the Energy Independence and Security Act (EISA), Public Law 110–140 as amended (42 U.S.C. 17151 *et seq.*).

Issued in Washington, DC, December 14, 2016.

Gregory Davoren,

Lead Energy Project Specialist, Weatherization and Intergovernmental Program, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2016–30997 Filed 12–22–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement

AGENCY: Office of Nonproliferation and Arms Control, Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This document is being issued under the authority of the Atomic Energy Act of 1954, as amended. The Department is providing notice of a subsequent arrangement under the Agreement for Cooperation Between the Government of the United States of America and the Government of the Republic of Korea Concerning Peaceful Uses of Nuclear Energy and the Agreement for Cooperation Between the Government of the United States of America and the Government of the United Arab Emirates Concerning Peaceful Uses of Nuclear Energy.

DATES: This subsequent arrangement will take effect no sooner than January 9, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Goorevich, Office of Nonproliferation and Arms Control, National Nuclear Security Administration, Department of Energy. Telephone: 202–586–0589 or email: *Richard.Goorevich@nnsa.doe.gov.*

SUPPLEMENTARY INFORMATION: This subsequent arrangement concerns the retransfer of 9,003,960g of U.S.-origin enriched uranium oxide (UO2), containing 158,122g of the isotope U–235 (less than five percent enrichment) in the form of 302 low-enriched fuel assemblies, from the Korea Electric Power Corporation Nuclear Fuel Co., Ltd. in Daejeon, Republic of Korea, to the Emirates Nuclear Energy Corporation in Abu Dhabi, United Arab Emirates. The fuel assemblies will be used for nuclear power generation at the Barakah Nuclear Power Plant. In accordance with section 131a. of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement concerning the retransfer of nuclear material of United States origin will not be inimical to the common defense and security of the United States of America.

Dated: December 13, 2016.

For the Department of Energy.

Anne M. Harrington,

Deputy Administrator, Defense Nuclear Nonproliferation.

[FR Doc. 2016–31002 Filed 12–22–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2514–001.

Applicants: Public Service Company of Colorado.

Description: Compliance filing: OATT Schedules 4 & 9 Compliance to be effective 1/1/2017.

Filed Date: 12/15/16.

Accession Number: 20161215–5098.

Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–318–000.

Applicants: Three Peaks Power, LLC.

Description: Supplement to November 8, 2016 Three Peaks Power, LLC tariff filing.

Filed Date: 12/14/16.

Accession Number: 20161214–5200.

Comments Due: 5 p.m. ET 12/28/16.

Docket Numbers: ER17–360–001.

Applicants: Rio Bravo Solar I, LLC.

Description: Tariff Amendment: Supplement to MBR Application to be effective 11/17/2016.

Filed Date: 12/14/16.

Accession Number: 20161214–5229.

Comments Due: 5 p.m. ET 1/4/17.

Docket Numbers: ER17–361–001.

Applicants: Pumpjack Solar I, LLC.

Description: Tariff Amendment: Supplement to MBR Application to be effective 11/17/2016.

Filed Date: 12/14/16.

Accession Number: 20161214–5233.

Comments Due: 5 p.m. ET 1/4/17.

Docket Numbers: ER17–362–001.

Applicants: Rio Bravo Solar II, LLC.

Description: Tariff Amendment: Supplement to MBR Application to be effective 11/17/2016.

Filed Date: 12/14/16.

Accession Number: 20161214–5239.

Comments Due: 5 p.m. ET 1/4/17.

Docket Numbers: ER17–550–000.

Applicants: Entergy Mississippi, Inc.

Description: § 205(d) Rate Filing: EMI–SMEPA Revised Restated Interconnection Agreement to be effective 1/1/2017.

Filed Date: 12/14/16.

Accession Number: 20161214–5262.

Comments Due: 5 p.m. ET 1/4/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30969 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–539–000]

Wildwood Solar I, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Wildwood Solar I, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 4, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30976 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–111–001.
Applicants: Black Hills Power, Inc.
Description: Compliance filing: Amendment to Order Nos. 827 and 828 Consolidated Compliance Filing to be effective 10/14/2016.
Filed Date: 12/15/16.
Accession Number: 20161215–5193.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–478–001.
Applicants: Mankato Energy Center, LLC.
Description: Tariff Amendment: Mankato Additional Tariff Amendment Filing to be effective 12/16/2016.
Filed Date: 12/15/16.
Accession Number: 20161215–5109.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–551–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: 2017 SDGE TACBAA update to Transmission Owner Tariff Filing to be effective 1/1/2017.
Filed Date: 12/15/16.
Accession Number: 20161215–5114.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–552–000.
Applicants: Arizona Public Service Company.
Description: § 205(d) Rate Filing: Rate Schedule No. 217, Exhibit B.FLG to be effective 2/14/2017.
Filed Date: 12/15/16.
Accession Number: 20161215–5115.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–553–000.
Applicants: Niles Valley Energy LLC.
Description: Baseline eTariff Filing: Niles Valley Energy LLC MBR Application to be effective 2/14/2017.
Filed Date: 12/15/16.
Accession Number: 20161215–5121.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–554–000.
Applicants: Wolf Run Energy LLC.
Description: Baseline eTariff Filing: Wolf Run Energy LLC MBR Application to be effective 2/14/2017.
Filed Date: 12/15/16.
Accession Number: 20161215–5122.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–555–000.
Applicants: Interstate Power and Light Company.
Description: Tariff Cancellation: Cancellation IPL–SMEC Agr I to be effective 12/4/2016.
Filed Date: 12/15/16.
Accession Number: 20161215–5231.
Comments Due: 5 p.m. ET 1/5/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30973 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–48–000.
Applicants: Nine Mile Point Nuclear Station, LLC.
Description: Application of Nine Mile Point Nuclear Station, LLC for Authorization under Section 203 of the Federal Power Act and Request for Expedited Action.
Filed Date: 12/16/16.
Accession Number: 20161216–5196.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: EC17–49–000.
Applicants: GridLiance West Transco LLC.
Description: Application for Authorization to Acquire Transmission Facilities Pursuant to Section 203 of GridLiance West Transco LLC.

Filed Date: 12/16/16.
Accession Number: 20161219–5103.
Comments Due: 5 p.m. ET 1/6/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–2411–002.
Applicants: Luning Energy Holdings LLC.
Description: Triennial Report for Northwest region of Luning Energy Holdings LLC.
Filed Date: 12/16/16.
Accession Number: 20161216–5186.
Comments Due: 5 p.m. ET 2/14/17.

Docket Numbers: ER16–2412–002.
Applicants: Luning Energy LLC.
Description: Triennial Report for Northwest region of Luning Energy LLC.
Filed Date: 12/16/16.
Accession Number: 20161216–5185.
Comments Due: 5 p.m. ET 2/14/17.

Docket Numbers: ER16–2514–001.
Applicants: Public Service Company of Colorado.
Description: Compliance filing: OATT Schedules 4 & 9 Compliance to be effective 1/1/2017.
Filed Date: 12/15/16.
Accession Number: 20161215–5098.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–173–000.
Applicants: Wabash Valley Power Association, Inc.
Description: Supplement to October 24, 2016 Request for Revised and Additional Depreciation Rates of Wabash Valley Power Association, Inc.
Filed Date: 12/16/16.
Accession Number: 20161216–5188.
Comments Due: 5 p.m. ET 12/23/16.

Docket Numbers: ER17–468–001.
Applicants: Ohio Valley Electric Corporation.
Description: Compliance filing: Errata to Amendment J, K and P to be effective 10/14/2016.
Filed Date: 12/16/16.
Accession Number: 20161216–5182.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: ER17–567–000.
Applicants: Duke Energy Progress, LLC.
Description: § 205(d) Rate Filing: Southampton Solar Affected System Operating Agreement to be effective 1/19/2017.
Filed Date: 12/16/16.
Accession Number: 20161216–5145.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: ER17–568–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2016–12–16_Attachment X-Quarterly Operating Limits to be effective 2/15/2017.
Filed Date: 12/16/16.
Accession Number: 20161216–5155.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: ER17–569–000.
Applicants: National Choice Energy LLC.
Description: Baseline eTariff Filing: Baseline New to be effective 12/30/2016.
Filed Date: 12/16/16.
Accession Number: 20161216–5158.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: ER17–570–000.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Cancellation: Notices of Termination of Tranquillity 8 and Mustang 2 E&P Agreements to be effective 11/2/2016.
Filed Date: 12/19/16.
Accession Number: 20161219–5000.
Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–571–000.
Applicants: Entergy Mississippi, Inc.
Description: Notice of Termination of Lease Agreement of Entergy Mississippi, Inc.
Filed Date: 12/15/16.
Accession Number: 20161215–5314.
Comments Due: 5 p.m. ET 1/5/17.

Docket Numbers: ER17–572–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 2939, Queue No. W1–114 to be effective 12/19/2016.
Filed Date: 12/19/16.
Accession Number: 20161219–5093.
Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–573–000.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Cancellation: Notice of Cancellation of WMPA SA No. 2938, Queue No. W1–115 to be effective 12/19/2016.
Filed Date: 12/19/16.
Accession Number: 20161219–5116.
Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–574–000.
Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.
Description: Compliance filing: Compliance Filing EL16–29 and EL16–30 to be effective 1/1/2016.
Filed Date: 12/19/16.
Accession Number: 20161219–5127.
Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–575–000.
Applicants: Tucson Electric Power Company.
Description: § 205(d) Rate Filing: Cancellation of Service Schedule B under Rate Schedule No. 125 to be effective 11/21/2016.
Filed Date: 12/19/16.
Accession Number: 20161219–5160.
Comments Due: 5 p.m. ET 1/9/17.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES17–8–000.
Applicants: MidAmerican Energy Company.
Description: Application under Section 204 of the Federal Power Act for Authorization to issue and sell debt securities of MidAmerican Energy Company.
Filed Date: 12/16/16.
Accession Number: 20161216–5199.
Comments Due: 5 p.m. ET 1/6/17.

Docket Numbers: ES17–9–000.
Applicants: GridLiance West Transco LLC.
Description: Application Under Section 204 of the Federal Power Act for Authorization to Issue Securities of GridLiance West Transco LLC.
Filed Date: 12/16/16.
Accession Number: 20161219–5110.
Comments Due: 5 p.m. ET 1/6/17.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH17–5–000.
Applicants: Enbridge Inc.
Description: Enbridge Inc. submits FERC 65–A Waiver Notification and Notice of Material Change in Facts.
Filed Date: 12/16/16.
Accession Number: 20161216–5191.
Comments Due: 5 p.m. ET 1/6/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30974 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17–5–000]

City of Riverside, California; Notice of Filing

Take notice that on December 7, 2016, the City of Riverside, California submitted its tariff filing: City of Riverside, California 2017 Transmission Revenue Balancing Account Adjustment/Existing Transmission Contracts Update to be effective 1/1/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 28, 2016.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30979 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–8–000]

Florida Gas Transmission Company, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed East-West Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the East-West Project involving construction and operation of facilities by Florida Gas Transmission Company, LLC (FGT) in Acadia and Calcasieu parishes, Louisiana, and Wharton, Matagorda, Orange, and Jefferson counties, Texas. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before January 18, 2017.

If you sent comments on this project to the Commission before the opening of this docket on October 31, 2016, you will need to file those comments in Docket No. CP17–8–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

FGT provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''*eRegister.*'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP17–8–000) with your submission:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

FGT proposes to construct and operate approximately 24.7 miles of new lateral and connection pipeline and four new meter stations and auxiliary and appurtenant facilities in Texas and Louisiana. The East-West Project would

provide new capacity of 275,000 MMBtu/d on FGT's pipeline system in the western division to meet the demand for additional transportation and delivery of natural gas to the Port Arthur—Motiva Meter and Regulator (M&R) Station and the Wilson—Coastal Bend M&R Station in Jefferson and Wharton Counties, Texas respectively.

The Project would consist of the following facilities:

- 13.2 miles of 12-inch-diameter delivery lateral pipe in Matagorda and Wharton Counties, Texas;
- 11.0 miles of 16-inch-diameter delivery lateral pipe in Jefferson County, Texas;
- two new M&R stations in Wharton and Jefferson Counties, Texas;
- modifications to station piping and installation of automated valves at Compressor Station 6 in Orange County, Texas;
- 0.5 mile of 16-inch-diameter connection piping and M&R facilities in Acadia Parish, Louisiana; and
- 0.02 mile of 12-inch-diameter connection piping and M&R facilities in Calcasieu Parish, Louisiana.

The general location of the project facilities is shown in appendix 1.[1]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 317 acres of land for the pipelines and aboveground facilities. Following construction, FGT would maintain about 155 acres for permanent operation of the project's facilities; the remaining acreage would be restored and revert to former uses.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [2] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[3] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies of the EA will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

[3] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

intervene. Instructions for becoming an intervenor are in the ''Document-less Intervention Guide'' under the ''e-filing'' link on the Commission's Web site. Motions to intervene are more fully described at *http://www.ferc.gov/resources/guides/how-to/intervene.asp.*

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.,* CP17–8). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Finally, public sessions or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: December 19, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–31000 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17–7–000]

City of Anaheim, California; Notice of Filing

Take notice that on December 13, 2016, the City of Anaheim, California submitted its tariff filing: City of Anaheim, California 2017 Transmission Revenue Balancing Account Adjustment Update to be effective 1/1/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 3, 2017.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30981 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ17–6–000]

City of Banning, California; Notice of Filing

Take notice that on December 8, 2016, the City of Banning, California submitted its tariff filing: City of Banning, California 2017 Transmission Revenue Balancing Account Adjustment/Existing Transmission Contracts Update to be effective 1/1/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 29, 2016.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30980 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR17–2–000]

Eagle Ford Midstream, LP; Notice of Staff Protest to Petition for Rate Approval

1. Commission staff hereby protests, pursuant to section 284.123(g)(4)(i) of the Commission's regulations, the Petition for Rate Approval filed by Eagle Ford Midstream, LP (Eagle Ford) on October 11, 2016, in the above referenced docket. Pursuant to the Stipulation and Agreement approved by the Commission in Docket Nos. PR12–

3–000 and PR12–3–001, Eagle Ford filed a new petition for rate approval, pursuant to 18 CFR 284.123(b)(2), proposing a new rate applicable to its Natural Gas Policy Act (NGPA) section 311 service. Eagle Ford elected to use the Commission's optional notice procedures set forth in section 284.123(g) of the Commission's regulations. Eagle Ford proposes to increase its rates for firm, enhanced, and interruptible transportation services, authorized overrun service, and park and loan service. Eagle Ford also proposes to revise its Statement of Operating Conditions (SOC) applicable to its transportation services performed pursuant to NGPA section 311, which it states is updated solely to reflect the new proposed rates. Eagle Ford states it has not proposed any changes to the operating terms and conditions of its SOC.

2. Commission staff notes that Eagle Ford has not adequately supported its filing and shown that the proposed rates are fair and equitable. Eagle Ford provided a series of summary schedules but did not provide supporting workpapers or any descriptive justification to support its petition for rate approval. For instance, Eagle Ford has not provided support for the discount adjustment used in calculating the billing determinants. In addition, Eagle Ford has not provided an explanation or support for its proposed cost of service and cost of capital, among other issues.

3. Commission staff's specific concerns include Eagle Ford's development of its discount adjustment in designing rates. Eagle Ford requests a 47.3 percent overall discount adjustment to its billing units. However, Eagle Ford has not provided support for the actual calculations of the adjustments and the rationale for them.

4. In addition, Eagle Ford requested a weighted average cost of capital of 10.34 percent. This figure appears to be based upon a hypothetical capital structure of 40 percent debt and 60 percent equity, a 5.23 percent cost of debt and 13.75 percent cost of equity. However, Eagle Ford has not provided support for either the proposed capital structure or the individual capital cost components.

5. Furthermore, Eagle Ford requested a test year adjustment to operating and maintenance expenses without support for the amount of the adjustment or for the level base year expenses. Eagle Ford did not provide support for the inclusion of administrative and general expenses that were excluded in its prior case, in Docket No. PR12–3–000. Similarly, Eagle Ford did not provide support or explanation of its fivefold increase in plant or the effect of such increase on its cost of service.

6. Finally, Commission staff has concerns regarding certain provisions in Eagle Ford's SOC. For example, it is unclear how Eagle Ford bills Firm Transportation customers and how Eagle Ford allocates capacity for new Firm Transportation customers during periods of constraint.

Dated: December 9, 2016.

Kimberly D. Bose,

Secretary.

[FR Doc. 2016–31001 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3285–001; ER10–3177–001; ER10–3181–001.

Applicants: UGI Development Company, UGI Energy Services, LLC, UGI Utilities, Inc.

Description: Updated Triennial Market Power Analysis for Northeast region of the UGI MBR Companies.

Filed Date: 12/19/16.

Accession Number: 20161219–5294.

Comments Due: 5 p.m. ET 2/17/17.

Docket Numbers: ER13–897–006.

Applicants: Louisville Gas and Electric Company.

Description: Compliance filing: Compliance Filing Attach K Correct eTariff Record Metadata to be effective 1/24/2015.

Filed Date: 12/19/16.

Accession Number: 20161219–5214.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER13–1928–010.

Applicants: Duke Energy Progress, LLC, Duke Energy Carolinas, LLC.

Description: Compliance filing: Correct Order No. 1000 Dates to be effective 1/1/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5123.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER13–1930–009.

Applicants: Louisville Gas and Electric Company.

Description: Compliance filing: Att. K Appendices Compliance Filing to Correct eTariff Record Metadata to be effective 1/24/2015.

Filed Date: 12/19/16.

Accession Number: 20161219–5186.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER13–1940–011.

Applicants: Ohio Valley Electric Corporation.

Description: Compliance filing: Compliance filing to correct effective date to be effective 1/1/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5184.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER13–1941–009.

Applicants: Alabama Power Company.

Description: Compliance filing: Compliance Filing to Correct Certain eTariff Recod Metadata to be effective 1/1/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5133.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER15–2239–006.

Applicants: NextEra Energy Transmission West, LLC.

Description: Compliance filing: NextEra Energy Transmission West, LLC Compliance Filing to be effective 10/20/2015.

Filed Date: 12/19/16.

Accession Number: 20161219–5263.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER16–2541–001.

Applicants: Pioneer Wind Park I, LLC.

Description: Compliance filing: Pioneer Wind Park I, LLC MBR Tariff to be effective 9/3/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5228.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–201–000.

Applicants: Shell Energy North America (US), L.P.

Description: Supplement to October 27, 2016 Shell Energy North America (US), L.P. tariff filing (Category 1 Seller Notice).

Filed Date: 12/12/16.

Accession Number: 20161212–5281.

Comments Due: 5 p.m. ET 1/3/17.

Docket Numbers: ER17–576–000.

Applicants: ISO New England Inc.

Description: § 205(d) Rate Filing: Part 1 of Two-Part Filing to Update Effective Date to be effective 3/1/2017.

Filed Date: 12/19/16.

Accession Number: 20161219–5169.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–576–001.

Applicants: ISO New England Inc.

Description: Tariff Amendment: Part 2 of Two-Part Filing to Update Effective Date to be effective 3/31/2017.

Filed Date: 12/19/16.

Accession Number: 20161219–5232.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–577–000.

Applicants: Rock River I, LLC.

Description: § 205(d) Rate Filing: Category 1 Seller Notice re Northwest to be effective 12/20/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5270.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–578–000.

Applicants: Direct Energy Small Business, LLC.

Description: Tariff Cancellation: Cancellation filing to be effective 2/17/2017.

Filed Date: 12/19/16.

Accession Number: 20161219–5313.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–579–000.

Applicants: Bounce Energy PA, LLC.

Description: Tariff Cancellation: Cancellation filing to be effective 2/17/2017.

Filed Date: 12/19/16.

Accession Number: 20161219–5323.

Comments Due: 5 p.m. ET 1/9/17.

Docket Numbers: ER17–580–000.

Applicants: RET Modesto Solar LLC.

Description: Compliance filing: Market-Based Rate Notice of Change in Status to be effective 12/20/2016.

Filed Date: 12/19/16.

Accession Number: 20161219–5332.

Comments Due: 5 p.m. ET 1/9/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30975 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–544–000]

Beacon Solar 1, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Beacon Solar 1, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 4, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30977 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–569–000]

National Choice Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of National Choice Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 9, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the

Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 19, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30978 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CD17–1–000]

Greybull Valley Irrigation District; Notice of Preliminary Determination of a Qualifying Conduit Hydropower Facility and Soliciting Comments and Motions To Intervene

On December 7, 2016, the Greybull Valley Irrigation District filed a notice of intent to construct a qualifying conduit hydropower facility, pursuant to section 30 of the Federal Power Act (FPA), as amended by section 4 of the Hydropower Regulatory Efficiency Act of 2013 (HREA). The proposed Greybull Valley Hydroelectric Project would have an installed capacity of 4,500 kilowatts (kW) and would be located at the end of the Roach Gulch Discharge Canal. The project would be located near the Town of Meeteetse in Park County, Wyoming.

Applicant Contact: Ted Sorenson, Wyoming Water Power, LLC, 1032 Grandview Drive, Ivins, UT 84738, Phone No. (208) 589–6908.

FERC Contact: Robert Bell, Phone No. (202) 502–6062, email: *robert.bell@ferc.gov.*

Qualifying Conduit Hydropower Facility Description: The proposed project would consist of: (1) A proposed 200-foot long, 60-inch-diameter intake pipe connected to the existing 60-inch Roach Gulch Discharge Canal; (2) a proposed 32' wide by 35' long powerhouse containing one generating unit with an installed capacity of 4,500-kW; (3) a proposed tailrace discharging directly into the Roach Gulch Discharge Canal; and (4) appurtenant facilities. The proposed project would have an estimated annual generating capacity of 11,221 megawatt-hours.

A qualifying conduit hydropower facility is one that is determined or deemed to meet all of the criteria shown in the table below.

TABLE 1—CRITERIA FOR QUALIFYING CONDUIT HYDROPOWER FACILITY

Statutory provision	Description	Satisfies (Y/N)
FPA 30(a)(3)(A), as amended by HREA	The conduit is a tunnel, canal, pipeline, aqueduct, flume, ditch, or similar man-made water conveyance that is operated for the distribution of water for agricultural, municipal, or industrial consumption and not primarily for the generation of electricity.	Y
FPA 30(a)(3)(C)(i), as amended by HREA	The facility is constructed, operated, or maintained for the generation of electric power and uses for such generation only the hydroelectric potential of a non-federally owned conduit.	Y
FPA 30(a)(3)(C)(ii), as amended by HREA	The facility has an installed capacity that does not exceed 5 megawatts	Y
FPA 30(a)(3)(C)(iii), as amended by HREA	On or before August 9, 2013, the facility is not licensed, or exempted from the licensing requirements of Part I of the FPA.	Y

Preliminary Determination: Based upon the above criteria, Commission staff has preliminarily determined that the proposal satisfies the requirements for a qualifying conduit hydropower facility under 16 U.S.C. 823a, and is exempted from the licensing requirements of the FPA.

Comments and Motions to Intervene: The deadline for filing comments contesting whether the facility meets the qualifying criteria is 45 days from the issuance date of this notice.

The deadline for filing motions to intervene is 30 days from the issuance date of this notice.

Anyone may submit comments or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210 and 385.214. Any motions to intervene must be received on or before the specified deadline date for the particular proceeding.

Filing and Service of Responsive Documents: All filings must (1) bear in all capital letters the ''COMMENTS CONTESTING QUALIFICATION FOR A CONDUIT HYDROPOWER FACILITY'' or ''MOTION TO INTERVENE,'' as applicable; (2) state in the heading the name of the applicant and the project number of the application to which the filing responds; (3) state the name, address, and telephone number of the person filing; and (4) otherwise comply with the requirements of sections 385.2001 through 385.2005 of the Commission's regulations.[1] All comments contesting Commission staff's preliminary determination that the facility meets the qualifying criteria must set forth their evidentiary basis.

The Commission strongly encourages electronic filing. Please file motions to intervene and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Locations of Notice of Intent: Copies of the notice of intent can be obtained directly from the applicant or such

[1] 18 CFR 385.2001–2005 (2015).

copies can be viewed and reproduced at the Commission in its Public Reference Room, Room 2A, 888 First Street NE., Washington, DC 20426. The filing may also be viewed on the web at *http://www.ferc.gov/docs-filing/elibrary.asp* using the ''eLibrary'' link. Enter the docket number (*e.g.,* CD17–1–000) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

Dated: December 15, 2016.

Kimberly Bose,

Secretary.

[FR Doc. 2016–30933 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL17–1–000]

Inquiry Regarding the Commission's Policy for Recovery of Income Tax Costs

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notice of Inquiry.

SUMMARY: Following the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *United Airlines, Inc., et al.* v. *Federal Energy Regulatory Commission,* 827 F.3d 122 (D.C. Cir. 2016), the Commission seeks comment regarding how to address any double recovery resulting from the Commission's current income tax allowance and rate of return policies.

DATES: Initial Comments are due February 6, 2017, and Reply Comments are due February 27, 2017.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.
- *Instructions:* For detailed instructions on submitting comments, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Glenna Riley (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–8620, *Glenna.Riley@ferc.gov*.

Andrew Knudsen (Legal Information), Office of the General Counsel, 888 First Street NE., Washington, DC 20426, (202) 502–6527, *Andrew.Knudsen@ferc.gov*.

James Sarikas (Technical Information), Office of Energy Markets Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6831, *James.Sarikas@ferc.gov*.

Scott Everngam (Technical Information), Office of Energy Markets Regulation, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–6614, *Scott.Everngam@ferc.gov*.

SUPPLEMENTARY INFORMATION:

1. The Commission seeks comments regarding how to address any double recovery resulting from the Commission's current income tax allowance and rate of return policies. This Notice of Inquiry (NOI) follows the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) holding in *United Airlines, Inc., et al.* v. *Federal Energy Regulatory Commission* that the Commission failed to demonstrate that there is no double recovery of taxes for a partnership pipeline as a result of the income tax allowance and return on equity (ROE) determined pursuant to the discounted cash flow (DCF) methodology.[1] Accordingly, the Court remanded the decisions to the Commission to develop a mechanism ''for which the Commission can demonstrate that there is no double recovery'' of partnership income tax costs.[2]

2. The Commission recognizes the potentially significant and widespread effect of this holding upon the oil pipelines, natural gas pipelines, and electric utilities subject to the Commission's regulation. The importance of the income tax policy for partnership entities extends well-beyond the particular interests of the parties to the *United Airlines* proceeding. The Commission also recognizes that additional industry comment may provide further insight into the relationship between a partnership's income tax allowance and the Commission's DCF methodology. Accordingly, this NOI seeks further information as the Commission re-evaluates its policies following the *United Airlines* decision. Initial Comments are due February 6, 2017, and Reply Comments are due February 27, 2017.

I. Background

3. This proceeding involves the relationship between the Commission's income tax allowance and ROE policies. Both have evolved in the past two decades to address the emergence of partnership entities in FERC-regulated industries, particularly Master Limited Partnerships (MLPs) that own oil and natural gas pipeline assets.[3]

A. The MLP Business Model

4. An MLP is a publicly traded partnership.[4] In order to be treated as an MLP for Federal income tax purposes, an MLP must receive at least 90 percent of its income from certain qualifying sources, including natural gas and oil pipelines.[5]

5. MLPs consist of a general partner, that manages the partnership, and limited partners, that provide capital and receive cash distributions. MLP limited partner units are traded on public exchanges, just like corporate stock shares.[6] Based upon the MLP's partnership agreement, MLPs generally (a) distribute most ''available cash flow'' to the general and limited partners in the form of quarterly distributions, and, in a separate calculation, (b) allocate to the general and limited partners net partnership income for income tax purposes.[7]

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[1] *United Airlines Inc., et al.* v. *FERC,* 827 F.3d 122, 134, 136 (D.C. Cir. 2016) (*United Airlines*).

[2] *Id.* at 137.

[3] *See Composition of Proxy Groups for Determining Gas and Oil Pipeline Return on Equity,* 123 FERC ¶ 61,048 (2008) (*Proxy Group Policy Statement*); *Inquiry Regarding on Income Tax Allowances,* 111 FERC ¶ 61,139 (2005) (*Income Tax Policy Statement*).

[4] The Internal Revenue Service defines a ''publicly traded partnership'' as any partnership if its interests are traded on an established securities market or are readily tradable on a secondary market or the substantial equivalent thereof. 26 U.S.C. 7704; 26 CFR 1.7704–1.

[5] 26 U.S.C. 7704. Qualifying sources include natural resource activities such as exploration, development, mining or production, processing, refining, transportation, storage and marketing of any mineral or natural resource, including gas and oil. *Id.*

[6] *Proxy Group Policy Statement,* 123 FERC ¶61,048 at P 10.

[7] *Id.* at P 11; Master Limited Partnership Association (MLPA), *MLP–101, Basic Tax Principles, https://www.mlpassociation.org/mlp-101/basic-tax-principles/* (last visited Nov. 29, 2016) (*MLPA Basic Tax Principles*). Most MLP agreements define ''available cash flow'' as (1) net income (gross revenues minus operating expenses) plus (2) depreciation and amortization, minus (3) capital investments the partnership must make to maintain its current asset base and cash flow stream. Depreciation and amortization may be considered a part of ''available cash flow,'' because depreciation is an accounting charge against current income, rather than an actual cash expense. Thus,

6. Quarterly cash distributions received by a partner are not equivalent to the partner's share of the MLP's taxable income. MLPs are pass-through entities and each partner is personally responsible for paying income taxes on the partnership's net taxable income.[8] For tax purposes, the partnership agreement allocates to each partner a share of the partnership's taxable income.[9] Deductions, including depreciation, losses, and credits, may substantially offset the taxable income. As a result, a partner may have no net taxable income in a given year.[10]

7. In contrast, the partner may receive a quarterly distribution whether or not it is allocated a positive net income tax liability for that period. The quarterly distributions are considered to be a return of capital, which reduces the partner's basis in the MLP units and is only taxed at the time of distribution if the partner's adjusted basis falls to zero.[11] The investor's original basis (the price paid for the units) is adjusted downwards by cash distributions and allocations of deductions, and is adjusted upwards by allocations of income. When the units are sold, the taxable gain is the sales price minus the adjusted basis.[12] The portion of the gain attributable to basis reductions for prior depreciation deductions is ''recaptured'' and taxed as ordinary income rather than capital gain.[13]

B. Return on Equity Policies

8. In *Hope*,[14] the Supreme Court stated that ''the return to the equity owner should be commensurate with the return on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital.'' [15] Since the 1980s, the Commission has used the DCF model to develop a range of returns earned on investments in companies with corresponding risks for purposes of determining the ROE for regulated entities.

9. Under the Commission's cost-of-service ratemaking methodology, the DCF model is used to determine a reasonable ROE that a regulated entity may recover in rates in addition to its costs. The purpose of the DCF methodology is to estimate the return required by investors in order to invest in the pipeline or utility whose rates are at issue.[16] To do this, the DCF model considers the range of returns that the market provides investors in a proxy group of publicly-traded entities with similar risk profiles.[17]

10. The DCF model was originally developed as a method for investors to estimate the value of securities, including common stocks. It is based on the premise that ''a stock's price is equal to the present value of the infinite stream of expected dividends discounted at a market rate commensurate with the stock's risk.'' [18] With simplifying assumptions, the DCF model results in the investor using the following formula to determine share price:

$$P = D/(k-g)$$

where P is the price of the stock at the relevant time, D is the current dividend, k is the discount rate (or investors' required rate of return), and g is the expected growth rate in dividends. For ratemaking purposes, the Commission rearranges the DCF formula to solve for ''k'', the discount rate, which represents the rate of return that investors require to invest in the firm.[19] Under the resulting DCF formula, the required rate of return is estimated to equal current dividend yield (dividends divided by share price) plus the projected future growth rate of dividends:

$$k = D/P + g$$

11. The Commission compares the returns of proxy group entities on an after-entity-level-tax basis, rather than before-tax basis, because most comparable securities trade on the basis of an entity's after-tax return on its public utility income.[20] Based typically upon the median of the range of returns in the proxy group, the Commission determines the regulated entity's allowed ROE,[21] although the ROE may sometimes be adjusted upwards or downwards within the zone of reasonableness.[22]

12. The Commission's proxy group criteria is based on the principle that entities included in the proxy group must be of comparable risk to the firm whose ROE is being determined in a particular rate proceeding.[23] As entities narrowly focused on providing oil and natural gas pipeline transportation have increasingly adopted the MLP business form, the Commission has included MLPs in the proxy group for natural gas and oil pipelines because those MLPs are likely more representative of predominantly pipeline firms than the diversified corporations otherwise available for inclusion in a proxy group.[24] The Commission uses the same DCF analysis for MLPs as for corporations, except that the Commission uses a lower long-term growth projection for MLPs than for corporations.[25] The Commission concluded that an MLP's quarterly distributions could be used to measure cash flows from the investment without any adjustment to remove return of

depreciation does not reduce the MLP's current cash on hand. *Proxy Group Policy Statement,* 123 FERC ¶61,048 at P 11.

[8] *Income Tax Policy Statement,* 111 FERC ¶61,139 at P 33; *MLPA Basic Tax Principles; see also ExxonMobil Oil Corp.* v. *FERC,* 487 F.3d 945, 954 (D.C. Cir. 2007) (*ExxonMobil*) (noting that ''investors in a limited partnership are required to pay tax on their distributive shares of the partnership income, even if they do not receive a cash distribution''). In contrast, corporations pay entity-level income taxes, and corporate dividends are second tier income to a common stock investor, not analogous to partnership distributions. *SFPP, L.P.,* Opinion No. 511, 134 FERC ¶61,121, at PP 223, 253 (2011) (Opinion No. 511).

[9] The partner reports this taxable income and its components (*e.g.,* gain, deductions, losses, credits) to the Internal Revenue Service on the K–1. *See* Dep't of Treasury, Internal Revenue Service, *Partner's Instructions for Schedule K–1 (Form 1065)* (2015), *https://www.irs.gov/instructions/i1065sk1/index.html* (*IRS Instructions for K–1*).

[10] *Proxy Group Policy Statement,* 123 FERC ¶61,048 at P 14.

[11] *Id.* P 15; *MLPA Basic Tax Principles.* Provided that the partner's adjusted basis is above zero, tax on distributions is deferred until the investor sells the units. If the basis falls to zero, future cash distributions are taxed as capital gain in the year received. *MLPA Basic Tax Principles.*

[12] *MLPA Basic Tax Principles; IRS Instructions for K–1.*

[13] *MLPA Basic Tax Principles.*

[14] *Fed. Power Comm'n* v. *Hope Natural Gas Co.,* 320 U.S. 591 (1944) (*Hope*).

[15] *Id.* at 603; *see also Bluefield Waterworks & Improvement Co.* v. *Pub. Serv. Comm'n,* 262 U.S. 679, 692–693 (1923); *Duquesne Light Co.* v. *Barasch,* 488 U.S. 299, 314 (1989).

[16] *Martha Coakley, Mass. Attorney Gen.* v. *Bangor Hydro-Elec. Co.,* Opinion No. 531, 147 FERC ¶61,234, at P 14 (2014) (Opinion No. 531).

[17] *See Canadian Ass'n of Petroleum Producers* v. *FERC,* 254 F.3d 289, 293–294 (D.C. Cir. 2001).

[18] *Id.; see also Proxy Group Policy Statement,* 123 FERC ¶61,048 at P 58.

[19] Opinion No. 531, 147 FERC ¶61,234 at P 15. In contrast, ''r'' represents the regulated entity's rate of return. Although the Commission has at times used the terms ''r'' and ''k'' interchangeably, the Commission intends to apply these terms more precisely and requests that the participants in this proceeding do so also unless quoting a prior Commission order.

[20] Brief of Respondent Federal Energy Regulatory Commission, at 8, Case No. 11–1479 (D.C. Cir., filed Feb. 5, 2016).

[21] *See Southern California Edison Co.* v. *FERC,* 717 F.3d 177, 182–183 (D.C. Cir. 2013).

[22] *See, e.g.,* Opinion No. 531, 147 FERC ¶61,234 at PP 150–151. The zone of reasonableness is defined by the low and high estimates of the market cost of equity for the members of the proxy group. *Id.* P 23.

[23] *Petal Gas Storage, L.L.C.* v. *FERC,* 496 F.3d 695, 699 (D.C. Cir. 2007) (*Petal*); *Proxy Group Policy Statement,* 123 FERC ¶ 61,048 at PP 24, 29.

[24] *See Proxy Group Policy Statement,* 123 FERC ¶61,048 at PP 47–50.

[25] The long-term growth projection for corporations is projected growth in Gross Domestic Product (GDP) and for MLPs one half that projection. *Id.* P 106.

capital.[26] The Commission explained that ''since the DCF model uses the total unadjusted cash flows to determine the stock's value, it is theoretically inconsistent [with the DCF model] to use lower adjusted cash flows when using the DCF model to determine the return required by investors purchasing the stock.'' [27]

C. Income Tax Policy

13. In May 2005, the Commission issued an Income Tax Policy Statement [28] permitting an income tax allowance for all regulated entities (including corporations and partnerships), provided that the owners can show an actual or potential income tax liability to be paid on income from the regulated assets. The Commission continued its longstanding policy of permitting corporations to recover an income tax allowance because corporations themselves incur a corporate income tax liability. The Commission reasoned that while a partnership or other pass-through entity does not pay taxes, the partners incur an income tax liability on the partnership income. Accordingly, those income tax costs are appropriately included in rates.[29] The D.C. Circuit upheld this policy, in *ExxonMobil*,[30] explaining that the income tax liability of partners is attributable to the regulated entity and may be recovered in pipeline rates, provided that the partners have an actual or potential income tax liability.[31]

14. In July 2016, in *United Airlines,*[32] the D.C. Circuit, reviewing a series of orders involving SFPP, L.P.,[33] held that the Commission failed to demonstrate that there is no double recovery of taxes for a partnership pipeline as a result of awarding that pipeline both an income tax allowance and a pre-investor-tax ROE pursuant to the DCF methodology.[34] The Court upheld *ExxonMobil's* finding that a pipeline may recover partnership income tax costs so long as the partners have an actual or potential income tax liability,[35] but concluded that allowing partnerships to double recover those tax costs would be inconsistent with the Supreme Court's mandate in *Hope*.[36]

15. The Court remanded the decisions to the Commission to develop a mechanism ''for which the Commission can demonstrate that there is no double recovery'' of partnership income tax costs.[37] The Court noted that the Commission may consider the options of removing any duplicative tax recovery for partnerships directly from the DCF ROE, or eliminating all income tax allowances and setting rates based on pre-tax returns.[38]

16. The Court also directed the Commission to ensure parity between equity owners in partnership and corporate pipelines.[39] The Court did not find persuasive the Commission's argument that ''any disparate treatment between partners in partnership pipelines and shareholders in corporate pipelines is the result of the Internal Revenue Code, not FERC's tax allowance policy.'' [40]

II. Commission Questions

17. The Commission seeks comment regarding methods to allow regulated entities to earn an adequate return consistent with *Hope* [41] that do not result in a double recovery of investor-level taxes for partnerships or similar pass-through entities.

18. Comments should consider the fundamental concerns presented by *United Airlines* and shipper litigants that permitting a partnership entity to have an income tax allowance results in a double recovery of investor-level tax costs because:

- The DCF methodology estimates the rate of return that an investor requires in order to invest in the regulated entity.[42]
- As a general matter, potential investors evaluate whether to invest in an entity based on the returns they expect to receive after paying any applicable taxes on the investment income,[43] and thus, to attract capital, entities in the market must provide investors a return that covers investor-level taxes and leaves sufficient remaining income to earn their required after-tax return.[44]
- Because the return estimated by the DCF methodology includes the cash flow necessary to cover investors' income tax liabilities and earn a sufficient after-tax return, the Commission's policy of allowing partnership entities to recover a separate income tax allowance may result in a double recovery.[45]
- While allowing a partnership entity to recover the partner-investors' tax costs is reasonable,[46] allowing a partnership to double recover those tax costs is not.[47]

[26] *See Id.* PP 57–63.

[27] *See Id.* P 58.

[28] *See Income Tax Policy Statement,* 111 FERC ¶61,139. The Policy Statement was issued in response to *BP West Coast Products, LLC* v. *FERC,* 374 F.3d 1263 (DC Cir. 2004) (*BP West Coast*). That decision held that the Commission failed to justify its then existing policy of affording partnership entities an income tax allowance for income attributable to interests held by corporations, but not for income attributable to interests held by individuals.

[29] *Id.* P 34.

[30] *ExxonMobil,* 487 F.3d 945.

[31] *Id.* at 953–955.

[32] *United Airlines,* 827 F.3d 122.

[33] Opinion No. 511, 134 FERC ¶61,121, *order on reh'g,* Opinion No. 511–A, 137 FERC ¶61,220 (2011), *order on reh'g,* Opinion No. 511–B, 150 FERC ¶61,096 (2015).

[34] *United Airlines,* 827 F.3d at 134, 136.

[35] *Id.* at 135 (citing *ExxonMobil,* 487 F.3d at 954–955); *id.* at 137.

[36] *Id.* at 137 (citing *Hope,* 320 U.S. at 603).

[37] *Id.*

[38] *Id.* As noted by the Court, the Commission previously considered the option of setting rates based on pre-investor level and pre-entity level tax returns in its 2005 policy statement and concluded this approach would be impracticable. *See Income Tax Policy Statement,* 111 FERC ¶61,139 at P 40.

[39] *United Airlines,* 827 F.3d at 137.

[40] *Id.* at 136; *see also BP West Coast,* 374 F.3d at 1293 (''The mandate of Congress in the tax amendment was exhausted when the pipeline limited partnership was exempted from corporate taxation. It did not empower FERC to do anything, let alone to create an allowance for fictitious taxes.'').

[41] 320 U.S. at 603.

[42] *United Airlines,* 827 F.3d at 136; Opinion No. 531, 147 FERC ¶ 61,234 at P 14.

[43] *Kern River Gas Transmission Co.,* Opinion 486–B, 126 FERC ¶ 61,034, at P 114 (2009) (''investors invest on the basis of after-tax returns and price an instrument accordingly'').

[44] *United Airlines,* 827 F.3d at 136. In finding that ''the [DCF ROE] determines the pre-tax investor return required to attract investment, irrespective of whether the regulated entity is a partnership or a corporate pipeline,'' the Court relied on Opinion No. 511, 134 FERC ¶ 61,121 at PP 243, 244, which included the following example:

> The investor desires a 6 percent after-tax return and has a 25 percent marginal tax rate. Thus, the security must have an ROE of 8 percent to achieve an after-tax yield of 6 percent. Assume that the distribution or dividend is $8. The investor will price the security at $100. Conversely, if the security price is $100 and the yield is $8, the Commission determines that the required return is 8 percent. If the dollar distribution increases to $10, the investor will price the security at $125 because $10 is 8 percent of $125. The Commission would note that the security price is $125 and that the yield is $10, or a return of 8 percent. If the distribution is $6, the security price will drop to $75, a return of 8 percent. The Commission would observe a $75 dollar security price, a $6 yield, and a return of 8 percent. In all cases the ROE is 8 percent and the after-tax return is 6 percent based on the market-established return.

Although the concept may be more complex for an MLP, this proposition is also evidenced in the fact that the yields on bonds that pay taxable interest income are higher than the yields on bonds of state and local governments that pay tax-exempt income. Joint Initial Brief of Shipper Petitioners, at 20, Case No. 11–1479 (D.C. Cir., filed Feb. 5, 2016).

[45] *United Airlines,* 827 F.3d at 137 (remanding for the Commission to consider ''mechanisms for which the Commission can demonstrate that there is no double recovery'').

[46] *Id.* at 135, 137 (noting that the Commission had a reasoned basis for granting an income tax allowance to partnership pipelines); *ExxonMobil,* 487 F.3d at 951–953 (concluding that the Commission provided a reasonable justification for its policy of allowing partnership pipelines an income tax allowance to the extent that the partners incur actual or potential tax liability); *see also City of Charlottesville* v. *FERC,* 774 F.2d 1205, 1207 (D.C. Cir. 1985) (''cost-of-service ratemaking principles'' require ''rates yielding sufficient revenue to cover all proper costs, including federal income taxes, plus a specified return on invested capital''); *BP West Coast,* 374 F.3d 1263 at 1286 (''There is no question that as a general proposition a pipeline that pays income taxes is entitled to recover the costs of the taxes paid from its ratepayers''); *Pub. Serv. Comm'n of N.M.* v. *FERC,* 653 F.2d 681, 683 (D.C. Cir. 1981).

[47] *United Airlines,* 827 F.3d at 136 (finding that ''[b]ecause the Supreme Court has instructed that

• Changes in the share price do not resolve the double recovery issue. MLP investors will demand the same percentage return on the share price whether or not a pipeline receives an income tax allowance. If an MLP obtains a new revenue source that increases its distributions to investors (such as an income tax allowance that increases its rates), the share price will rise until, once again, the investor receives the cash flow necessary to cover investors' income tax liabilities and earn a sufficient after-tax return.[48]

• As opposed to an MLP pipeline, the double recovery issue does not arise for a corporation's income tax allowance. The corporation pays its corporate income taxes itself. Accordingly, although a return to investors must cover investor-level taxes and sufficient remaining income to earn their required after-tax return, the corporate income tax is not an investor level tax.[49] Thus, the corporate income tax cost recovered in the income tax allowance is not reflected in the return estimated by the DCF methodology.[50]

19. In light of the above, the Commission invites comments regarding any proposed methods to adjust the income tax allowance policy or current ROE policies to resolve any double recovery of investor-level tax costs for partnerships or similar pass-through entities. Comments should provide a detailed explanation of any proposal, including evidentiary support and how any adjustment to the Commission's tax allowance and/or ROE policies should be specifically implemented. Comments should explain how the proposed approach would (a) resolve any double recovery of investor-level income tax costs for partnership entities, and (b) allow regulated entities to earn a sufficient return consistent with the capital attraction standard in *Hope.*[51] Comments should support any proposed methods with data, theoretical analyses, empirical studies, or any other evidence relevant to demonstrating the level of partner-investor tax costs reflected in the ROE estimated by the DCF methodology. Comments should address how these proposals apply to publically traded pass-through entities, such as MLPs and real estate investment trusts (REITS), as well other pass through entities, including closely held partnerships and joint ventures.

20. Comments should also address the practical application of their proposals. For example, to the extent a commenter advocates eliminating the income tax allowance for partnerships and relying on the ROE awarded the pipeline for the recovery of investor-level tax costs, its comments should address whether any changes to the Commission's ROE policies are necessary to ensure that the ROE reflects appropriate tax costs for the particular entity whose rates are at issue.[52] Alternatively, commenters could propose reducing the DCF return to remove all investor-level tax costs and rely on an income tax allowance to recover the investor-level tax costs. Commenters advocating this latter approach should explain how an adjustment to the DCF return could be made to remove investor-level tax costs for each entity in the DCF proxy group.[53] In addition, those commenters should describe how to determine the level of the income tax allowance for partnership entities.[54] As stated above, commenters should ensure that their proposals do not result in a double recovery of investor level income tax costs for partnership entities as required by *United Airlines.*

III. Procedure for Comments

21. The Commission invites interested persons to submit written comments on the issue identified in this Notice of Inquiry as discussed above. Comments are due February 6, 2017 and reply comments are due February 27, 2017. Comments must refer to Docket No. PL17–1–000, and must include the commenter's name, the organization it represents, if applicable, and its address. To facilitate the Commission's review of the comments, commenters are requested to provide an executive summary of their position. Additional issues the commenters wish to raise should be identified separately. The commenters should double space their comments.

22. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

23. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

24. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

IV. Document Availability

25. The Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE., Room 2A, Washington, DC 20426.

26. From the Commission's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word

'the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks,' FERC has not shown that the resulting rates under FERC's current policy are 'just and reasonable.' '') (quoting *Hope,* 320 U.S. at 603).

[48] Opinion No. 511, 134 FERC ¶ 61,121 at PP 243–44; Joint Initial Brief of Shipper Petitioners, at 34–35, 39–40, Case No. 11–1479 (D.C. Cir., Feb. 5, 2016); *id.* at Attachment 3 (SFP–98 and SFP–99); *Proxy Group Policy Statement,* 123 FERC ¶ 61,048 at P 58 (''under the DCF model, all cash flows, whatever their source, contribute to the value of stock''); *see also United Airlines,* 827 F.3d at 136–137. Although the Court did not directly address this particular aspect of the Shippers' argument, the Shippers have repeatedly raised it in their claims that this income results in a double recovery. *See* Opinion No. 511, 134 FERC ¶ 61,121 at PP 238–239. Further, citing to the same passage in Opinion No. 511 as the Shippers, the Court did acknowledge that ''the [DCF ROE] determines the pre-tax investor return required to attract investment, irrespective of whether the regulated entity is a partnership or a corporate pipeline.'' *United Airlines,* 827 F.3d at 136 (citing Opinion No. 511, 134 FERC ¶ 61,121 at PP 243–244).

[49] *Income Tax Policy Statement,* 111 FERC ¶ 61,139 at P 38.

[50] *United Airlines,* 827 F.3d at 136 (finding that ''unlike a corporate pipeline, a partnership pipeline incurs no taxes, except those imputed from its partners, at the entity level'' and that the facts ''support the conclusion that granting a tax allowance to partnership pipelines results in inequitable returns for partners in those pipelines as compared to shareholders in corporate pipelines.'').

[51] 320 U.S. at 603.

[52] For example, investors in an MLP incur different investor-level taxes than investors in a corporation. Commenters could propose adjustments to equalize the after-investor-level tax returns for each entity in the proxy group or explain why such adjustments are not necessary. Alternatively, commenters could propose a means for including only entities in the proxy group that incur similar investor-level tax costs. To the extent any commenter advocates the latter approach, that commenter should address how the composition of the proxy group and the availability of companies for the proxy group in a given rate case could be affected if the composition of the proxy group is changed to account for the different investor-level taxes of different business forms. *See Petal,* 496 F.3d 695 at 698–700; *Proxy Group Policy Statement,* 123 FERC ¶ 61,048 at P 9 (explaining that an insufficient number of pipelines using the corporate business form are available for the formation of a natural gas pipeline proxy group).

[53] *See* n.52.

[54] Currently, the Commission uses the weighted marginal tax rate of the MLP's partners. *Income Tax Policy Statement,* 111 FERC ¶ 61,139 at P 32; *SFPP, L.P.,* 121 FERC ¶ 61,240, at P 35 (2007).

format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number (excluding the last three digits) in the docket number field.

27. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact the Commission's Online Support at 1–866–208–3676 (toll free) or 202–502–6652 (email at *FERCOnlineSupport@ferc.gov*) or the Public Reference Room at 202–502–8371, TTY 202–502–8659 (email at *public.referenceroom@ferc.gov*).

By direction of the Commission.

Issued: December 15, 2016.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2016–30970 Filed 12–22–16; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9957–34–OA]

Meetings of the Local Government Advisory Committee and the Small Communities Advisory Subcommittee (SCAS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Small Communities Advisory Subcommittee (SCAS) will meet via teleconference on Friday, January 13, 2017, at 11:30 a.m.–12:30 p.m. (ET). The Subcommittee will discuss the LGAC Biannual Report, and other environmental and public health issues affecting small communities. This is an open meeting and all interested persons are invited to participate. The Subcommittee will hear comments from the public between 11:40 a.m.–11:55 a.m. on January 13, 2017. Individuals or organizations wishing to address the Subcommittee will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *eargle.frances@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule a time on the agenda. Time will be allotted on a first-come first-serve basis, and the total period for comments may be extended if the number of requests for presentations requires it.

The Local Government Advisory Committee (LGAC) will meet via teleconference on Friday, January 13, 2017, 12:30 p.m.–1:30 p.m. (ET). The Committee will discuss recommendations of the subcommittee and LGAC workgroups including a draft LGAC Biannual Report; and environmental and public health issues. This is an open meeting and all interested persons are invited to participate. The Committee will hear comments from the public between 12:45 p.m.–1:00 p.m. (ET) on Friday, January 13, 2017. Individuals or organizations wishing to address the Committee will be allowed a maximum of five minutes to present their point of view. Also, written comments should be submitted electronically to *eargle.frances@epa.gov.* Please contact the Designated Federal Officer (DFO) at the number listed below to schedule a time on the agenda. Time will be allotted on a first-come first-serve basis, and the total period for comments may be extended if the number of requests for presentations requires it.

ADDRESSES: EPA's Local Government Advisory Committee meetings will be held via teleconference. Meeting summaries will be available after the meeting online at *www.epa.gov/ocir/scas_lgac/lgac_index.htm* and can be obtained by written request to the DFO.

FOR FURTHER INFORMATION CONTACT: Local Government Advisory Committee (LGAC) contact Frances Eargle at (202) 564–3115 or email at *eargle.frances@epa.gov.*

Information Services for Those with Disabilities: For information on access or services for individuals with disabilities, please contact Frances Eargle at (202) 564–3115 or *eargle.frances@epa.gov.* To request accommodation of a disability, please request it 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: December 16, 2016.

Jack Bowles,

Director, State and Local Relations, EPA's Office of Congressional and Intergovernmental Relations.

[FR Doc. 2016–31036 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2016–0353; FRL 9957–26–OW]

Draft Field-Based Methods for Developing Aquatic Life Criteria for Specific Conductivity

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The Environmental Protection Agency (EPA) is announcing the availability of Draft Field-Based Methods for Developing Aquatic Life Criteria for Specific Conductivity for public comment. Elevated ionic concentration measured as specific conductivity has been shown to negatively impact aquatic life in a range of freshwater resources. Once finalized, states and authorized tribes located in any region of the country may use the methods to develop field-based conductivity criteria for flowing waters. This document does not impose binding water quality criteria on any state, but instead provides methods to assist states and tribes that seek to develop such criteria for adoption into their water quality standards. The draft document provides a scientific assessment of ecological effects and is not a regulation. Following closure of this 60-day public comment period, EPA will consider the comments, revise the document, as appropriate, and then publish a final document that will provide methods for states and authorized tribes that they may use to develop water quality standards.

DATES: Comments must be received on or before February 21, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2016–0353, to the *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Colleen Flaherty, Health and Ecological Criteria Division (Mail Code 4304T), Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington,

DC 20460; telephone: (202) 564–5939; or email: *flaherty.colleen@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. How can I get copies of this document and other related information?

1. Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426. For additional information about EPA's public docket, visit EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

II. Information on the Draft Field-Based Methods for Developing Aquatic Life Criteria for Specific Conductivity

EPA has developed a set of draft methods that states and authorized tribes may use to derive field-based ecoregional ambient aquatic life criteria for ionic mixtures measured as specific conductivity, a measurement of ionic concentration, in flowing waters. Elevated ionic concentration measured as specific conductivity has been shown to impact aquatic life in a range of freshwater resources. Different mixtures of ions that increase specific conductivity are associated with natural and anthropogenic sources.

EPA's draft methods provide flexible approaches for developing science-based conductivity criteria for flowing waters that reflect ecoregional- or state-specific factors. Once final, states and authorized tribes located in any region of the country may use the methods to develop field-based conductivity criteria for flowing waters. The document does not impose binding water quality criteria on any state, but instead provides methods to assist states and tribes that seek to develop such criteria for adoption into their water quality standards. The draft document provides a scientific assessment of ecological effects and is not a regulation.

EPA's draft methods are based on effects observed in streams with different levels of specific conductivity and take into account natural variation in background specific conductivity and the aquatic species adapted to it. The draft document describes how to derive protective field-based aquatic life criteria for specific conductivity, including how to estimate a criterion continuous concentration for chronic exposures, how to estimate a maximum exposure concentration protective of acute toxicity, how to assess geographic applicability and potential confounding factors, and how to determine duration and frequency parameters.

EPA is also providing four case studies to illustrate how states and tribes may use the draft field-based methods to develop criteria in ecoregions with different background ionic concentrations measured as specific conductivity and demonstrate how to assess the applicability of criteria developed for one ecoregion to a different ecoregion. The case studies use field data to demonstrate how to apply the methods to derive example criteria for specific conductivity for flowing waters dominated by sulfate and bicarbonate salts but not for flowing waters dominated by chloride salts.

EPA typically relies on laboratory toxicity test data for surrogate species as defined in the Agency's *Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses* (1985) for aquatic life criteria development. The draft field-based methods for specific conductivity were adapted to be consistent with the Agency's traditional approach to derive aquatic life criteria. The draft field-based methods rely on geographically referenced, paired observations of specific conductivity and the presence and absence or abundance of freshwater benthic macroinvertebrate genera from wadeable perennial streams. An analysis of data for fish from a composite of case study ecoregions demonstrates that the example criteria based on macroinvertebrates are also protective of fish.

This document underwent an internal EPA review and two independent contractor-led external peer reviews.

III. Solicitation of Scientific Views

EPA is soliciting additional scientific views, data, and information regarding the science and technical approach used in the derivation of the draft field-based methods. EPA is also soliciting suggestions from the public for additional ecoregional case studies for future consideration.

Dated: December 16, 2016.

Joel Beauvais,

Deputy Assistant Administrator, Office of Water.

[FR Doc. 2016–31049 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–9030–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs) Filed 12/12/2016 Through 12/16/2016

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: *http://www.epa.gov/compliance/nepa/eisdata.html.*

EIS No. 20160309, Final, BOEM, AK, Cook Inlet Planning Area Oil and Gas Lease Sale 244, Review Period Ends: 01/23/2017, Contact: Sharon Randall 907–334–5200

EIS No. 20160310, Final, FRA, NAT, NEC FUTURE: A Rail Investment Plan for the Northeast Corridor Tier 1, Review Period Ends: 01/31/2017, Contact: Rebecca Reyes-Alicea 212–668–2282

EIS No. 20160311, Draft, USACE, NE, Missouri River Recovery Management Plan, Comment Period Ends: 02/24/2017, Contact: Aaron Quinn 402–995–2669

Dated: December 20, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–31046 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[MB Docket No. 16–357; FCC 16–153]

Entercom License, LLC, Applications for Renewal of License for Station KDND(FM), Sacramento, California

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document commences a hearing to determine whether the applications (FCC File Nos. BRH–20050728AUU and BRH–20130730ANM) (Applications) of Entercom License, LLC (Entercom), for renewal of FM Station KDND, Sacramento, California (Station) should be granted. The hearing will include issues regarding whether Entercom operated the Station in the public interest during the relevant license term, in light of record evidence that Entercom formulated, promoted, conducted, and aired over the Station an inherently dangerous contest in which one listener-contestant died of water intoxication and others suffered serious physical distress.

DATES: Persons desiring to participate as parties in the hearing shall file a petition for leave to intervene not later than January 23, 2017.

ADDRESSES: Please file documents with the Office of the Secretary, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554. Each document that is filed in this proceeding must display on the front page the document number of this hearing, ''MB Docket No. 16–357.''

FOR FURTHER INFORMATION CONTACT: Pamela Kane, Special Counsel, Enforcement Bureau, (202) 418–2393.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Hearing Designation Order (Order), FCC 16–153, adopted October 26, 2016, and released October 27, 2016. The full text of the Order is available for inspection and copying during regular business hours in the FCC Reference Center, 445 12th Street SW., Room CY–A257, Portals II, Washington, DC 20554, and may also be purchased from the Commission's copy contractor, Portals II, 445 12th Street SW., Room CY–B402, Washington, DC 20554. This document is available in alternative formats (computer diskette, large print, audio record, and Braille). Persons with disabilities who need documents in these formats may contact the FCC by email: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

Synopsis

1. This Order commences a hearing proceeding before an Administrative Law Judge to determine whether the Applications of Entercom for renewal of FM Station KDND, Sacramento, California, should be granted. During the relevant license term, on January 12, 2007, Entercom conducted and aired a contest (Contest) that resulted in the death of one of its listener-contestants, Jennifer Lea Strange (Ms. Strange), and endangered others. At a civil trial (Trial), Entercom was found liable for the wrongful death of Ms. Strange.[1]

2. Section 309(k) of the Communications Act of 1934, as amended, 47 U.S.C. 309(k), requires the Commission to determine whether the ''public interest, convenience, and necessity'' will be served by the granting of each renewal application. If the Commission, upon examination of such application and upon consideration of such other matters as the Commission may officially notice, shall find that public interest, convenience and convenience would be served by the granting thereof, it shall grant the application. If a substantial and material question of fact is presented or the Commission for any reason is unable to make the finding that the station has, *inter alia,* served the public interest, it shall formally designate the application for hearing. If the Commission determines, after notice and opportunity for a hearing, that a licensee has failed to meet the requirements for renewal and that no mitigating factors justify the imposition of lesser sanctions, the Commission shall issue an order denying the renewal application.

3. In this case, significant and material questions exist as to whether Entercom: (i) Designed and conducted a contest that was inherently dangerous; (ii) increased the danger to the contestants by changing the announced Contest terms; (iii) was aware of the potential dangers of the Contest and water intoxication; (iv) failed to protect the contestants from the potential dangers of the Contest; (v) failed to warn the contestants of the Contest's potential dangers; (vi) prioritized entertainment value over the welfare of the contestants; and (vii) failed to conduct adequate training and exercise appropriate supervision of Station KDND employees and the Contest to ensure the safety of the contestants. Because the Commission is unable to make a determination on the record currently before it that grant of the Applications would serve the public interest, convenience and necessity, it designates the Applications for hearing.

4. *Inherent dangers of the Contest.* Entercom's Station KDND held the Contest, called ''Hold Your Wee for a Wii,'' live on its January 12, 2007, 5:30–10:00 a.m. Morning Rave Show (Show). The premise of the Contest was that the contestant who was able to drink water at regular intervals for the longest time without urinating or vomiting would win a Nintendo Wii video game console. At the Trial, a medical expert testified that such over-consumption of water may cause pressure in the brain leading to confusion, disorientation, impaired judgment, and ultimately risk of death. In this case, Ms. Strange returned home after participating in the Contest, slipped into a coma, and died, leaving a husband and three children. The autopsy revealed that she had died of water intoxication. Accordingly, the Commission designates for hearing the issue of whether Entercom designed and conducted a contest that was inherently dangerous.

5. *Increased danger to participants by changing the Contest terms.* In a number of over-the-air announcements prior to the Contest, Entercom staff stated that contestants would be drinking water every fifteen minutes from eight- or 16-ounce glasses of water. These promotional announcements did not mention any risks associated with the Contest in general or with water intoxication (also known as hyponatremia) specifically. When the contestants arrived at the Station, they were informed for the first time by Entercom staff—acting throughout in the course of their employment for Entercom—that they would be drinking eight ounces of water every ten minutes rather than at the fifteen minute intervals previously announced on air, again without mention of any specific risk. No medical personnel were present at the Contest. About 90 minutes into the Contest, apparently concerned that the Contest would not be concluded before the end of the Show, the hosts increased the required water consumption to 16.9-ounce bottles of water every 10 minutes. A medical expert at the Trial testified that these modifications to the Contest heightened the risk of death for the contestants, including Ms. Strange. Accordingly, the Commission designates for hearing the issue of whether Entercom increased the danger to Contest participants by changing the Contest terms from those announced previously on air.

6. *Entercom's awareness of the potential dangers of the Contest and water intoxication.* The record suggests that, prior to and during the Contest, Entercom was aware that water intoxication could cause severe health consequences, and even death. Specifically, during at least two Shows broadcast before the Contest, Entercom staff had discussed on air the fraternity hazing death of a college student by water intoxication, and even attempted

[1] *William A. Strange et al.* v. *Entercom Sacramento LLC et al.,* Superior Court of California, County of Sacramento (Dept. 44), Case No. 07AS00377.

a humorous reenactment of that event, during which an Entercom employee drank a large quantity of water and suffered water intoxication symptoms. During the Contest, the hosts of the Show again referred on air to the possibility of ''water poisoning'' like ''that poor kid in college.'' In addition, during the Show, the producer and hosts received several phone calls from concerned listeners—including medical professionals—specifically warning that the Contest was dangerous and even potentially lethal. Entercom employees responded dismissively to these calls, simply telling callers that the contestants had signed releases. Finally, Entercom employees ignored or joked about the symptoms displayed by contestants, including Ms. Strange, who had a visibly extended abdomen, difficulty walking, and stated on air that her head hurt. Accordingly, the Commission designates for hearing the issue of whether Entercom was aware of the potential dangers to the contestants associated with the Contest.

7. *Failure to protect contestants.* At the Trial, a medical expert testified that Jennifer Strange could have been saved if she were provided with medical assistance at any time prior to her having a convulsion or losing consciousness. However, Entercom did not provide medical assistance even after contestants began to complain of extreme discomfort. Therefore, the Commission designates for hearing the issue of whether Entercom failed to take appropriate steps to ensure the contestants' safety and to protect them from the dangers of the Contest.

8. *Failure to warn contestants of the potential danger posed by the Contest.* The record reflects that, in promotional announcements and on the day of the Contest, Entercom did not inform participants of risks associated with the Contest in general or water intoxication specifically, even after Station staff were specifically notified of the danger by callers. Rather, the hosts of the Show made jocular statements to the contestants that dismissed or otherwise minimized the risks or the severity of the symptoms they were experiencing. Even after learning of Ms. Strange's death, Entercom did not contact the other participants to inform them of her death or suggest that they seek medical attention. Accordingly, the Commission designates for hearing the issue of whether Entercom failed to warn the Contest contestants about the possible dangers associated with water intoxication.

9. *Prioritization of entertainment value over welfare of contestants.* The record suggests that Entercom ran the Contest in a way to maximize its entertainment value to listeners at the expense of the dignity and well-being of the contestants. For example, Show staff induced themselves to vomit near the contestants to get them to do so, photographed the contestants in various states of physical distress, including emerging from the bathroom, and otherwise heckled contestants to create a theatrical atmosphere that may have fostered the discomfort and degradation of the contestants for entertainment value. Accordingly, the Commission designates for hearing the issue of whether Entercom may have prioritized the entertainment value of the Contest over the welfare of the contestants.

10. *Failure to train and supervise Station staff.* It appears from the record that Station staff largely conceived and ran the Contest without adequate supervision or guidance from Station management and Entercom's corporate parent, Entercom Corp. In apparent violation of corporate rules and procedures, the Contest was not presented to Entercom Corp.'s legal department for vetting. Nor did Station staff independently research or otherwise make an objective determination on the Contest's safety or compliance with corporate contest guidelines. The facts on record indicate that there may have been systemic problems with Entercom's training and contest review and oversight process. It appears that Station management had minimal involvement in the conception or conduct of the Contest, perhaps in light of the Show's high ratings and resulting contribution to the licensee's financial bottom line. No individual, at either the Station or corporate level, had clear responsibility for compliance with contest policy, and guidelines formulated at a corporate level were not necessarily communicated to the Station staff who would be actually conducting contests. For these reasons, among others, the record suggests that although the hosts of the Show may have exercised poor judgment during the course of the Contest, they were also not adequately trained or supervised by Entercom with respect to contests. Accordingly, the Commission designates for hearing the issue of whether Entercom conducted adequate training and exercised appropriate supervision over the contest-related activities of KDND personnel, including, in particular, the Contest.

11. *Accordingly, it is ordered* that, pursuant to section 309(e) of the Communications Act of 1934, as amended, 47 U.S.C. 309(e), the Applications, File Nos. BRH–20050728AUU and BRH–20130730ANM, *are designated for hearing* in a proceeding before an FCC Administrative Law Judge, at a time and place to be specified in a subsequent Order, upon the following issues: (a) To determine whether Entercom designed and conducted a contest that was inherently dangerous; (b) To determine whether Entercom increased the danger to the contestants in the ''Hold Your Wee for a Wii'' contest by changing the contest terms; (c) To determine whether Entercom was aware of the potential dangers of the ''Hold Your Wee for a Wii'' contest and water intoxication; (d) To determine whether Entercom failed to protect the contestants of the ''Hold Your Wee for a Wii'' contest from its potential dangers; (e) To determine whether Entercom failed to warn the contestants of the ''Hold Your Wee for a Wii'' contest of the contest's potential dangers; (f) To determine whether Entercom prioritized entertainment value over the welfare of contestants of the ''Hold Your Wee for a Wii'' contest; (g) To determine whether Entercom failed to properly train and exercise appropriate supervision of Station KDND(FM) staff and the ''Hold Your Wee for a Wii'' contest to ensure the safety of the contestants; (h) To determine, in light of the evidence adduced under the foregoing issues and the totality of circumstances, whether Entercom License, LLC operated Station KDND(FM) in the public interest during the most recent license term; and (i) To determine, in light of the evidence adduced under the foregoing issues and the totality of circumstances, whether Entercom's Applications for Renewal of License for KDND(FM), File Nos. BRH–20130730ANM and BRH–20050728AUU, should be granted.

12. *It is further ordered* that, irrespective of the resolution of the foregoing issues, the Petition to Deny filed by Irene M. Stolz, on November 1, 2005, *is dismissed as moot in part and denied in part.*

13. *It is further ordered* that the Petition to Deny filed by Media Action Center and Sue Wilson on October 31, 2013, and the Petition to Deny filed by Edward R. Stolz II on November 1, 2013, considered as an informal objection, are granted in part, to the extent that they seek designation for hearing of the subject Entercom license renewal applications on issues (a) through (g) above, *and are otherwise denied.*

14. *It is further ordered* that the Informal Objection filed by Roger D. Smith on October 22, 2013, *is granted.*

15. *It is further ordered* that the Chief, Enforcement Bureau, shall be made a party to this proceeding without the need to file a written appearance.

16. *It is further ordered* that Media Action Center and Sue Wilson shall be made parties to this hearing in their capacity as a petitioner to the captioned applications.

17. *It is further ordered* that pursuant to Section 309(e) of the Act and Section 1.221(c) of the Commission's Rules, to avail itself of the opportunity to be heard and to present evidence at a hearing in this proceeding, Entercom, in person or by its attorneys, *shall file* with the Commission, within 20 calendar days of the release of this Order, a written appearance stating that it will appear at the hearing and present evidence on the issues specified above.

18. *It is further ordered* that, pursuant to Section 1.221(c) of the Commission's Rules, if Entercom fails to file a timely written appearance, or has not filed prior to the expiration of that time a petition to dismiss the captioned Applications without prejudice, or a petition to accept, for good cause shown, such written appearance beyond expiration of said 20 calendar days, the Applications shall be dismissed with prejudice for failure to prosecute.

19. *It is further ordered* that to avail themselves of the opportunity to be heard and the right to present evidence at a hearing in these proceedings, pursuant to Section 1.221(e) of the Commission's Rules, Media Action Center and Sue Wilson, *shall file* within 20 calendar days of the release of this Order, a written appearance stating their intention to appear at the hearing and present evidence on the issues specified above. Any entity or person so named above who fails to file this written statement within the time specified, shall, unless good cause for such failure is shown, forfeit its hearing rights.

20. *It is further ordered,* in accordance with Section 309(e) of the Communications Act of 1934, as amended, the burden of proceeding with the introduction of evidence and the burden of proof, with respect to all issues designated herein, shall be upon Entercom.

21. *It is further ordered,* that Entercom herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and Section 73.3594 of the Commission's Rules, *give notice* of the hearing within the time and in the manner prescribed in such Rule, and *shall advise* the Commission of the publication of such notice as required by Section 73.3594(g) of the Commission's Rules.

22. *It is further ordered* that copies of this document *shall be sent via* Certified Mail, Return Receipt Requested, and by regular first class mail to the following: Carrie A. Ward, Esq., Entercom License, LLC, 401 City Avenue, Suite 809, Bala Cynwyd, PA 65483; Dennis P. Corbett, Esq., Lerman Senter PLLC, 2000 K Street NW., Suite 600, Washington, DC 20006–1809; Media Action Center and Sue Wilson, 18125 Tyler Road, Fiddletown, CA 95629; Edward R. Stolz, II, c/o Dennis J. Kelly, Esq., Law Office of Dennis J. Kelly, P.O. Box 41177, Washington, DC 20018; Roger D. Smith, 6755 Wells Avenue, Loomis, CA 95650.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2016–30898 Filed 12–22–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0865, 3060–1094, 3060–1121, 3060–xxxx]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communication Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid OMB control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before January 23, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Kimberly R. Keravuori, OMB, via email *Kimberly_R_Keravuori@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*. Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0865.

Title: Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third Party Disclosure Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities, Individuals or households, Not-for-profit institutions, and State, Local or Tribal Government.

Number of Respondents and Responses: 62,490 respondents; 168,908 responses.

Estimated Time per Response: .166 hours (10 minutes)–4 hours.

Frequency of Response: Recordkeeping and third-party disclosure requirements; on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 154(i) and 309(j).

Total Annual Burden: 88,927 hours.

Annual Cost Burden: None.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: This information collection contains personally identifiable information (PII). The FCC has a system of records notice (SORN), FCC/WTB–1, ''Wireless Services Licensing Records,'' to cover the collection, maintenance, use(s), and destruction of this PII, which respondents may provide to the FCC as part of the information collection requirement(s). This SORN was published in the **Federal Register** on April 5, 2006 (71 FR 17234, 17269).

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) as an extension after this 60 day comment period to obtain the full three-year clearance from them.

The purpose of this information collection is to continually streamline and simplify processes for wireless applicants and licensees, who previously used a myriad of forms for various wireless services and types of requests, in order to provide the Commission information that has been collected in separate databases, each for a different group of services. Such processes have resulted in unreliable reporting, duplicate filings for the same licensees/applicants, and higher cost burdens to licensees/applicants. By streamlining the Universal Licensing System (ULS), the Commission eliminates the filing of duplicative applications for wireless carriers; increases the accuracy and reliability of licensing information; and enables all wireless applicants and licensees to file all licensing-related applications and other filings electronically, thus increasing the speed and efficiency of the application process. The ULS also benefits wireless applicants/licensees by reducing the cost of preparing applications, and speeds up the licensing process in that the Commission can introduce new entrants more quickly into this already competitive industry. Finally, ULS enhances the availability of licensing information to the public, which has access to all publicly available wireless licensing information on-line, including maps depicting a licensee's geographic service area.

OMB Control Number: 3060–1094.

Title: Licensing, Operation, and Transition of the 2500–2690 MHz Band.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local, or tribal Government.

Number of Respondents: 10 respondents, 250 responses.

Estimated Time per Response: 0.50 hours.

Frequency of Response: Third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for the collection is contained in 47 U.S.C. 151, 154(i), 301, 303(f), 303(g), 303(r), 307, 308, 316.

Total Annual Burden: 125 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: The information collection requirements for this collection are contained under 47 CFR 27.1221(f) which states a Broadband Radio Service/Educational Broadband Service (BRS/EBS) licensee shall provide the geographic coordinates, the height above ground level of the center of radiation for each transmit and receive antenna, and the date transmissions commenced for each of the base stations in its GSA within 30 days of receipt of a request from a co-channel BRS/EBS licensee with an operational base station located in a proximate GSA. Information shared pursuant to this section shall not be disclosed to other parties except as required to ensure compliance with this section.

The third party disclosure coordination and information exchange requirements are necessary to ensure that licensees do not cause interference to each other.

OMB Control No.: 3060–1121.

Title: Sections 1.30002, 1.30003, 1.30004, 73.875, 73.1657 and 73.1690, Disturbance of AM Broadcast Station Antenna Patterns.

Form No.: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities and Not-for-profit Institutions.

Number of Respondents and Responses: 1,195 respondents and 1,195 responses.

Estimated Time per Response: 1–2 hours.

Frequency of Response: On occasion reporting requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in Section 154(i) of the Communications Act of 1934, as amended.

Total Annual Burden: 1,960 hours.

Total Annual Cost: $1,078,200.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: On August 14, 2013, the Commission adopted the Third Report and Order and Second Order on Reconsideration in the matter of An Inquiry Into the Commission's Policies and Rules Regarding AM Radio Service Directional Antenna Performance Verification, MM Docket No. 93–177, FCC 13–115. In the Third Report and Order in this proceeding, the Commission harmonized and streamlined the Commission's rules regarding tower construction near AM stations.

In AM radio, the tower itself functions as the antenna. Consequently, a nearby tower may become an unintended part of the AM antenna system, reradiating the AM signal and distorting the authorized AM radiation pattern. Our old rules contained several sections concerning tower construction near AM antennas that were intended to protect AM stations from the effects of such tower construction, specifically, Sections 73.1692, 22.371, and 27.63. These old rule sections imposed differing requirements on the broadcast and wireless entities, although the issue is the same regardless of the types of antennas mounted on a tower. Other rule parts, such as Part 90 and Part 24, entirely lacked provisions for protecting AM stations from possible effects of nearby tower construction. In the Third Report and Order the Commission adopted a uniform set of rules applicable to all services, thus establishing a single protection scheme regarding tower construction near AM tower arrays. The Third Report and Order also designates ''moment method'' computer modeling as the principal means of determining whether a nearby tower affects an AM radiation pattern. This serves to replace time-consuming direct measurement procedures with a more efficient computer modeling methodology that is reflective of current industry practice.

Information Collection Requirements Contained in this Collection Are as Follows:

47 CFR 1.30002(a) requires a proponent of construction or modification of a tower within a specified distance of a nondirectional AM station, and also exceeding a specified height, to notify the AM station at least 30 days in advance of the commencement of construction. If the tower construction or modification would distort the AM pattern, the

proponent shall be responsible for the installation and maintenance of detuning equipment.

47 CFR 1.30002(b) requires a proponent of construction or modification of a tower within a specified distance of a directional AM station, and also exceeding a specified height, to notify the AM station at least 30 days in advance of the commencement of construction. If the tower construction or modification would distort the AM pattern, the proponent shall be responsible for the installation and maintenance of detuning equipment.

47 CFR 1.30002(c) states that proponents of tower construction or alteration near an AM station shall use moment method modeling, described in § 73.151(c), to determine the effect of the construction or alteration on an AM radiation pattern.

47 CFR 1.30002(f) states that, with respect to an AM station that was authorized pursuant to a directional proof of performance based on field strength measurements, the proponent of the tower construction or modification may, in lieu of the study described in § 1.30002 (c), demonstrate through measurements taken before and after construction that field strength values at the monitoring points do not exceed the licensed values. In the event that the pre-construction monitoring point values exceed the licensed values, the proponent may demonstrate that post-construction monitoring point values do not exceed the pre-construction values. Alternatively, the AM station may file for authority to increase the relevant monitoring point value after performing a partial proof of performance in accordance with § 73.154 to establish that the licensed radiation limit on the applicable radial is not exceeded.

47 CFR 1.30002(g) states that tower construction or modification that falls outside the criteria described in paragraphs § 1.30002(a) and (b) is presumed to have no significant effect on an AM station. In some instances, however, an AM station may be affected by tower construction notwithstanding the criteria set forth in paragraphs § 1.30002(a) and (b). In such cases, an AM station may submit a showing that its operation has been affected by tower construction or alteration. Such showing shall consist of either a moment method analysis or field strength measurements. The showing shall be provided to (i) the tower proponent if the showing relates to a tower that has not yet been constructed or modified and otherwise to the current tower owner, and (ii) to the Commission, within two years after the date of completion of the tower construction or modification. If necessary, the Commission shall direct the tower proponent to install and maintain any detuning apparatus necessary to restore proper operation of the AM antenna.

47 CFR 1.30002(h) states that an AM station may submit a showing that its operation has been affected by tower construction or modification commenced or completed prior to or on the effective date of the rules adopted in this Part pursuant to MM Docket No. 93–177. Such a showing shall consist of either a moment method analysis or of field strength measurements. The showing shall be provided to the current owner and the Commission within one year of the effective date of the rules adopted in this Part. If necessary, the Commission shall direct the tower owner, if the tower owner holds a Commission authorization, to install and maintain any detuning apparatus necessary to restore proper operation of the AM antenna.

47 CFR 1.30002(i) states that a Commission applicant may not propose, and a Commission licensee or permittee may not locate, an antenna on any tower or support structure, whether constructed before or after the effective date of these rules, that is causing a disturbance to the radiation pattern of the AM station, as defined in paragraphs § 1.30002(a) and (b), unless the applicant, licensee, or tower owner completes the new study and notification process and takes appropriate ameliorative action to correct any disturbance, such as detuning the tower, either prior to construction or at any other time prior to the proposal or antenna location.

47 CFR 1.30003(a) states that when antennas are installed on a nondirectional AM tower the AM station shall determine operating power by the indirect method (see § 73.51). Upon the completion of the installation, antenna impedance measurements on the AM antenna shall be made. If the resistance of the AM antenna changes, an application on FCC Form 302–AM (including a tower sketch of the installation) shall be filed with the Commission for the AM station to return to direct power measurement. The Form 302–AM shall be filed before or simultaneously with any license application associated with the installation.

47 CFR 1.30003(b) requires that, before antennas are installed on a tower in a directional AM array, the proponent shall notify the AM station so that, if necessary, the AM station may determine operating power by the indirect method (see § 73.51) and request special temporary authority pursuant to § 73.1635 to operate with parameters at variance. For AM stations licensed via field strength measurements (see § 73.151(a)), a partial proof of performance (as defined by § 73.154) shall be conducted both before and after construction to establish that the AM array will not be and has not been adversely affected. For AM stations licensed via a moment method proof (see § 73.151(c)), the proof procedures set forth in § 73.151(c) shall be repeated. The results of either the partial proof of performance or the moment method proof shall be filed with the Commission on Form 302–AM before or simultaneously with any license application associated with the installation.

47 CFR 1.30004(a) requires proponents of proposed tower construction or modification to an existing tower near an AM station that are subject to the notification requirement in §§ 1.30002–1.30003 to provide notice of the proposed tower construction or modification to the AM station at least 30 days prior to commencement of the planned tower construction or modification. Notification to an AM station and any responses may be oral or written. If such notification and/or response is oral, the party providing such notification or response must supply written documentation of the communication and written documentation of the date of communication upon request of the other party to the communication or the Commission. Notification must include the relevant technical details of the proposed tower construction or modification, and, at a minimum, also include the following: proponent's name and address; coordinates of the tower to be constructed or modified; physical description of the planned structure; and results of the analysis showing the predicted effect on the AM pattern, if performed.

47 CFR 1.30004(b) requires that a response to a notification indicating a potential disturbance of the AM radiation pattern must specify the technical details and must be provided to the proponent within 30 days.

47 CFR 1.30004(d) states that if an expedited notification period (less than 30 days) is requested by the proponent, the notification shall be identified as ''expedited,'' and the requested response date shall be clearly indicated.

47 CFR 1.30004(e) states that in the event of an emergency situation, if the proponent erects a temporary new tower or makes a temporary significant

modification to an existing tower without prior notice, the proponent must provide written notice to potentially affected AM stations within five days of the construction or modification of the tower and cooperate with such AM stations to remedy any pattern distortions that arise as a consequence of such construction.

47 CFR 73.875(c) requires an LPFM applicant to submit an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, with any modification of license application filed solely pursuant to paragraphs (c)(1) and (c)(2) of this section, where the installation is on or near an AM tower, as defined in § 1.30002.

47 CFR 73.1675(c)(1) states that where an FM, TV, or Class A TV licensee or permittee proposes to mount an auxiliary facility on an AM tower, it must also demonstrate compliance with § 1.30003 in the license application.

47 CFR 73.1690(c) requires FM, TV, or Class A TV station applicants to submit an exhibit demonstrating compliance with § 1.30003 or § 1.30002, as applicable, with a modification of license application, except for applications solely filed pursuant to paragraphs (c)(6) or (c)(9) of this section, where the installation is located on or near an AM tower, as defined in § 1.30002.

OMB Control No.: 3060–xxxx.

Title: Sections 80.233, Technical requirements for Automatic Identification System Search and Rescue Transmitter (AIS–SART) equipment, 80.1061 Special requirements for 406.0–406.1 MHz EPIRB stations, 95.1402 Special requirements for 406 MHz PLBs, 95.1403 Special Requirements for Maritime Survivor Locating Devices.

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 80 respondents and 80 responses.

Estimated Time per Response: 1 hour.

Frequency of Response: Third party disclosure requirement and on occasion reporting requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this collection of information is contained in Sections 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303 unless otherwise noted.

Total Annual Burden: 80 hours.

Annual Cost Burden: No cost.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this information collection.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (OMB) after this 60 day comment period in order to obtain the full three year clearance from them.

The information collections contained in these rule sections require manufacturers of certain emergency radio beacons to include supplemental information with their equipment certification application which are due to the I formation collection requirements which were adopted by the Federal Communications Commission in FCC 16–119 on August 30, 2016. Manufacturers of Automatic Identification System Search and Rescue Transmitters (AIS–SARTS), 406 MHz Emergency Position Indicating RadioBeacons (EPRIBs) and Maritime Survivor Locating Device (MSLD) must provide a copy of letter from the U.S. Coast Guard stating their devices satisfies technical requirements specified in the IEC 61097–17 technical standard for AIS–SARTs, or Radio Technical Commission for Maritime Services (RTCM) Standard 11000 for 406 MHz EPIRBs, or that RTCM Standard 11901 for MSLDs. They must also provide a copy or the technical test data, and the instruction manual(s). For 406 MHz PLBs manufacturers must include documentation from COSPAS/SARSAT recognized test facility that the PLB satisfies the technical requirements specified in COSPAS–SARSAT Standard C/S T.001 and COSPAS–SARSAT Standard C/S T.007 standards and documentation from an independent test facility stating that the PLB complies RTCM Standard 11010.2. The information is used by Telecommunications Certification Bodies (TCBs) to determine if the devices meets the necessary international technical standards and insure compliance with applicable rules. If this information were not available, operation of marine safety equipment could be hindered threatening the ability of rescue personnel to locate vessels in distress.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2016–30899 Filed 12–22–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 19, 2017.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *Canada Bancshares, Inc., England, Arkansas;* to become a bank holding company by acquiring Bank of England, England, Arkansas.

2. *MHBC Investments Limited Partnership I, LLLP, England, Arkansas;* to acquire 63.77 percent of Canada Bancshares, Inc., and thereby indirectly retain control of Bank of England, both in England, Arkansas.

Board of Governors of the Federal Reserve System, December 20, 2016.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2016–30995 Filed 12–22–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1681–N]

Medicare Program; Renewal of the Advisory Panel on Hospital Outpatient Payment and Solicitation of Nominations to the Advisory Panel on Hospital Outpatient Payment

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the renewal of the Advisory Panel (the Panel) on Hospital Outpatient Payment (HOP) panel charter. The charter was approved on November 21, 2016 for a 2-year period effective through November 21, 2018. This notice also solicits nominations for up to two new members to the HOP Panel. There will be two vacancies on the Panel for 4-year terms that begin during Calendar Year (CY) 2017.

The purpose of the Panel is to advise the Secretary of the Department of Health and Human Services (DHHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) (the Administrator) on the clinical integrity of the Ambulatory Payment Classification (APC) groups and their associated weights, and supervision of hospital outpatient therapeutic services.

DATES: *Submission of Nominations:* We will consider nominations if they are received no later than 5 p.m. Eastern Standard Time (E.S.T) February 21, 2017.

ADDRESSES: Please submit nominations electronically to the following email address: *APCPanel@cms.hhs.gov.*

Web site: For additional information on the Panel and updates to the Panel's activities, we refer readers to our Web site at the following address: *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

FOR FURTHER INFORMATION CONTACT: Persons wishing to nominate individuals to serve on the Panel or to obtain further information may submit an email to the following email address: *APCPanel@cms.hhs.gov.*

News Media: Representatives should contact the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Department of Health and Human Services (DHHS) (the Secretary) is required by section 1833(t)(9)(A) of the Social Security Act (the Act), and allowed by section 222 of the Public Health Service Act (PHS Act) to consult with an expert outside panel, that is, the Advisory Panel on Hospital Outpatient Payment (the Panel) regarding the clinical integrity of the Ambulatory Payment Classification (APC) groups and relative payment weights that are components of the Medicare Hospital Outpatient Prospective Payment System (OPPS), and the appropriate supervision level for hospital outpatient therapeutic services. The Panel is governed by the provisions of the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), as amended (5 U.S.C. Appendix 2), which sets forth standards for the formation and use of advisory panels. The Panel may consider data collected or developed by entities and organizations (other than the DHHS) as part of their deliberations.

The Panel Charter provides that the Panel shall meet up to 3 times annually. As announced in the notice, published in the **Federal Register** on May 20, 2016, entitled ''Medicare Program; Announcement of the Advisory Panel on Hospital Outpatient Payment (the Panel) Meeting on August 22–23, 2016 and Announcement of Transition to One Meeting of the Panel Per Year'' (81 FR 31942), in Calendar Year (CY) 2017 and thereafter, (unless the Centers for Medicare & Medicaid (CMS) programmatic need suggests otherwise) there will be only one Panel meeting per year that will occur in the summer. We consider the technical advice provided by the Panel as we prepare the proposed and final rules to update the OPPS for the following CY.

II. Renewal of the Hospital Outpatient Payment (HOP) Panel

The Panel was originally chartered on November 21, 2000 and the Panel requires a recharter every 2 years. In the April 24, 2015 **Federal Register** notice, (80 FR 23009), we inadvertently stated that the charter renewal was approved on November 6, 2014 for a 2-year period ending November 6, 2016, the correct approval date was November 21, 2014 for a 2-year period effective through November 21, 2016.

This notice announces the renewal of the HOP Panel charter, which was approved on November 21, 2016 for a 2-year period effective through November 21, 2018. The charter will terminate on November 21, 2018, unless renewed by appropriate action. CMS intends to recharter the Panel for another 2-year period prior to the expiration of the current charter.

Pursuant to the renewed charter, the Panel will advise the Secretary and CMS concerning optimal strategies for the following:

- Addressing whether procedures within an APC group are similar both clinically and in terms of resource use.
- Reconfiguring APCs (for example, splitting of APCs, moving Healthcare Common Procedures Coding System (HCPCS) codes from one APC to another, and moving HCPCS codes from new technology APCs to clinical APCs).
- Evaluating APC group weights.
- Reviewing packaging the cost of items and services, including drugs and devices into procedures and services; including the methodology for packaging and the impact of packaging the cost of those items and services on APC group structure and payment.
- Removing procedures from the inpatient list for payment under the OPPS payment system.
- Using claims and cost report data for CMS' determination of APC group costs.
- Addressing other technical issues concerning APC group structure.
- Evaluating the required level of supervision for hospital outpatient services.

III. Solicitation of Nominations; Criteria for Nominees

The Panel shall consist of a chair and up to 15 members who are full-time employees of hospitals, hospital systems, or other Medicare providers that are subject to the OPPS. For supervision deliberations, the Panel shall also include members that represent the interests of Critical Access Hospitals (CAHs), who advise CMS only regarding the level of supervision for hospital outpatient therapeutic services. (For purposes of the Panel, consultants or independent contractors are not considered to be full-time employees in these organizations.)

The current Panel members are as follows:

(*Note:* The asterisk [*] indicates the Panel members whose terms end during CY 2017, along with the month that the term ends.)

- E.L. Hambrick, M.D., J.D., Chair, a CMS Medical Officer.
- Shelly Dunham, R.N.
- Kenneth M. Flowe, M.D., M.B.A.
- Dawn L. Francis, M.D., M.H.S.
- Erika Hardy, R.H.I.A.
- Karen Lambert
- Ruth Lande
- Scott Manaker, M.D., Ph.D.

- Agatha Nolen, Ph.D., D.Ph
- Rick Nordahl, M.B.A.
- Johnathan Pregler, M.D.
- Michael Rabovsky, M.D. *(January 2017)
- Wendy Resnick, F.H.F.M.A.
- Michael K. Schroyer, R.N.
- Norman Thomson, III, M.D.
- Kris Zimmer *(January 2017)

Panel members serve on a voluntary basis, without compensation, according to an advance written agreement; however, for the meetings, CMS reimburses travel, meals, lodging, and related expenses in accordance with standard Government travel regulations. CMS has a special interest in ensuring, while taking into account the nominee pool, that the Panel is diverse in all respects of the following: geography; rural or urban practice; race, ethnicity, sex, and disability; medical or technical specialty; and type of hospital, hospital health system, or other Medicare provider subject to the OPPS.

Based upon either self-nominations or nominations submitted by providers or interested organizations, the Secretary, or his or her designee, appoints new members to the Panel from among those candidates determined to have the required expertise. New appointments are made in a manner that ensures a balanced membership under the FACA guidelines. For 2017, we are soliciting for up to two new nominees. Our appointment schedule will assure that we have the full complement of members for each Panel meeting.

The Panel must be balanced in its membership in terms of the points of view represented and the functions to be performed. Each panel member must be employed full-time by a hospital, hospital system, or other Medicare provider subject to payment under the OPPS (except for the CAH members, since CAHs are not paid under the OPPS). All members must have technical expertise to enable them to participate fully in the Panel's work. Such expertise encompasses hospital payment systems; hospital medical care delivery systems; provider billing systems; APC groups; Current Procedural Terminology codes; and alpha-numeric Health Care Common Procedure Coding System codes; and the use of, and payment for, drugs, medical devices, and other services in the outpatient setting, as well as other forms of relevant expertise. For supervision deliberations, the Panel shall have members that represent the interests of CAHs, who advise CMS only regarding the level of supervision for hospital outpatient therapeutic services.

It is not necessary for a nominee to possess expertise in all of the areas listed, but each must have a minimum of 5 years of experience and currently have full-time employment in his or her area of expertise. Generally, members of the Panel serve overlapping terms up to 4 years, based on the needs of the Panel and contingent upon the rechartering of the Panel. A member may serve after the expiration of his or her term until a successor has been sworn in.

Any interested person or organization may nominate one or more qualified individuals. Self-nominations will also be accepted. Each nomination must include the following:

- Letter of Nomination stating the reasons why the nominee should be considered.
- Curriculum vitae or resume of the nominee that includes an email address where the nominee can be contacted.
- Written and signed statement from the nominee that the nominee is willing to serve on the Panel under the conditions described in this notice and further specified in the Charter.
- The hospital or hospital system name and address, or CAH name and address, as well as all Medicare hospital and or Medicare CAH billing numbers of the facility where the nominee is employed.

IV. Copies of the Charter

To obtain a copy of the Panel's Charter, we refer readers to our Web site at *http://www.cms.gov/Regulations-and-Guidance/Guidance/FACA/AdvisoryPanelonAmbulatoryPaymentClassificationGroups.html.*

V. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 13, 2016.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2016–31022 Filed 12–22–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS–10634]

Agency Information Collection Activities: Submission for OMB Review; 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 (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 *January 23, 2017.*

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:* New collection (Request for a new OMB control number); *Title of Information Collection:* Evaluating a Pilot Mobile Health Program; *Use:* CMS is supporting a pilot mobile health (mHealth) program in California, Louisiana, Ohio, and Oklahoma. The three-year mHealth project is being conducted to complement existing CMCS measurement, data collection, and reporting activities to monitor, track, and assess state's maternal and infant health efforts in Medicaid and CHIP populations. This information collection request supports the evaluation of the pilot mHealth program and will be used to assist CMS in tracking maternal and infant health outcomes in the Medicaid population. The methods used for collection and analysis of the data may be useful to states and serve to increase reporting of perinatal core set measures and monitoring and interpretation of state-level maternal and infant health efforts. Results from the evaluation will help CMS understand the usefulness of mobile technology for conveying health information to pregnant women and new mothers enrolled in Medicaid/CHIP, as well as the influence this information has on health behaviors and outcomes. *Form Number:* CMS–10634 (OMB control number: 0938–New); *Frequency:* Once; *Affected Public:* Individuals and households, Business or other for-profits and Not-for-profits institutions, State, local, or Tribal Governments; *Number of Respondents:* 1,679; *Total Annual Responses:* 1,679; *Total Annual Hours:* 962. (For policy questions regarding this collection contact Lekisha Daniel-Robinson at 410–786–8618.)

Dated: December 20, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–31029 Filed 12–22–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Computer Matching Agreement

AGENCY: Office of Child Support Enforcement (OCSE), ACF, HHS.

ACTION: Notice.

SUMMARY: In accordance with the Privacy Act of 1974 (5 U.S.C. 522a), as amended, OCSE is publishing a notice of a computer matching program between OCSE and state agencies administering the Supplemental Nutrition Assistance Program (SNAP).

DATES: On December 13, 2016, HHS sent a report of the Computer Matching Program to the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Oversight and Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), as required by 5 U.S.C. 552a(r) of the Privacy Act. HHS invites interested parties to review and submit written data, comments, or arguments to the agency about the matching program until January 23, 2017.

ADDRESSES: Interested parties may submit written comments on this notice to Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW., 5th Floor, Washington, DC 20201. Comments received will be available for public inspection at this address from 9:00 a.m. to 5:00 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Linda Boyer, Director, Division of Federal Systems, Office of Child Support Enforcement, Administration for Children and Families, Mary E. Switzer Building, 330 C Street SW., 5th Floor, Washington, DC 20201, 202–401–5410.

SUPPLEMENTARY INFORMATION: The Privacy Act of 1974 (5 U.S.C. 552a), as amended, provides for certain protections for individuals applying for and receiving federal benefits. The law governs the use of computer matching by federal agencies when records in a system of records are matched with other federal, state, or local government records. The Privacy Act requires agencies involved in computer matching programs to:

1. Negotiate written agreements with the other agency or agencies participating in the matching programs.

2. Provide notification to applicants and beneficiaries that their records are subject to matching.

3. Verify information produced by such matching program before reducing, making a final denial of, suspending, or terminating an individual's benefits or payments.

4. Publish notice of the computer matching program in the **Federal Register**.

5. Furnish reports about the matching program to Congress and the OMB.

6. Obtain the approval of the matching agreement by the Data Integrity Board of any federal agency participating in a matching program.

This matching program meets these requirements.

Dated: December 13, 2016.

Donna Bonar,

Deputy Commissioner, Office of Child Support Enforcement.

Notice of New Computer Matching Program

A. Participating Agencies

The participating agencies are the Office of Child Support Enforcement (OCSE), which is the ''source agency,'' and state agencies administering the Supplemental Nutrition Assistance Program (SNAP), which are the ''non-federal agencies.''

B. Purpose of the Matching Program

The purpose of the matching program is to provide new hire, quarterly wage, and unemployment insurance information from OCSE's National Directory of New Hires (NDNH) to state agencies administering SNAP to assist in establishing or verifying the eligibility for assistance, reducing payment errors, and maintaining program integrity, including determining whether duplicate participation exists or if the client

resides in another state. The state agencies administering SNAP may also use the NDNH information for the secondary purpose of updating the recipients' reported participation in work activities and updating recipients' and their employers' contact information maintained by the state agencies.

C. Authority for Conducting the Match

The authority for conducting the matching program is contained in section 453(j)(10) of the Social Security Act (42 U.S.C. 653(j)(10)). The Agriculture Act of 2014, Public Law 113–079, amended section 11(e) of the Food and Nutrition Act of 2008 (7 U.S.C. 2020(e)(24)) by adding the requirement

that the State agency shall request wage data directly from the National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)) relevant to determining eligibility to receive supplemental nutrition assistance program benefits and determining the correct amount of those benefits at the time of certification;

D. Categories of Individuals Involved and Identification of Records Used in the Matching Program

The categories of individuals involved in the matching program are adult members of households that receive or have applied for SNAP benefits. The system of records maintained by OCSE from which records will be disclosed for the purpose of this matching program is the ''OCSE National Directory of New Hires'' (NDNH), No. 09–80–0381, last published in the **Federal Register** at 80 FR 17906 on April 2, 2015. The NDNH contains new hire, quarterly wage, and unemployment insurance information. The disclosure of NDNH information by OCSE to the state agencies administering SNAP is a ''routine use'' under this system of records. Records resulting from the matching program and that are disclosed to state agencies administering SNAP include names, Social Security numbers, home addresses, and employment information.

E. Inclusive Dates of the Matching Program

The computer matching agreement will be effective and matching activity may commence the later of the following:

(1) 30 days after this notice is published in the **Federal Register** or (2) 40 days after OCSE sends a report of the matching program to the Congressional committees of jurisdiction under 5 U.S.C. 552a(o)(2)(A), and to OMB, unless OMB disapproves the agreement within the 40-day review period or grants a waiver of 10 days of the 40-day review period. The matching agreement will remain in effect for 18 months from its effective date, unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement. The agreement is subject to renewal by the HHS Data Integrity Board for 12 additional months if the matching program will be conducted without any change and OCSE and the state agency certify to the Data Integrity Board in writing that the program has been conducted in compliance with the agreement.

[FR Doc. 2016–30894 Filed 12–22–16; 8:45 am]

BILLING CODE 4184–42–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[CFDA Number: 93.676]

Announcement of an Award for a Single-Source Urgent and Compelling Grant Under the Unaccompanied Children's Services Program to BCFS Health and Human Services Emergency Management Division (BCFS EMD)

AGENCY: Office of Refugee Resettlement, ACF, HHS.

ACTION: Notice of Award of a single-source urgent and compelling grant to BCFS Health and Human Services (BCFS) in San Antonio, TX.

SUMMARY: The Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), announces the award of a single-source urgent and compelling grant for $160,459,524 under the Unaccompanied Children's (UC) Program in response to Unsolicited Proposal UN–2016–01.

The proposal submitted by BCFS EMD was not solicited either formally, or informally, by any Federal Government Official. The proposed turnkey operations are outside of the scope of ACF funding opportunity announcements that have been or are expected to be issued. BCFS EMD has proposed to build temporary semi-permanent infrastructure and capacity to provide for operational requirements to support the housing and daily living activities of up to 5,000 UC, throughout their initial intake, assessment and reunification phase. These additional beds will allow for additional capacity until the end of the fiscal year to accommodate the anticipated level of UC referrals through FY 15 should HHS exceed the shelter capacity currently available.

ORR has been identifying additional capacity to provide shelter for potential increases in apprehensions of Unaccompanied Children at the U.S. Southern Border. Planning for increased shelter capacity is a prudent step to ensure that ORR is able to meet its responsibility, by law, to provide shelter for Unaccompanied Children referred to its care by the Department of Homeland Security (DHS).

BCFS has the infrastructure, licensing, experience and appropriate level of emergency staff to meet the service requirements and the urgent need for expansion of services. BCFS provides residential services to UC in the care and custody of ORR, as well as services to include counseling, case management, and additional support services to the family or to the UC and their sponsor when a UC is released from ORR's care and custody.

DATES: Single-source urgent and compelling award funds will support activities from September1, 2016 through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Jallyn Sualog, Director, Division of Children's Services, Office of Refugee Resettlement, 330 C Street SW., Washington, DC 20201. Email: *DCSProgram@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

ORR is continuously monitoring its capacity to shelter the unaccompanied children referred to HHS, as well as the information received from interagency partners, to inform any future decisions or actions.

ORR has specific requirements for the provision of services. Award recipients must have the infrastructure, licensing, experience, and appropriate level of trained staff to meet the service requirements and the urgent need for expansion of services. The program's ability to avoid a buildup of children waiting, in Border Patrol stations, for placement in shelters, can only be accommodated through the expansion of the existing program and its services through the award.

Statutory Authority: This program is authorized by—

(A) Section 462 of the Homeland Security Act of 2002, which in March 2003, transferred responsibility for the care and custody of Unaccompanied Alien Children from the Commissioner of the former Immigration and Naturalization Service (INS) to the Director of ORR of the Department of Health and Human Services (HHS).

(B) The Flores Settlement Agreement, Case No. CV85–4544RJK (C. D. Cal.

1996), as well as the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (Pub. L. 110–457), which authorizes post release services under certain conditions to eligible children. All programs must comply with the Flores Settlement Agreement, Case No. CV85–4544–RJK (C.D. Cal. 1996), pertinent regulations and ORR policies and procedures.

Christopher Beach,

Office of Administration, Office of Financial Services, Division of Grants Policy.

[FR Doc. 2016–31014 Filed 12–22–16; 8:45 am]

BILLING CODE 4184–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects: Childcare.gov.

Title: CCDF Grantee Consumer Education Database Linkages with *Childcare.gov.*

OMB No.: New.

Description: The Child Care and Development Block Grant (CCDBG) Act of 2014 requires HHS to create a national Web site for consumer education. The National Web site will be hosted at *childcare.gov.* CCDBG grantees are also required to stand up child care consumer education Web sites that meet the requirements of the law. The CCDBG Final Rule aligns the National and State Web sites by requiring Lead Agencies to provide HHS with linkages to their databases that store consumer education information. The *Childcare.gov* Web site, maintained by Office of Child care will collect child care specific information from State and Territory databases and make that information available for parents using the *childcare.gov* Web site to search for child care that meets their needs. *Childcare.gov* will provide consumers, directly or through linkages to State and Territory data sources, with the following minimum information and services:

(1) A localized list of all eligible child care providers, differentiating between licensed and license-exempt providers;

(2) Child care provider-specific information from a quality rating and improvement system or information about other quality indicators, to the extent that such information is publicly available and practicable.

Respondents: CCDBG grantees in States and Territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Childcare.gov data collection: Establish and maintain Web-based data connection in subsequent years	56	260	.57	8,299

Estimated Total Annual Burden Hours: 8,299 hours.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–30982 Filed 12–22–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–1021]

Medical Device User Fee and Modernization Act; Notice to Public of Web Site Location of Fiscal Year 2017 Proposed Guidance Development

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or the Agency) is announcing the Web site location where the Agency will post two lists of guidance documents that the Center for Devices and Radiological Health (CDRH or the Center) intends to publish in fiscal year (FY) 2017. In addition, FDA has established a docket where interested persons may comment on the priority of topics for guidance, provide comments and/or propose draft language for those topics, suggest topics for new or different guidance documents, comment on the applicability of guidance documents that have issued previously, and provide any other comments that could benefit the CDRH guidance program and its engagement with stakeholders. This feedback is critical to the CDRH guidance program to ensure that we meet stakeholder needs.

DATES: Submit either electronic or written comments by February 21, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2012–N–1021 for ''Medical Device User Fee and Modernization Act; Notice to Public of Web Site Location of Fiscal Year 2017 Proposed Guidance Development.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Erica Takai, Center for Devices and Radiological Health, Food and Drug Administration,10903 New Hampshire Ave., Bldg. 66, rm. 5456, Silver Spring, MD 20993–0002, 301–796–6353.

SUPPLEMENTARY INFORMATION:

I. Background

During negotiations on the Medical Device User Fee Amendments of 2012 (MDUFA III), Title II, Food and Drug Administration Safety and Innovation Act (Pub. L. 112–114), FDA agreed to meet a variety of quantitative and qualitative goals intended to help get safe and effective medical devices to market more quickly. Among these commitments included:

• Annually posting a list of priority medical device guidance documents that the Agency intends to publish within 12 months of the date this list is published each fiscal year (the ''A-list'') and

• Annually posting a list of device guidance documents that the Agency intends to publish, as the Agency's guidance-development resources permit each fiscal year (the ''B-list'').

FDA welcomes comments on any or all of the guidance documents on the lists as explained in 21 CFR 10.115(f)(5). FDA has established Docket No. FDA–2012–N–1021 where comments on the FY 2017 lists, draft language for guidance documents on those topics, suggestions for new or different guidances, and relative priority of guidance documents may be submitted and shared with the public (see **ADDRESSES**). FDA believes this docket is a valuable tool for receiving information from interested persons and will update these lists after considering public comments, where appropriate. FDA anticipates that feedback from interested persons will allow CDRH to better prioritize and more efficiently draft guidances to meet the needs of the Agency and our stakeholders.

In addition to posting the lists of prioritized device guidance documents, FDA has committed to updating its Web site in a timely manner to reflect the Agency's review of previously published guidance documents, including the deletion of guidance documents that no longer represent the Agency's interpretation of or policy on a regulatory issue.

Fulfillment of these commitments will be reflected through the issuance of updated guidance on existing topics, removal of guidances that that no longer reflect FDA's current thinking on a particular topic, and annual updates to the A-list and B-list announced in this notice.

II. CDRH Guidance Development Initiatives

A. Finalization of Draft Guidance Documents

CDRH has identified as a priority, and has devoted resources to, finalization of draft guidance documents. To assure the timely completion or re-issuance of draft guidances, in FY 2015 CDRH committed to performance goals for current and future draft guidance documents. For draft guidance documents issued after October 1, 2014, CDRH committed to finalize, withdraw, re-open the comment period, or issue another draft guidance on the topic for 80 percent of the documents within 3 years of the close of the comment period and for the remaining 20 percent, within 5 years. In FY 2016, CDRH finalized 2 and withdrew 5 of 12 draft guidances issued prior to October 1, 2010, and has been continuing to work towards finalizing the remaining draft guidances. Looking forward, in FY 2017, CDRH will strive to finalize, withdraw, or re-open the comment period for 50 percent of existing draft guidances issued prior to October 1, 2011. CDRH expects to renew or modify, as appropriate, these performance goals in FY 2017 and subsequent years.

B. Earlier Stakeholder Involvement in Guidance Development

CDRH has received feedback that stakeholders desire earlier involvement in the guidance process and has taken steps to create a mechanism to address this request. In FY 2016, in anticipation of guidance documents expected to be developed, CDRH sought stakeholder input regarding electromagnetic compatibility of electrically powered medical devices and regarding utilizing animal studies to evaluate the safety of organ preservation devices and solutions. FDA appreciated the feedback received and considered it in the development of these guidances. Demonstrating commitment to incorporating stakeholder input, CDRH has included these guidances topics on the FY 2017 B-List as we progress toward issuance of draft policies reflecting early stakeholder input as appropriate.

We also welcome any additional feedback for improving the guidance program and the quality of CDRH guidance documents.

C. Applicability of Previously Issued Final Guidance

CDRH has issued over 500 final guidance documents to provide stakeholders with the Agency's thinking on numerous topics. Each guidance reflected the Agency's current position at the time that it was issued. However, the guidance program has issued these guidances over a period of 30 years, raising the question of how current previously issued final guidances remain. CDRH has resolved to address this concern through a staged review of previously issued final guidances in collaboration with stakeholders. At the Web site where CDRH has posted the ''A-list'' and ''B-list'' for FY 2017, CDRH has also posted a list of final guidance documents that issued in 2007, 1997, 1987, and 1977.[1] CDRH is interested in external feedback on whether any of these final guidances should be revised or withdrawn. In addition, for guidances that are recommended for revision, information explaining the need for revision, such as, the impact and risk to public health associated with not revising the guidance, would also be helpful as the Center considers potential action with respect to these guidances. CDRH intends to provide these lists of previously issued final guidances annually through FY 2025 so that by 2025, FDA and stakeholders will have assessed the applicability of all guidances older than 10 years. For instance, in the annual notice for FY 2018, CDRH expects to provide a list of the final guidance documents that issued in 2008, 1998, 1988, and 1978; the annual notice for FY 2019 is expected to provide a list of the final guidance documents that issued in 2009, 1999, 1989, and 1979, and so on. CDRH will consider the comments received from this retrospective review when determining priorities for updating guidance documents and will revise these as resources permit.

In FY 2016, CDRH received comments regarding guidances issued in 2006, 1996, and 1986, and has withdrawn 12 guidance documents in response to comments received and because these guidance documents were determined to no longer represent the Agency's current thinking. One guidance on this retrospective review list was revised, and revision of several guidance documents is also being considered as resources permit.

Consistent with Good Guidance Practices regulation at 21 CFR 10.115(f)(4), CDRH would appreciate suggestions that CDRH revise or withdraw an already existing guidance document. We request that the suggestion clearly explain why the guidance document should be revised or withdrawn and, if applicable, how it should be revised. While we are requesting feedback on the list of previously issued final guidances located in the annual agenda Web site, feedback on any guidance is appreciated and will be considered.

III. Web Site Location of Guidance Lists

This notice announces the Web site location of the document that provides the A and B lists of guidance documents, which CDRH is intending to publish during FY 2017. To access these two lists, visit FDA's Web site at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/GuidanceDocuments/ucm529396.htm.* We note that the topics on this and past guidance priority lists may be removed or modified based on current priorities, as well as comments received regarding these lists. Furthermore, FDA and CDRH priorities are subject to change at any time (*e.g.,* newly identified safety issues). Topics on this and past guidance priority lists may be removed or modified based on current priorities. The Agency is not required to publish every guidance on either list if the resources needed would be to the detriment of meeting quantitative review timelines and statutory obligations. In addition, the Agency is not precluded from issuing guidance documents that are not on either list.

Stakeholder feedback on guidance priorities is important to ensure that the CDRH guidance program meets the needs of stakeholders. The feedback received on the FY 2016 list was mostly in agreement, and CDRH continued to work toward issuing the guidances on this list. In FY 2016, CDRH issued 20 of 33 guidances on the FY 2016 list (14 from the A-list, 6 from the B-list). In addition, for the guidances that were on the FY 2016 A or B list but could not be published within FY 2016, and for which we received feedback that these guidances were of high priority, CDRH has recommitted to publish these guidances by placing them on the annual agenda for FY 2017, as appropriate.

Dated: December 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–31006 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

[1] The retrospective list of final guidances does not include the following: (1) Documents that are not guidances but were inadvertently categorized as guidance such as scientific publications, advisory opinions, and interagency agreements; (2) guidances actively being revised by CDRH; and (3) special controls documents.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–4342]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Participation in the Food and Drug Administration Regulatory Science Student Internship Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. 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 and to allow 60 days for public comment in response to the notice. This notice solicits comments on the application for participation in FDA's Regulatory Science Student Internship Program (RSIP).

DATES: Submit either electronic or written comments on the collection of information by February 21, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *http://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *http://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- Mail/Hand delivery/Courier (for written/paper submissions): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–N–4342 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Participation in the FDA Regulatory Science Student Internship Program.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *http://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: 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. ''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 provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Application for Participation in the FDA Regulatory Science Student Internship Program—OMB Control Number 0910–New

Sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of Title 5 of the United States Code, authorize Federal Agencies to rate applicants for Federal jobs. Collecting applications for the RSIP will allow FDA's Office of the Commissioner to easily and efficiently elicit and review information from students and health care professionals who are interested in becoming involved in FDA-wide activities. The process will reduce the time and cost of submitting written documentation to the Agency and lessen the likelihood of applications being misrouted within the Agency mail system. It will assist the Agency in promoting and protecting the public health by encouraging outside persons to share their expertise with FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Application	600	1	600	1.33	798

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: December 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–30967 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2016–N–4319]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Unique Device Identification System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 23, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0720. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Unique Device Identification System OMB Control Number 0910–0720—Extension

In accordance with the collection of information entitled ''Unique Device Identification System (UDI),'' medical device labelers, unless excepted, are required to design and use medical device labels and device packages that bear a UDI, present dates on labels in a particular format, and submit data concerning each version or model of a device to the Global Unique Device Identification Database (GUDID) no later than the date the label of the device must bear a UDI. Once a device becomes subject to UDI requirements, respondents will be required to update the information reported whenever the information changes.

The recordkeeping, reporting, and third-party disclosure requirements referenced in this document are imposed on any person who causes a label to be applied to a device, or who causes the label to be modified, with the intent that the device will be commercially distributed without any subsequent replacement or modification of the label. In most instances, the labeler would be the device manufacturer, but other types of labelers include a specification developer, a single-use device reprocessor, a convenience kit assembler, a repackager, or a relabeler. Respondents may also include any private organization that applies for accreditation by FDA as an issuing agency.

FDA has identified the following requirements as having burdens that must be accounted for under the PRA; the burdens associated with these requirements are summarized in the table that follows:

Section 801.18 requires that whenever a labeler of a medical device includes an expiration date, a date of manufacture, or any other date intended to be brought to the attention of the user of the device, the labeler must present the date on the label in a format that meets the requirements of this section.

Section 801.20 requires every medical device label and package to bear a UDI.

Under § 801.35, any labeler of a device that is not required to bear a UDI on its label may include a UDI on the label of that device and utilize the GUDID.

Under § 801.45, any device that has to be labeled with a UDI also has to bear a permanent marking providing the UDI on the device itself if the device is intended for more than one use and intended to be reprocessed before each use.

Section 801.50 requires stand-alone software to comply with specific labeling requirements that identify the software.

Section 801.55 authorizes additional, case-by-case, labeling exceptions and alternatives to standard UDI labeling requirements.

If a labeler relabels or modifies a label of a device that is required to bear a UDI, under § 830.60 it has to keep a record showing the relationship of the original device identifier to the new device identifier.

Section 830.110 requires an applicant seeking initial FDA accreditation as a UDI-issuing agency to furnish FDA an application containing certain information, materials, and supporting documentation.

Under § 830.120, an FDA-accredited issuing agency is required to disclose information concerning its system for the assignment of UDIs; maintain a list of labelers that use its system for the assignment of UDIs, and provide FDA a copy of such list; and upon request, provide FDA with information concerning a labeler that is employing the issuing agency's system for assignment of UDIs.

Sections 830.310 and 830.320 require the labeler to provide certain information to the GUDID concerning the labeler and each version or model of a device required to be labeled with a UDI, unless the labeler obtains a waiver.

Section 830.360 requires each labeler to retain records showing all UDIs used to identify devices that must be labeled with a UDI and the particular version or model associated with each device identifier, until 3 years after it ceases to market a version or model of a device.

Respondents who are required to submit data to the Agency under certain other approved information collections (listed below) are required to include UDI data elements for the device that is the subject of such information

collection. Addition of the UDI data elements is included in this burden estimate for the conforming amendments in the following 21 CFR parts:

- Part 803—Medical Device Reporting (OMB control number 0910–0437).
- Part 806—Medical Devices; Reports of Corrections and Removals (OMB control number 0910–0359).
- Part 814—Premarket Approval of Medical Devices (OMB control number 0910–0231).
- Part 820—Quality System Regulation (OMB control number 0910–0073).
- Part 821—Medical Device Tracking Requirements (OMB control number 0910–0442).
- Part 822—Postmarket Surveillance (OMB control number 0910–0449).

In the **Federal Register** of September 16, 2016 (81 FR 63768), FDA published a 60-day notice requesting public comment on the proposed collection of information. FDA received one letter in response to the notice, containing multiple comments.

(Comment 1) The commenter questioned the practical utility of certain data elements (''Kit'' and ''Unit of Use DI number'') in the GUDID and stated that they do not consider them necessary for the proper performance of FDA's functions.

(Response 1) Kit is an optional data element in the GUDID. The respondent may choose not to provide this information. Certain kits may include individual devices that may not be required to have a UDI. It is therefore useful to be able to identify whether a device reported in GUDID is an individual device or a kit. The Unit of Use data element is used when the base package contains multiple units of the same device. Although not included on the device label, the Unit of Use DI number can specifically identify device use on the patient by either pulling it from AccessGUDID or hospital systems and linking/populating the information to the patient electronic health record. The UDI stakeholder community, which includes clinicians, healthcare providers and labelers, have expressed to us that this is a valuable data element to be in included in GUDID.

(Comment 2) The commenter expressed concern that capital or operating and maintenance costs were excluded from the PRA burden analysis.

(Response 2) While we did include an estimate of costs in the economic analysis of the final rule, this information was not in the PRA section of the final rule or subsequently, the 60-day notice for comment on the extension of this information collection. We appreciate the comment and have included estimated costs of $85.7 million, based on the economic analysis of the final rule, in our analysis of the information collection burden. The estimate includes planning and administration and the costs to integrate the UDI into existing information systems; to install, test, and validate barcode printing software; and to train employees. Other significant components of one-time costs include costs to redesign labels of devices to incorporate the barcode and date format, and to purchase and install equipment needed to print and verify the UDI on labels. In addition, labelers will incur one-time costs for recordkeeping and reporting requirements, and the direct marking of certain devices. The largest annual cost components include labor, operating, and maintenance associated with equipment for printing operations, and labor related to software maintenance and training needed to maintain the UDI information system. The total cost, which includes both capital costs and operating and maintenance costs, has been annualized over 10 years. We have included the total under capital costs for purposes of this information collection request.

(Comment 3) The commenter suggested the following opportunities for FDA to enhance data quality, utility, and clarity of the information, including for FDA to:

- Provide data structure information for relevant conforming amendments;
- clarify how to address challenges of device systems;
- make more timely updates to related FDA databases and enhance interaction between systems; and
- increase GUDID performance to be more consistent and predictable.

Additionally, the commenter suggested additional ways that FDA could minimize the burden of collection of information if FDA were to identify PMA supplement numbers through the PMA database, rather than having the data provided again through GUDID by the labeler.

- More timely updates of Global Medical Device Nomenclature codes.
- Added transparency regarding logic and validation rule changes.
- Auto-populating data elements which already reside in another FDA system.

(Response 3) These comments continue to be evaluated, but FDA is making no change to the information collection at this time.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL BURDEN

	Number of respondents [1]	Number of responses per respondent [2]	Total annual responses [3]	Average burden per response (in hours) [4]	Total hours [5]	Total operating and maintenance costs
Reporting	6,199	51	316,149	0.023 (1 minute)	7,289	$425,000
Recordkeeping	5,987	51	305,337	0.989 (59 minutes)	302,121	14,733,333
Third-Party Disclosure	5,987	51	305,337	0.885 (53 minutes)	270,143	13,033,333

[1] Maximum No. of Respondents for any regulatory requirement within each category. Individual regulatory requirements within the category may involve fewer respondents.

[2] Maximum No. of Responses for any regulatory requirement within each category. Individual regulatory requirements within the category may involve fewer responses.

[3] Maximum Total Annual Responses for any regulatory requirement within each category. Individual regulatory requirements within the category may involve fewer total annual responses.

[4] Rounded to three decimals. Total Hours reflects a more precise, non-rounded Average Burden per Response. An approximate (non-rounded) conversion to minutes is shown in parentheses.

[5] Total Hours is based on a more precise Burden per Response than the rounded value shown in this table.

Dated: December 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–30966 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2004–N–0451]

Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 046

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing a publication containing modifications the Agency is making to the list of standards FDA recognizes for use in premarket reviews (FDA Recognized Consensus Standards). This publication, entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 046'' (Recognition List Number: 046), will assist manufacturers who elect to declare conformity with consensus standards to meet certain requirements for medical devices.

DATES: Submit electronic or written comments concerning this document at any time. These modifications to the list of recognized standards are effective December 23, 2016.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- Federal eRulemaking Portal: *https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2004–N–0451 for ''Food and Drug Administration Modernization Act of 1997: Modifications to the List of Recognized Standards, Recognition List Number: 046.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday. FDA will consider any comments received in determining whether to amend the current listing of modifications to the list of recognized standards, Recognition List Number: 046.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

An electronic copy of Recognition List Number: 046 is available on the Internet at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.* See section VI of this document for electronic access to the searchable database for the current list of FDA recognized consensus standards, including Recognition List Number: 046 modifications and other standards related information. Submit written requests for a single hard copy of the document entitled ''Modifications to the List of Recognized Standards, Recognition List Number: 046'' to Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5514, Silver Spring, MD 20993, 301–796–6287. Send one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–847–8144.

FOR FURTHER INFORMATION CONTACT: Scott Colburn, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 5514, Silver Spring, MD 20993, 301–796–6287, *standards@cdrh.fda.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Section 204 of the Food and Drug Administration Modernization Act of 1997 (FDAMA) (Pub. L. 105–115) amended section 514 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360d). Amended section 514 allows FDA to recognize consensus standards developed by international and national organizations for use in satisfying portions of device

premarket review submissions or other requirements.

In a notice published in the **Federal Register** of February 25, 1998 (63 FR 9561), FDA announced the availability of a guidance entitled ''Recognition and Use of Consensus Standards.'' The notice described how FDA would implement its standard recognition program and provided the initial list of recognized standards.

Modifications to the initial list of recognized standards, as published in the **Federal Register**, can be accessed at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.*

These notices describe the addition, withdrawal, and revision of certain standards recognized by FDA. The Agency maintains hypertext markup language (HTML) and portable document format (PDF) versions of the list of FDA Recognized Consensus Standards. Both versions are publicly accessible at the Agency's Internet site. See section VI of this document for electronic access information. Interested persons should review the supplementary information sheet for the standard to understand fully the extent to which FDA recognizes the standard.

II. Modifications to the List of Recognized Standards, Recognition List Number: 046

FDA is announcing the addition, withdrawal, correction, and revision of certain consensus standards the Agency will recognize for use in premarket submissions and other requirements for devices. FDA will incorporate these modifications in the list of FDA Recognized Consensus Standards in the Agency's searchable database. FDA will use the term ''Recognition List Number: 046'' to identify these current modifications.

In table 1, FDA describes the following modifications: (1) The withdrawal of standards and their replacement by others, if applicable; (2) the correction of errors made by FDA in listing previously recognized standards; and (3) the changes to the supplementary information sheets of recognized standards that describe revisions to the applicability of the standards.

In section III, FDA lists modifications the Agency is making that involve the initial addition of standards not previously recognized by FDA.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
A. Anesthesiology			
1–44	1–117	ISO 5366 First edition 2016–10–01 Anaesthetic and respiratory equipment—Tracheostomy tubes and connectors.	Withdrawn and replaced with newer version.
1–93	1–118	ISO 5361 Third edition 2016–09–01 Anaesthetic and respiratory equipment—Tracheal tubes and connectors.	Withdrawn and replaced with newer version.
B. Biocompatibility			
2–93		ASTM F763–04 (Reapproved 2016) Standard Practice for Short-Term Screening of Implant Materials.	Reaffirmation.
2–94		ASTM F981–04 (Reapproved 2016) Standard Practice for Assessment of Compatibility of Biomaterials for Surgical Implants with Respect to Effect of Materials on Muscle and Insertion into Bone.	Reaffirmation.
2–126	2–244	ASTM F748–16 Standard Practice for Selecting Generic Biological Test Methods for Materials and Devices.	Withdrawn and replaced with newer version, Extent of recognition.
2–134		ASTM F2065–00 (Reapproved 2010) Standard Practice for Testing for Alternative Pathway Complement Activation in Serum by Solid Materials.	Withdrawn.
2–189		ASTM F895–11 (Reapproved 2016) Standard Test Method for Agar Diffusion Cell Culture Screening for Cytotoxicity.	Reaffirmation.
2–225		ASTM F2567–06 (Reapproved 2010) Standard Practice for Testing for Classical Complement Activation in Serum by Solid Materials.	Withdrawn.
C. Cardiovascular			
3–58		ANSI/AAMI/ISO 5840:2005/(R)2010 Cardiovascular implants—Cardiac valve prostheses.	Withdrawn.
3–90	3–144	ISO 7198 Second edition 2016–08–01 Cardiovascular implants and extracorporeal systems—Vascular prostheses—Tubular vascular grafts and vascular patches.	Withdrawn and replaced with newer version.
3–91		ISO 5840 Fourth edition 2005–03–01 Cardiovascular implants—Cardiac valve prostheses.	Withdrawn.
D. Dental/Ear, Nose, and Throat (ENT)			
		No modifications at this time	
E. General I (Quality Systems/Risk Management) (QS/RM)			
5–79	5–113	ASTM D7386–16 Standard Practice for Performance Testing of Packages for Single Parcel Delivery Systems.	Withdrawn and replaced with newer version.
5–87		IEC 62366 Edition 1.1 2014–01 Consolidated Version Medical devices—Application of usability engineering to medical devices.	Transition.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
5–95	5–114	IEC 62366–1 Edition 1.0 2015–02 Medical Devices—Part 1: Application of Usability Engineering to Medical Devices [Including CORRIGENDUM 1 (2016)].	Withdrawn and replaced with newer version including corrigendum.
F. General II (Electrical Safety/Electromagnetic Compatibility) (ES/EMC)			
		No modifications at this time	
G. General Hospital/General Plastic Surgery (GH/GPS)			
6–11		ISO 594–1 First edition 1986–06–15 Conical fittings with a 6% (Luer) taper for syringes, needles and certain other medical equipment—Part 1: General requirements.	Transition.
6–129		ISO 594–2 Second edition 1998–09–01 Conical fittings with a 6% (Luer) taper for syringes, needles and certain other medical equipment—Part 2: Lock fittings.	Transition.
6–165		ASTM D6977–04 (Reapproved 2016) Standard Specification for Polychloroprene Examination Gloves for Medical Application.	Reaffirmation.
6–282	6–383	ASTM D6499–16 Standard Test Method for The Immunological Measurement of Antigenic Protein in Natural Rubber and its Products.	Withdrawn and replaced with newer version.
H. In Vitro Diagnostics (IVD)			
7–149	7–267	CLSI C24 4th Edition Statistical Quality Control for Quantitative Measurement Procedures: Principles and Definitions.	Withdrawn and replaced with newer version.
7–174	7–268	CLSI EP21 2nd Edition Evaluation of Total Analytical Error for Quantitative Medical Laboratory Measurement Procedures.	Withdrawn and replaced with newer version, Extent of recognition.
I. Materials			
8–350	8–435	ISO 5832–1 Fifth edition 2016–07–15 Implants for surgery—Metallic materials—Part 1: Wrought stainless steel.	Withdrawn and replaced with newer version.
8–368		ASTM F2625–10 (Reapproved 2016) Standard Test Method for Measurement of Enthalpy of Fusion, Percent Crystallinity, and Melting Point of Ultra-High-Molecular Weight Polyethylene by Means of Differential Scanning Calorimetry.	Reaffirmation.
8–376		ASTM F2102–13 Standard Guide for Evaluating the Extent of Oxidation in Ultra-High-Molecular-Weight Polyethylene Fabricated Forms Intended for Surgical Implants.	Withdrawn. See 8–382.
8–384	8–436	ASTM F2026–16 Standard Specification for Polyetheretherketone (PEEK) Polymers for Surgical Implant Applications.	Withdrawn and replaced with newer version.
8–392	8–437	ASTM F2082/F2082M–16 Standard Test Method for Determination of Transformation Temperature of Nickel-Titanium Shape Memory Alloys by Bend and Free Recovery.	Withdrawn and replaced with newer version.
8–407	8–438	ISO/ASTM 52915 Second edition 2016–02–15 Specification for Additive Manufacturing File Format (AMF) Version 1.2.	Withdrawn and replaced with newer version.
J. Nanotechnology			
		No modifications at this time	
K. Neurology			
		No modifications at this time	
L. Obstetrics-Gynecology/Gastroenterology/Urology (OB-Gyn/G/Urology)			
		No modifications at this time	
M. Ophthalmic			
		No modifications at this time	
N. Orthopedic			
11–223	11–311	ISO 14243–2 Third edition 2016–09–01 Implants for surgery—Wear of total knee-joint prostheses—Part 2: Methods of measurement.	Withdrawn and replaced with newer version.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
11–225	11–312	ISO 7206–4 Third edition 2010–06–15 Implants for surgery—Components for partial and total knee joint prostheses—Part 2: Articulating surfaces made of metal, ceramic and plastics materials [Including AMENDMENT 1 (2016)].	Withdrawn and replaced with newer version including amendment.
11–231	11–313	ISO 7207–2 Second edition 2011–07–01 Implants for surgery—Components for partial and total knee joint prostheses—Part 2: Articulating surfaces made of metal, ceramic and plastics materials [Including AMENDMENT 1 (2016)].	Withdrawn and replaced with newer version including amendment.
11–249	11–314	ISO 14242–2 Second edition 2016–09–15 Implants for surgery—Wear of total hip-joint prostheses—Part 2: Methods of measurement.	Withdrawn and replaced with newer version.
11–268	11–315	ASTM F1829–16 Standard Test Method for Static Evaluation of Anatomic Glenoid Locking Mechanism in Shear.	Withdrawn and replaced with newer version.
11–287		ASTM F382–14 Standard Specification and Test Method for Metallic Bone Plates.	Withdrawn. See 11–297.
11–298	11–316	ASTM F1264–16 Standard Specification and Test Methods for Intramedullary Fixation Devices.	Withdrawn and replaced with newer version.
		O. Physical Medicine	
		No modifications at this time	
		P. Radiology	
12–49	12–303	IEC 61303 Edition 1.0 1994–09 Medical electrical equipment—Radionuclide calibrators—Particular methods for describing performance [Including CORRIGENDUM 1 (2016)].	Withdrawn and replaced with new version including corrigendum.
12–235	12–304	IEC 60731 Edition 3.1 2016–04 Consolidated Version Medical electrical equipment—Dosimeters with ionization chambers as used in radiotherapy.	Withdrawn and replaced with newer version.
12–263	12–305	ISO 13694 Second edition 2015–11–15 Optics and Photonics—Lasers and laser-related equipment—Test methods for laser beam power (energy) density distribution.	Withdrawn and replaced with newer version.
		Q. Software/Informatics	
13–27	13–85	CLSI AUTO11–A2 October 2014 Information Technology Security of In Vitro Diagnostic Instruments and Software Systems; Approved Standard—Second Edition.	Withdrawn and replaced with newer version.
		R. Sterility	
14–169		ASTM F2391–05 (Reapproved 2016) Standard Test Method for Measuring Package and Seal Integrity Using Helium as the Tracer Gas.	Reaffirmation.
14–197	14–496	ASTM F1608–16 Standard Test Method for Microbial Ranking of Porous Packaging Materials (Exposure Chamber Method).	Withdrawn and replaced with newer version.
14–229	14–497	ASTM F1980–16 Standard Guide for Accelerated Aging of Sterile Barrier Systems for Medical Devices.	Withdrawn and replaced with newer version.
14–285		ANSI/AAMI/ISO 14161–2009/(R)2014 Sterilization of health care products—Biological indicators—Guidance for the selection, use and interpretation of results.	Reaffirmation.
14–311		ANSI/AAMI ST55:2010/(R)2014 Table-top steam sterilizers	Reaffirmation.
14–339		ANSI/AAMI/ISO 20857:2010/(R)2015 (Revision of ANSI/AAMI/ST63:2002) Sterilization of health care products—Dry heat—Requirements for the development, validation and routine control of a sterilization process for medical devices.	Reaffirmation.
14–349		ANSI/AAMI/ISO 13408–3:2006/(R)2015 Aseptic processing of health care products—Part 3: Lyophilization.	Reaffirmation.
14–360		ANSI/AAMI ST72:2011/(R)2016 Bacterial endotoxins—Test methods, routine monitoring, and alternatives to batch testing.	Reaffirmation.
14–453	14–498	ASTM F2097–16 Standard Guide for Design and Evaluation of Primary Flexible Packaging for Medical Products.	Withdrawn and replaced with newer version.
14–462	14–499	ASTM D4169–16 Standard Practice for Performance Testing of Shipping Containers and Systems.	Withdrawn and replaced with newer version.
14–479	14–500	ISO 14644–1 Second edition 2015–12–15 Cleanrooms and associated controlled environments—Part 1: Classification of air cleanliness by particle concentration.	Withdrawn and replaced with new recognition number.
14–489		USP 39–NF34:2016 Biological Indicator for Steam Sterilization—Self Contained.	Withdrawn.
14–490		USP 39–NF34:2016 Biological Indicator for Dry-Heat Sterilization, Paper Carrier.	Withdrawn.

TABLE 1—MODIFICATIONS TO THE LIST OF RECOGNIZED STANDARDS—Continued

Old recognition No.	Replacement recognition No.	Title of standard [1]	Change
14–491		USP 39–NF34:2016 Biological Indicator for Ethylene Oxide Sterilization, Paper Carrier.	Withdrawn.
14–492		USP 39–NF34:2016 Biological Indicator for Steam Sterilization, Paper Carrier.	Withdrawn.
S. Tissue Engineering			
15–34	15–48	ASTM F2605–16 Standard Test Method for Determining the Molar Mass of Sodium Alginate by Size Exclusion Chromatography with Multi-angle Light Scattering Detection (SEC–MALS).	Withdrawn and replaced with newer version.

[1] All standard titles in this table conform to the style requirements of the respective organizations.

III. Listing of New Entries

In table 2, FDA provides the listing of new entries and consensus standards added as modifications to the list of recognized standards under Recognition List Number: 046.

TABLE 2—NEW ENTRIES TO THE LIST OF RECOGNIZED STANDARDS

Recognition No.	Title of standard [1]	Reference No. and date
A. Anesthesiology		
1–119	Tracheal tubes designed for laser surgery—Requirements for marking and accompanying information.	ISO 14408 Third edition 2016–02–15.
1–120	Anaesthetic and respiratory equipment—General requirements for airways and related equipment.	ISO 18190 First edition 2016–11–01.
B. Biocompatibility		
2–245	Biological evaluation of medical devices—Part 5: Tests for *in vitro* cytotoxicity	ISO 10993–5 Third edition 2009–06–01.
C. Cardiovascular		
3–145	Cardiovascular implants—Cardiac valve prostheses—Part 1: General requirements.	ISO 5840–1:2015 First edition 2015–09–15.
3–146	Cardiovascular implants—Cardiac valve prostheses—Part 1: General requirements.	ANSI/AAMI/ISO 5840–1: 2015.
3–147	Cardiovascular implants—Cardiac valve prostheses—Part 2: Surgically implanted heart valve substitutes.	ISO 5840–2: 2015 First edition 2015–09–15.
3–148	Cardiovascular implants—Cardiac valve prostheses — Part 2: Surgically implanted heart valve substitutes.	ANSI/AAMI/ISO 5840–2: 2015.
D. Dental/Ear, Nose, and Throat (ENT)		
4–229	Medical electrical equipment—Part 2–60: Particular requirements for the basic safety and essential performance of dental equipment.	IEC 80601–2–60 Edition 1.0 2012–02.
E. General I (Quality Systems/Risk Management) (QS/RM)		
5–115	Small-bore connectors for liquids and gases in healthcare applications—Part 7: Connectors for intravascular or hypodermic applications.	ISO 80369–7 First edition 2016–10–15.
5–116	Graphical symbols—Safety colours and safety signs—Registered safety signs [Including AMENDMENT 1 (2012) through AMENDMENT 7 (2016)].	ISO 7010 Second edition 2011–06–01.
F. General II (Electrical Safety/Electromagnetic Compatibility) (ES/EMC)		
19–19	Medical electrical equipment—Part 4–2: Guidance and interpretation—Electromagnetic immunity: Performance of medical electrical equipment and medical electrical systems.	IEC TR 60601–4–2 Edition 1.0 2016–05.
19–20	American National Standard Guide for Electrostatic Discharge Test Methodologies and Acceptance Criteria for Electronic Equipment.	ANSI C63.16–2016 (Revision of ANSI C63.16–1993).
19–21	Medical Electrical Equipment and System Electromagnetic Immunity Test for Exposure to Radio Frequency Identification Readers—An AIM Standard.	AIM Standard Rev. 1.00 2016–08–22.
G. General Hospital/General Plastic Surgery (GH/GPS)		
	No new entries at this time.	

TABLE 2—NEW ENTRIES TO THE LIST OF RECOGNIZED STANDARDS—Continued

Recognition No.	Title of standard [1]	Reference No. and date
	H. In Vitro Diagnostics (IVD)	
7–269	Molecular Diagnostic Methods for Solid Tumors (Nonhematological Neoplasms) ...	CLSI MM23 1st Edition.
	I. Materials	
8–439	Standard Specification for Additive Manufacturing Titanium-6 Aluminum-4 Vanadium ELI (Extra Low Interstitial) with Powder Bed Fusion.	ASTM F3001–14.
8–440	Standard Specification for Powder Bed Fusion of Plastic Materials	ASTM F3091/F3091M–14.
8–441	Standard Test Method for Verification of Multi-Axis Force Measuring Platforms	ASTM F3109–16.
8–442	Standard Guide for Validating Cleaning Processes Used During the Manufacture of Medical Devices.	ASTM F3127–16.
8–443	Standard Guide for Metallurgical Characterization of Absorbable Metallic Materials for Medical Implants.	ASTM F3160–16.
8–444	Additive manufacturing—General principles—Part 2: Overview of process categories and feedstock.	ISO 17296–2 First edition 2015–01–15.
8–445	Additive manufacturing—General principles—Part 4: Overview of data processing	ISO 17296–4 First edition 2014–09–01.
8–446	Standard Specification for Medical-Grade Ultra-High Molecular Weight Polyethylene Yarns.	ASTM F2848–16.
	J. Nanotechnology	
	No new entries at this time.	
	K. Neurology	
	No new entries at this time.	
	L. Obstetrics-Gynecology/Gastroenterology/Urology (OB-Gyn/G/Urology)	
	No new entries at this time.	
	M. Ophthalmic	
	No new entries at this time.	
	N. Orthopedic	
11–317	Standard Guide for Characterization of Material Loss from Conical Taper Junctions in Total Joint Prostheses.	ASTM F3129—16.
11–318	Standard Guide for Total Knee Replacement Loading Profiles	ASTM F3141—15.
11–319	Implants for surgery—Partial and total hip joint prostheses—Part 12: Deformation test method for acetabular shells.	ISO 7206–12 First edition 2016–10–01.
11–320	Implants for surgery—Partial and total hip joint prostheses—Part 13: Determination of resistance to torque of head fixation of stemmed femoral components..	ISO 7206–13 First edition 2016–07–01.
	O. Physical Medicine	
16–199	Wheelchairs Part 28: Requirements and test methods for stairclimbing devices	ISO 7176–28 First edition 2012–10–1.
	P. Radiology	
	No new entries at this time.	
	Q. Software/Informatics	
13–86	Systems and software engineering—Systems and software assurance—Part 1: Concepts and vocabulary.	ISO/IEC 15026–1 First edition 2013–11–01.
13–87	Systems and software engineering—Systems and software assurance—Part 2: Assurance case.	ISO/IEC 15026–2 First edition 2011–02–15.
	R. Sterility	
	No new entries at this time.	
	S. Tissue Engineering	
	No new entries at this time.	

[1] All standard titles in this table conform to the style requirements of the respective organizations.

IV. List of Recognized Standards

FDA maintains the Agency's current list of FDA Recognized Consensus Standards in a searchable database that may be accessed directly at FDA's Internet site at *http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfStandards/search.cfm.* FDA will incorporate the modifications and revisions described in this notice into the database and, upon publication in the **Federal Register**, this recognition of consensus standards will be effective. FDA will announce additional modifications and revisions to the list of recognized consensus standards, as needed, in the **Federal Register** once a year, or more often if necessary. Beginning with Recognition List 033, FDA no longer announces minor revisions to the list of recognized consensus standards such as technical contact person, devices affected, processes affected, Code of Federal Regulations citations, and product codes.

V. Recommendation of Standards for Recognition by FDA

Any person may recommend consensus standards as candidates for recognition under section 514 of the FD&C Act by submitting such recommendations, with reasons for the recommendation, to *standards@cdrh.fda.gov.* To be properly considered, such recommendations should contain, at a minimum, the following information: (1) Title of the standard, (2) any reference number and date, (3) name and address of the national or international standards development organization, (4) a proposed list of devices for which a declaration of conformity to this standard should routinely apply, and (5) a brief identification of the testing or performance or other characteristics of the device(s) that would be addressed by a declaration of conformity.

VI. Electronic Access

You may obtain a copy of ''Guidance on the Recognition and Use of Consensus Standards'' by using the Internet. The Center for Devices and Radiological Health (CDRH) maintains a site on the Internet for easy access to information including text, graphics, and files that you may download to a personal computer with access to the Internet. Updated on a regular basis, the CDRH home page, *http://www.fda.gov/MedicalDevices,* includes a link to standards-related documents including the guidance and the current list of recognized standards. After publication in the **Federal Register**, this notice announcing ''Modification to the List of Recognized Standards, Recognition List Number: 046'' will be available at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards/ucm123792.htm.* You may access ''Guidance on the Recognition and Use of Consensus Standards,'' and the searchable database for ''FDA Recognized Consensus Standards'' at *http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/Standards.*

Dated: December 19, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–31008 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2007–D–0369]

Product-Specific Bioequivalence Recommendations; Draft and Revised Draft Guidances for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of additional draft and revised draft product-specific bioequivalence (BE) recommendations. The recommendations provide product-specific guidance on the design of BE studies to support abbreviated new drug applications (ANDAs). In the **Federal Register** of June 11, 2010, FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site. The BE recommendations identified in this notice were developed using the process described in that guidance.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by February 21, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2007–D–0369 for ''Product-Specific Bioequivalence Recommendations; Draft and Revised Draft Guidances for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the

information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *http://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Xiaoqiu Tang, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4730, Silver Spring, MD 20993–0002, 301–796–5850.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of June 11, 2010 (75 FR 33311), FDA announced the availability of a guidance for industry entitled ''Bioequivalence Recommendations for Specific Products'' that explained the process that would be used to make product-specific BE recommendations available to the public on FDA's Web site at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*.

As described in that guidance, FDA adopted this process as a means to develop and disseminate product-specific BE recommendations and provide a meaningful opportunity for the public to consider and comment on those recommendations. Under that process, draft recommendations are posted on FDA's Web site and announced periodically in the **Federal Register**. The public is encouraged to submit comments on those recommendations within 60 days of their announcement in the **Federal Register**. FDA considers any comments received and either publishes final recommendations or publishes revised draft recommendations for comment. Recommendations were last announced in the **Federal Register** on October 5, 2016 (81 FR 69064). This notice announces draft product-specific BE recommendations, either new or revised, that are posted on FDA's Web site.

II. Drug Products for Which New Draft Product-Specific BE Recommendations Are Available

FDA is announcing the availability of a new draft guidance for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 1—NEW DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

1. Adapalene; benzoyl peroxide.
2. Amphetamine.
3. Betamethasone valerate.
4. Budesonide.
5. Cephalexin.
6. Cetirizine hydrochloride.
7. Clozapine.
8. Colchicine.
9. Doxycycline hyclate.
10. Emtricitabine; Rilpivirine hydrochloride; Tenofovir alafenamide fumarate.
11. Emtricitabine; Tenofovir alafenamide fumarate.
12. Epinephrine.
13. Esomeprazole Magnesium.
14. Ethiodized oil.
15. Fenofibrate.
16. Fluocinonide.
17. Fluoxetine hydrochloride.
18. Halcinonide.
19. Ibuprofen; pseudoephedrine hydrochloride.
20. Lidocaine.
21. Morphine sulfate.
22. Nicotine polacrilex.
23. Nitisinone.
24. Omega-3-acid ethyl esters type A.
25. Oxycodone.
26. Panobinostat lactate.
27. Perampanel.
28. Pimavanserin tartrate.
29. Prazosin hydrochloride.
30. Simvastatin.
31. Tofacitinib citrate.

II. Drug Products for Which Revised Draft Product-Specific BE Recommendations Are Available

FDA is announcing the availability of a revised draft guidance for industry on product-specific BE recommendations for drug products containing the following active ingredients:

TABLE 2—REVISED DRAFT PRODUCT-SPECIFIC BE RECOMMENDATIONS FOR DRUG PRODUCTS

Acyclovir.
Albuterol sulfate.
Buprenorphine hydrochloride; Naloxone hydrochloride (multiple reference listed drugs).
Cobicistat; Darunavir ethanolate.
Divalproex sodium (multiple reference listed drugs).
Levomilnacipran hydrochloride.
Medroxyprogesterone acetate.
Nepafenac (multiple reference listed drugs).
Omega-3-acid ethyl esters.
Omega-3-carboxylic acids.
Ruxolitinib phosphate.
Tedizolid phosphate.
Venlafaxine hydrochloride.

For a complete history of previously published **Federal Register** notices related to product-specific BE recommendations, go to *https://www.regulations.gov* and enter Docket No. FDA–2007–D–0369.

These draft guidances are being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). These draft guidances, when finalized, will represent the current thinking of FDA on the product-specific design of BE studies to support ANDAs. They do not establish any rights for any person and are not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov*.

Dated: December 16, 2016.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2016–30984 Filed 12–22–16; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting of the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria

AGENCY: Office of the Assistant Secretary for Health, Office of the Secretary, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: As stipulated by the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) is hereby giving notice that a meeting is scheduled to be held for the Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria (Advisory Council). The meeting will be open to the public; a public comment session will be held during the meeting. Pre-registration is required for members of the public who wish to attend the meeting and who wish to participate in the public comment session. Individuals who wish to attend the meeting and/or send in their public comment via email should send an email to *CARB@hhs.gov.* Registration information is available on the Web site *http://www.hhs.gov/ash/carb/* and must be completed by January 20, 2017; all in-person attendees must pre-register by this date. Additional information about registering for the meeting and providing public comment can be obtained at *http://www.hhs.gov/ash/carb/* on the Meetings page.

DATES: The meeting is scheduled to be held on January 25, 2017, from 9:30 a.m. to 5:00 p.m. ET (times are tentative and subject to change). The confirmed times and agenda items for the meeting will be posted on the Web site for the Advisory Council at *http://www.hhs.gov/ash/carb/* when this information becomes available. Pre-registration for attending the meeting in person is required to be completed no later than January 20, 2017; public attendance at the meeting is limited to the available space.

ADDRESSES: U.S. Department of Health and Human Services, Hubert H. Humphrey Building, Great Hall, 200 Independence Avenue SW., Washington, DC 20201.

The meeting can also be accessed through a live webcast on the day of the meeting. For more information, visit *http://www.hhs.gov/ash/carb/.*

FOR FURTHER INFORMATION CONTACT: Bruce Gellin, Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Office of the Assistant Secretary for Health, U.S. Department of Health and Human Services, Room 715H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Phone: (202) 260–6638; email: *CARB@hhs.gov.*

SUPPLEMENTARY INFORMATION: Under Executive Order 13676, dated September 18, 2014, authority was given to the Secretary of HHS to establish the Advisory Council, in consultation with the Secretaries of Defense and Agriculture. Activities of the Advisory Council are governed by the provisions of Public Law 92–463, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees.

The Advisory Council provides advice, information, and recommendations to the Secretary of HHS regarding programs and policies intended to support and evaluate the implementation of Executive Order 13676, including the National Strategy for Combating Antibiotic-Resistant Bacteria and the National Action Plan for Combating Antibiotic-Resistant Bacteria. The Advisory Council functions solely for advisory purposes.

In carrying out its mission, the Advisory Council provides advice, information, and recommendations to the Secretary regarding programs and policies intended to preserve the effectiveness of antibiotics by optimizing their use; advance research to develop improved methods for combating antibiotic resistance and conducting antibiotic stewardship; strengthen surveillance of antibiotic-resistant bacterial infections; prevent the transmission of antibiotic-resistant bacterial infections; advance the development of rapid point-of-care and agricultural diagnostics; further research on new treatments for bacterial infections; develop alternatives to antibiotics for agricultural purposes; maximize the dissemination of up-to-date information on the appropriate and proper use of antibiotics to the general public and human and animal healthcare providers; and improve international coordination of efforts to combat antibiotic resistance.

The January public meeting will be dedicated to presentations from federal and non-federal stakeholders surrounding the topic areas of infection prevention and control. The meeting agenda will be posted on the Advisory Council Web site at *http://www.hhs.gov/ash/carb/* when it has been finalized. All agenda items are tentative and subject to change.

Public attendance at the meeting is limited to the available space. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Advisory Council at the address/telephone number listed above at least one week prior to the meeting. For those unable to attend in person, a live webcast will be available. More information on registration and accessing the webcast can be found at *http://www.hhs.gov/ash/carb/.*

Members of the public will have the opportunity to provide comments prior to the Advisory Council meeting by emailing *CARB@hhs.gov.* Public comments should be sent in by midnight January 20, 2017, and should be limited to no more than one page. All public comments received prior to January 20, 2017, will be provided to Advisory Council members; comments are limited to two minutes per speaker.

Dated: December 16, 2016.

Bruce Gellin,

Designated Federal Officer, Presidential Advisory Council on Combating Antibiotic-Resistant Bacteria, Deputy Assistant Secretary for Health.

[FR Doc. 2016–30904 Filed 12–22–16; 8:45 am]

BILLING CODE 4150–44–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: Global Infectious Diseases Research Training Program.

Date: January 5, 2017.

Time: 9:00 a.m. to 12:00 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: Kenneth M Izumi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3204, MSC 7808, Bethesda, MD 20892, 301–496–6980, *izumikm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–15–276: Turkey-US Collaborative Program for Affordable Medical Technologies (R01).

Date: January 17, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Careen K Tang-Toth, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301)435–3504, *tothct@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: December 19, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–30890 Filed 12–22–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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 Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: January 25, 2017.

Open: 8:30 a.m. to 12:15 p.m.

Agenda: Discussion and review of program policies.

Place: National Institutes of Health, Building 31, 6th Floor, C Wing, Conference Room 10, 31 Center Drive, Bethesda, MD 20892, Video cast: *http://videocast.nih.gov.*

Closed: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 6th Floor, C Wing, Conference Room 10, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Laura K. Moen, Ph.D., Director, Division of Extramural Research Activities, NIAMS/NIH, 6700 Democracy Boulevard, Suite 800, Bethesda, MD 20892, 301–451–6515, *moenl@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: December 19, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–30891 Filed 12–22–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; NIDCD Clinical Research Center Grant Review.

Date: January 18, 2017.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Shiguang Yang, DVM, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIDCD, NIH, 6001 Executive Blvd., Room 8349, Bethesda, MD 20892, 301–496–8683, *yangshi@nidcd.nih.gov*.

Name of Committee: National Institute on Deafness and Other Communication Disorders Special Emphasis Panel; Hearing and Balance Fellowships Review.

Date: February 10, 2017.

Time: 1:00 p.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Baltimore Marriott Waterfront, 700 Aliceanna Street, Baltimore, MD 21202.

Contact Person: Katherine Shim, Ph.D., Scientific Review Officer, Division of Extramural Activities, NIH/NIDCD, 6001 Executive Blvd., Room 8351, Bethesda, MD 20892, 301–496–8683, *katherine.shim@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: December 19, 2016.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–30892 Filed 12–22–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2016–1059]

Towing Safety Advisory Committee; January 2017 Teleconference

AGENCY: Coast Guard, Department of Homeland Security.

ACTION: Notice of teleconference meeting.

SUMMARY: The Towing Safety Advisory Committee will meet, via teleconference, to discuss the five current tasks of the Committee. The Committee is expected to receive the final report from the subcommittee on Electronic Charting Systems and an interim final report from the subcommittee on Implementation of Subchapter M. The subcommittee on Implementation of Subchapter M will also receive additional tasking to review a Towing Safety Management System Option Compliance Guidebook. The subcommittees on Towing of Liquefied Natural Gas Barges, Inland Firefighting Training, and Articulated Tug-Barge Operations are expected to provide progress reports. This meeting will be open to the public.

DATES: The full Committee will meet by teleconference on Wednesday, January 18, 2017, from 1 p.m. until 3 p.m. Eastern Standard Time. Please note that this meeting may close early if the Committee has completed its business.

ADDRESSES: To join the teleconference, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section no later than 1 p.m. on January 11, 2017, to obtain the needed information. The number of teleconference lines is limited and will be available on a first-come, first-served basis. If you prefer to join in person at U.S. Coast Guard Headquarters, it will be hosted in Room 3R14–01, 2703 Martin Luther King Jr Ave SE., Washington, DC 20593. Foreign national attendees will be required to preregister no later than 5 p.m. on January 5, 2017, to be admitted to the meeting. U.S. citizen attendees will be required to pre-register no later than 5 p.m. on January 11, 2017, to be admitted to the meeting. To pre-register, contact Mr. William J. Abernathy at *William.J.Abernathy@uscg.mil,* with TSAC in the subject line and provide your name, company and telephone number; if a foreign national, also provide your country of citizenship, and passport number and expiration date. All attendees will be required to provide a government-issued picture identification card in order to gain admittance to the building.

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** as soon as possible.

Instructions: To facilitate public participation, written comments on the issues to be considered by the Committee as listed in the ''Agenda'' section below must be submitted no later than January 11, 2017, if you want the Committee members to review your comments prior the meeting. You must include the words ''Department of Homeland Security'' and the docket number [USCG–2016–1059]. Written comments may be submitted using the Federal eRulemaking Portal at *http://www.regulations.gov.* If you encounter technical difficulties, contact the individual in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Comments received will be posted without alteration at *http://regulations.gov,* including any personal information provided. You may review a Privacy Act notice regarding the Federal Docket Management system in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Docket Search: For access to the docket to read documents or comments related to this notice, go to *http://www.regulations.gov,* type USCG–2016–1059 in the Search box, press Enter, and then click on the item you wish to view.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Abernathy, Alternate Designated Federal Officer of the Towing Safety Advisory Committee, 2703 Martin Luther King Jr Ave SE., Stop 7509, Washington, DC 20593–7509, telephone 202–372–1363, fax 202–372–8382 or *william.j.abernathy@uscg.mil.*

SUPPLEMENTARY INFORMATION: Notice of this meeting is in compliance with the Federal Advisory Committee Act, (Title 5, U.S.C. Appendix). As stated in 33 U.S.C. 1231a, the Towing Safety Advisory Committee provides advice and recommendations to the Department of Homeland Security on matters related to shallow-draft inland and coastal waterway navigation and towing safety.

Agenda of Meeting

The agenda for the January 18, 2017, teleconference is as follows:

(1) Final report from the subcommittee on ''Recommendations on Electronic Charting Systems (ECS) Carriage on Towing Vessels (Task 15–03).''

(2) An interim final report and discussion of additional tasking for the subcommittee working on ''Recommendations on the Implementation of 46 Code of Federal Regulations Subchapter M—Inspection of Towing Vessels (Task 16–01).''

(3) Progress reports from the other three active subcommittees on ''Recommendations Regarding New and Updated Policy for Articulated Tug and Barge (ATB) Combinations Currently Contained in NVIC 2–81, Change 1 (Task No. 15–02)'', ''Recommendations Regarding Firefighting Training Requirements for Officer Endorsements for Master or Mate (Pilot) of Towing Vessels, Except Apprentice Mate (Steersman) of Towing Vessels in Inland Service (Task No. 16–02)'', and ''Recommendations Regarding Operational Risks Associated With Towing Liquefied Natural Gas Barges Astern (Task 16–03).''

(4) TSAC Member and Public Comment periods. A copy of the task statements, draft final reports, and the agenda will be available at *https://homeport.uscg.mil/tsac.*

Public comments or questions will be taken throughout the teleconference as the Committee discusses the issues and prior to deliberations and voting. There will also be a public comment period at the end of the teleconference. Speakers are requested to limit their comments to three minutes. Please note that this public comment period may start before 2:45 p.m. if all other agenda items have been covered and may end before 3 p.m. if all of those wishing to comment have done so. Please contact Mr. William Abernathy listed in the **FOR FURTHER INFORMATION CONTACT** section to register as a speaker.

Notice of Future 2017 Towing Safety Advisory Committee Meetings

To receive automatic email notices of future Towing Safety Advisory Committee meetings in 2017, go to the online docket, USCG–2016–1059 (*http://www.regulations.gov/#!docketDetail;D=USCG-2016-1059*), and select the sign-up-for-email-alerts option. We plan to use the same docket number for all Towing Safety Advisory Committee meeting notices in 2017, so when the next meeting notice is published you will receive an email alert from *http://www.regulations.gov* when the notice appears in this docket, in addition to notices of other items being added to the docket.

Dated: December 19, 2016

J.G. Lantz,

Director of Commercial Regulations and Standards.

[FR Doc. 2016–30952 Filed 12–22–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–95]

30-Day Notice of Proposed Information Collection: FHA-Application for Insurance of Advance of Mortgage Proceeds

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* January 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 31, 2016 at 81 FR 60015.

A. Overview of Information Collection

Title of Information Collection: FHA-Application for Insurance of Advance of Mortgage Proceeds.

OMB Approval Number: 2502–0097.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92403.

Description of the need for the information and proposed use: To indicate to the mortgagee amounts approved for advance and mortgage insurance.

Respondents: (*i.e.,* affected public): Business or other for profit.

Estimated Number of Respondents: 873.

Estimated Number of Responses: 26,190.

Frequency of Response: As needed.

Average Hours per Response: 2 hours.

Total Estimated Burden: 52,380.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 16, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30912 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–94]

30-Day Notice of Proposed Information Collection: 24 CFR Part 58, Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: January 23, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 24, 2016 at 81 FR 73132.

A. Overview of Information Collection

Title of Information Collection: 24 CFR part 58—Environmental Review Procedures for Entities Assuming HUD Environmental Review Responsibilities.

OMB Approval Number: 2506–0087.

Type of Request: Extension.

Form Number: HUD–7015.15.

Description of the need for the information and proposed use: The Request for Release of Funds and Certification is used to document compliance with the National Environmental Policy Act and the related environmental statutes, executive orders, and authorities in accordance with the procedures identified in 24 CFR part 58. Recipients certify compliance and make requests for release of funds.

Respondents (*i.e.* affected public): State, local, and tribal governments and nonprofit organizations.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Request for Release of Funds and Certification HUD–7015.15	18,785	1	18,785	.60	11,271.00	$30.00	$338,130.00
Total	18,785	1	18,785	.60	11,271.00	$30.00	$338,130.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 16, 2016.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30911 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–93]

30-Day Notice of Proposed Information Collection: Floodplain Management and Protection of Wetlands

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* January 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 24, 2016 81 FR 73130.

A. Overview of Information Collection

Title of Information Collection: 24 CFR 55, Floodplain Management and Protection of Wetlands.

OMB Approval Number: 2506–0151.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: 24 CFR 55 implements decision making procedures prescribed by Executive Order 11988 with which applicants must comply before HUD financial assistance can be approved for projects that are located within floodplains. Records of compliance must be kept.

Respondents (*i.e.* affected public): Local, state, and tribal governments.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Sec. 55.20	275	1	275	8	2,200	$40	$88,000
Sec. 55.21	300	1	300	1	300	40	12,000
Total	575	1	575	Varies	2,500	40	100,000

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 16, 2016.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30920 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–92]

30-Day Notice of Proposed Information Collection: Youth Homelessness Demonstration Program (YHDP)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for renewal of the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* January 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5535 (this is not a toll-free number) or email at *Anna.P.Guido@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for renewal of the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 2, 2016 at 81 FR 60719.

A. Overview of Information Collection

Title of Information Collection: Youth Homelessness Demonstration Program (YHDP).

OMB Control Number: 2506–0210.

Type of Request: Renewal of previously approved collection.

Form Number: Youth Homelessness Demonstration Application (all parts), SF 424, HUD–2991, HUD–2993, HUD–2880, and SF–LLL, HUD–50070.

Description of the need for the information and proposed use: The appropriation for the Youth Homelessness Demonstration Program (YHDP) was made available through the Consolidated Appropriations Act, 2016 (Pub. L. 114–113, approved December 18, 2015), ''the Act''. The Act appropriated $33,000,000 to HUD ''to implement projects to demonstrate how a comprehensive approach to serving homeless youth, age 24 and under, in up to 10 communities, including at least four rural communities, can dramatically reduce youth homelessness,'' $5 million to HUD ''to provide technical assistance on youth homelessness, and collection, analysis, and reporting of data and performance measures under the comprehensive approaches to serve homeless youth, in addition to and in coordination with other technical assistance funds provided under this title,'' and a further $2.5 million to HUD ''for homeless youth program evaluations conducted in partnership with the Department of Health and Human Services.'' Through this NOFA, HUD is holding a competition in order to identify those 10 communities that will make best use of the congressionally appropriated funds and provide HUD with the best opportunity to meet the YHDP objectives. Without asking for this information, HUD will be unable to meet the congressional mandate within the Act. Once communities have been selected, HUD must collect individual grant applications to meet the Act requirement that YHDP projects be renewable under the Continuum of Care (CoC) Program authorized by the McKinney-Vento Act, as amended by S. 896 The Homeless Emergency Assistance and Rapid Transition to Housing (HEARTH) Act of 2009 (42 U.S.C. 11371 *et seq.*) and the CoC Program Homeless Assistance Grant Application requirements (OMB 2506–0112). Finally, HUD must collect the Coordinated Community Plan to meet the appropriations requirement ''to demonstrate how a comprehensive approach to serving homeless youth . . . can dramatically reduce youth homelessness.'' In HUD's experience leading similar coordinated community efforts (*e.g.* LGBTQ Youth Homelessness Prevention Pilot, OMB 2506–0204), the planning process is a challenging and resource intensive endeavor, requiring systems analysis, values sharing, priority negotiating, the creation of leadership structure, the development of a logic model, and a plan for constant feedback and continuous process improvement, among other things. The submission of a coordinated community plan will allow HUD to assess the ability of the selected communities to appropriately use the funding made available by Congress.

Submission documents	Number of respondents	Responses per year	Total annual responses	Hours per response	Total hours	Hourly cost per response	Annual cost
Component 1. Community Selection							
YHDP Community Selection Application	200	1	200	25.00	5,000.00	*$25	$125,000.00

Submission documents	Number of respondents	Responses per year	Total annual responses	Hours per response	Total hours	Hourly cost per response	Annual cost
Acknowledgement of Application Receipt (HUD2993) (only applicants granted waiver to submit a paper application)	10	1	10	0.17	1.70	25	42.50
Subtotal			210	25.00	5,001.70		125,042.50
Component 2. Project Application							
YHDP Project Application	10	5	50	8.00	400.00	25	10,000.00
HUD–2880—Applicant/Recipient Disclosure/Update Report (2510–0011)	10	5	50	2.00	100.00	25	2,500.00
Subtotal			50	10.00	500.00		12,500.00
Component 3. Coordinated Community Plan							
YHDP Plan	10	1	10	240.00	2,400.00	25	60,000.00
Certification of Consistency with the Consolidated Plan (HUD–2991) (2506–0112)	10	1	10	0.17	1.70	25	42.50
Subtotal			10	240.17	2,401.70		60,042.50
Total Application Collection					7,903.40		197,585.00

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comments in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 15, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30919 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5921–N–18]

Privacy Act of 1974; Notice of a Computer Matching Program Between the Department of Housing and Urban Development (HUD) and the Department of Treasury

AGENCY: Office of Administration, HUD.

ACTION: Notice of a computer matching program between HUD and the Department of the Treasury.

SUMMARY: HUD is issuing a public notice of its intent to conduct a recurring computer matching program with the U.S. Department of the Treasury (Treasury), Bureau of the Fiscal Service (Fiscal Service), Do Not Pay Business Center (DNP), for the purpose of providing information that will be used by HUD to detect suspected instances of programmatic fraud, waste, and abuse (FW&A).

DATES: *Effective Date:* The effective date of the matching program shall begin January 23, 2017, or at least 40 days from the date that copies of the Computer Matching Agreement, signed by both HUD and Treasury Data Integrity Boards (DIBs), are sent to OMB and Congress, whichever is later, provided that no comments that would result in a contrary determination are received.

Comments Due Date: January 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10110, Washington, DC 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8:00 a.m. and 5:00 p.m. weekdays at the above address.

FOR FURTHER INFORMATION: Contact the ''Recipient Agency'' Helen Goff Foster, Departmental Privacy Officer, Department of Housing and Urban Development, 451 Seventh Street SW., Room 10139, Washington, DC 20410, telephone number (202) 402–6836 or the ''Source Agency'' Disclosure Officer, Bureau of the Fiscal Service, 401 14th Street SW., Washington, DC 20227. Email Address: *David.Ambrose@fiscal.treasury.gov.* A telecommunication device for hearing- and speech-impaired individuals (TTY) is available at (800) 877–8339 (Federal Relay Service).

SUPPLEMENTARY INFORMATION: (short synopsis of purpose).

CPD stated that the purpose of the match against the SAM-restricted databases is for use by the agency to determine a party's eligibility status to participate in Federal procurement and non-procurement programs and for use where the information is needed to decide on a Federal financial or non-financial assistance program or benefit. CPD also stated that the purpose of the match against the SAM-restricted and Debt Check databases database is to

verify the eligibility of an individual under a Federal benefit program.

PID stated that the purpose of the match against the SAM-restricted databases is for use by the agency to determine a party's eligibility status to participate in Federal procurement and non-procurement programs and for use where the information is needed to decide on a Federal financial or non-financial assistance program or benefit. PID also stated that the purpose of the match against the SAM-restricted and Debt Check databases database is to verify the eligibility of an individual under a Federal benefit program.

MHF stated the purpose of the match against SAM Exclusion-restricted is for use by the agency to determine a party's eligibility status to participate in Federal procurement and non-procurement programs; for use where the information is needed to decide on a Federal financial or non-financial assistance program or benefit; and for use in connection with letting a contract, or issuing a license, grant, or other benefit by the requesting agency where the information is needed to decide on a Federal financial or non-financial assistance program or benefit. MFH also stated that the purpose of the match against SAM-Exclusion restricted is to verify the eligibility of an individual under a Federal benefit program.

Reporting of Matching Program

In accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988 as amended, and OMB Bulletin 89–22, ''Instructions on Reporting Computer Matching Programs to the Office of Management and Budget (OMB), Congress and the Public,'' copies of this notice and report are being provided to the U.S. House Committee on Oversight Government Reform, the U.S. Senate Homeland Security and Governmental Affairs Committee, and OMB.

Authority

HUD has authority to collect and review mortgage data pursuant to the National Housing Act, as amended, 12 U.S.C. 1701 *et seq.,* and related laws. This computer matching will be conducted pursuant to Public Law 100–503, ''The Computer Matching and Privacy Protection Act of 1988,'' as amended, and OMB Circulars A–129 (Managing Federal Credit Programs). One of the purposes of all Executive departments and agencies is to implement efficient management practices for Federal Credit Programs. OMB Circular A–129 was issued under the authority of the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Act of 1950, as amended; the Debt Collection Act of 1982, as amended by the Debt Collection Improvement Act of 1996; Section 2653 of Public Law 98–369; the Federal Credit Reform Act of 1990, as amended; the Federal Debt Collection Procedures Act of 1990, the Chief Financial Officers Act of 1990, as amended; Executive Order 8248; the Cash Management Improvement Act Amendments of 1992; and pre-existing common law authority to charge interest on debts and to offset payments to collect debts administratively.

Other authorities:

1. Improper Payments Elimination and Recovery Improvement Act of 2012 (IPERIA), 31 U.S.C. 3321 note, Public Law 112–248.

2. OMB Memorandum M–13–20, Protecting Privacy while Reducing Improper Payments with the Do Not Pay Initiative (August 16, 2013).

3. Presidential Memorandum on Enhancing Payment Accuracy through a ''Do Not Pay List'' (June 18, 2010).

4. Executive Order 13520, Reducing Improper Payments and Eliminating Waste in Federal Programs (November 20, 2009).

5. Improper Payment Elimination and Recovery Act of 2010, Public Law 111–204.

6. Improper Payments Information Act of 2002, 31 U.S.C. 3321 note, Public Law 107–300.

7. Federal Improper Coordination Act of 2015, Public Law 114–109.

Objectives To Be Met by the Matching Program

The objective of this matching program is that this data transfer will produce expedited eligibility determinations and will minimize administrative burdens for HUD. The benefit of this data match with respect to the HUD fraud and abuse program is the increased assurance that HUD achieves efficiencies and administrative cost savings to HUD payment, procurement, and benefit programs. This collaborative model, which offers service-based access to authoritative data, will lessen financial and administrative burdens by eliminating the need for individual HUD payment, procurement, and benefit programs to execute several CMAs with multiple Federal agencies. Description of the Match *(process procedures for the layperson, which systems will be used, what happens if there's a match, what happens if there's no match)* This agreement will match records from HUD's Office of Community Planning and Development (CPD) & Office of Public and Indian Housing (PIH) against SAM Entity Registry, SAM Exclusions and TOP Debt Check, and for HUD's Office of Housing, Multifamily Housing (MFH) to match against SAM Exclusions. A description of the data sources maintained by Treasury with their functions follow:

1. SAM Entity Registry Records—Verify that a vendor seeking to do business with the Federal Government has registered in accordance with the Federal Acquisition Regulation (FAR) by providing basic information relevant to procurement and financial transactions.

2. SAM Exclusion Records—Verify whether payments are to debarred individuals.

3. TOP Debt Check—Verify whether payee owes delinquent non-tax debts to Federal Government (and participating States).

Any matches between HUD records and SAM Entity Registry would indicate a vendor is registered to work with the government. Any matches between HUD records and SAM Exclusion Records and/TOP Debt Check would require further investigation by HUD before any action is taken pertaining to a beneficiary.

Records To Be Matched

HUD will use records from the PIH–01 Inventory Management System (IMS), HUD/EC–02, Departmental Tracking System, and HUD/H–11, Tenant Housing Assistance and Contract Verification Data. HUD's system of records notice repository may be found at: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/officeofadministration/privacy_act/pia/fednotice/SORNs_LoB.*

Treasury will use records from the Department of the Treasury/Bureau of the Fiscal Service .023—Do Not Pay Payment Verification Records. Treasury's SORN repository for DNP may be found at: *http://www.donotpay.treas.gov/Privacy.htm.*

Notice Procedures

The Privacy Act requires Agreements to specify procedures for notifying applicants/recipients at time of registration and other periodic notice as directed by the Data Integrity Board of such agency to applicants for and recipients of financial assistance or payments under Federal benefit programs.

HUD and Treasury have both published system of records notices informing applicants/recipients that their information may be subject to

verification through matching programs per 5 U.S.C. 552a(o)(1)(D). As further required by the Privacy Act, HUD shall make a copy of the Computer Matching Agreement available to the public upon request. Treasury will make a copy of the effective CMA available on DNP's Web site in accordance with OMB M–13–20 Protecting Privacy while Reducing Improper Payments with the Do Not Pay Initiative.

There are no additional notice procedures.

Categories of Records/Individuals Involved

Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information (PII) from the aforementioned system of records. The data elements supplied by HUD to Treasury (system) follow, but are not limited to

CPD

- Name
- Taxpayer Identification Number (TIN)
- Address
- DUNs
- Registration code

PIH

- Name
- TIN
- Address
- DUNs
- SAM number
- Delinquent agency

Multifamily Housing

- Name
- TIN
- Address
- SAM number
- Exclusion Type
- Exclusion Program
- Exclusion Agency

Period of the Match

Matching will begin at least 40 days from the date that copies of the Computer Matching Agreement, signed by HUD and Treasury DIBs, are sent to both Houses of Congress and OMB; or at least 30 days from the date this notice is published in the **Federal Register,** whichever is later, provided that no comments that would result in a contrary determination are received. The matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the Parties to the Agreement advises the other in writing to terminate or modify the Agreement.

Dated: December 14, 2016.

Helen Goff Foster,

Chief Privacy Officer/Senior Agency Official for Privacy.

[FR Doc. 2016–30914 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–97]

30-Day Notice of Proposed Information Collection: Assessing Public Housing Authorities (PHAs) Compliance With Insurance Requirements Under the Consolidated Annual Contributions Contract and Regulations

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: January 23, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 2, 2016 at 81 FR 50721.

A. Overview of Information Collection

Title of Information Collection: Assessing Compliance with ACC and Regulatory Insurance Requirements Under the Consolidated Annual Contributions Contract and Regulations at 24 CFR 965 Subpart B.

OMB Approval Number: 2577–New.

Type of Request: New collection.

Form Number: None.

Description of the need for the information and proposed use: The information collected will be used to assess PHAs compliance with ACC and regulatory insurance requirements. PHAs are required to have appropriate property/casualty insurance coverage needed to protect Federal interest in PHA properties and operations.

Respondents (*i.e.,* affected public): Public Housing Authorities.

Estimated Number of Respondents: 300.

Estimated Number of Responses: 300.

Frequency of Response: Once (This is a one-time survey).

Average Hours per Response: The expected average response time for the survey is 20 minutes. (Some of the questions have only binary responses: _____Yes _____No).

Total Estimated Burdens: 99.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 15, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30915 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–52]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), call the toll-free Title V information line at 800–927–7588 or send an email to *title5@hud.gov*.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 12–07, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301)–443–2265 (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 or send an email to *title5@hud.gov* for detailed instructions, or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*e.g.,* acreage, floor plan, condition of property, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following address(es): AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, OPPM, Property Management Division, Agriculture South Building, 300 7th Street SW., Washington, DC 20024, (202)–720–8873; AIR FORCE: Mr. Robert E. Moriarty, P.E., AFCEC/CI, 2261 Hughes Avenue, Ste. 155, JBSA Lackland TX 78236–9853, (315)–225–7384; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202)–501–0084; NAVY: Ms. Nikki Hunt, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202)–685–9426 (These are not toll-free numbers).

Dated: December 15, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/23/2016

Suitable/Available Properties

Building

Michigan

Raco Work Center
9200 South Ranger Road
Brimley MI 49715
Landholding Agency: Agriculture
Property Number: 15201640015
Status: Underutilized
Comments: Off-site removal only; 81+ yrs. old; 442 sq. ft.; equipment/material storage; roof needs replaced; lead based paint; no future agency need; contact Agriculture for more information.

Raco Work Center
9200 South Ranger Road
Brimley MI 49715
Landholding Agency: Agriculture
Property Number: 15201640016
Status: Underutilized
Comments: Off-site removal only; 82+ yrs. old; 528 sq. ft.; equipment/material storage; roof needs replaced; lead based paint; no future agency need; contact Agriculture for more information.

Moran Work Center
1790 W. Adolfus Street
Moran MI 49760
Landholding Agency: Agriculture
Property Number: 15201640017
Status: Underutilized
Comments: Off-site removal only; 45+ yrs. old; 85 sq. ft.; tire storage; building needs replacement; no future agency need; contact Agriculture for more information.

Moran Work Center
1790 W. Adolfus Street
Moran MI 49760
Landholding Agency: Agriculture
Property Number: 15201640018
Status: Underutilized
Directions: Off-site removal only; 80+ yrs.; 2,240 sq. ft.; removal extremely difficult;

no future agency need; office/storage; poor condition; lead base paint; roof needs to be replaced;
Comments: Not ADA complaint; contact Agriculture for more information.

Moran Work Center
1790 W. Adolfus Street
Moran MI 49760
Landholding Agency: Agriculture
Property Number: 15201640019
Status: Underutilized
Comments: Off-site removal only; 68+ yrs. old; 1,160 sq. ft.; office/storage; poor condition; lead based paint; roof needs to replaced; no future agency need; contact Agriculture for more information.

Moran Work Center
1790 W. Adolfus Street
Moran MI 49760
Landholding Agency: Agriculture
Property Number: 15201640020
Status: Underutilized
Directions: Off-site removal only; 80+ yrs. old; 300 sq. ft.; garage/fuel storage; no future agency need; poor condition;
Comments: Roof needs to be replaced; lead base paint; not ADA complaint; contact Agriculture for more information.

Raco Work Center
Raco Fire Cache
Brimley MI 49715
Landholding Agency: Agriculture
Property Number: 15201640025
Status: Underutilized
Comments: Off-site removal only; 698 sq. ft.; no future agency need; rehab needed; lead present; contact Agriculture for more information.

North Carolina

U.S. Army Reserve Center
1228 Carroll Street
Durham NC 27707
Landholding Agency: GSA
Property Number: 54201640006
Status: Excess
GSA Number: 4–D–NC–0832–AA
Directions: Disposal Agency: GSA; Landholding Agency: COE
Comments: 58+ yrs. old; 15,000 sq. ft.; training & education; 30+ mos. vacant; sits on 5.45 acres of land; asbestos & lead present; use restrictions may apply; contact GSA for more information.

South Carolina

Orangeburg Memorial USARC
287 John C. Calhoun Drive
Orangeburg SC 29115
Landholding Agency: GSA
Property Number: 54201640007
Status: Excess
GSA Number: 4–D–SC–0638AA
Directions: Disposal Agency: GSA; Landholding Agency: Army 11,367 sf., masonry bldg.; 3,018 sf., masonry bldg., 1,500 sf., & 1,550 sf. workshop bldg., 240 sf. shed
Comments: 57+ yrs. old; office/storage; sq. ft. listed above; vacant 26+ mos., lead base paint & asbestos present; sits on 2.62 acres of land; contact GSA for more information.

Washington

White Pass Work Center
31381 Hwy. 12 located at MP 17 from 410/12 junction
Naches WA 98937
Landholding Agency: Agriculture
Property Number: 15201640021
Status: Unutilized
Directions: 0767200 1152(1110.005511; 1058 (1106.005511); 1151 (1109.005511); 1051 (1103.005511); 1053 (1105.005511); 1050 (1102.005511)
Comments: Off-site removal only; 57–81+ yrs. old; 1,000–3,444 sf.; residential; removal extremely difficult; vacant 12 mos., no future agency need; appt. needed; contact Agriculture for more information.

Massachusetts

John A. Volpe National Transp. Systems Center (Volpe Center)
55 Broadway
Cambridge MA
Landholding Agency: GSA
Property Number: 54201640008
Status: Excess
GSA Number: MA–0933–AA
Directions: Disposal Agency: GSA; Landholding Agency: DOT; Bldg. 1(211,654 sf.); bldg. 2 (21,970 sq.); bldg. 3 (67,977 sf.); bldg. 4 (46,899 sf.); 5 (13,856 sf.); bldg. 6 (12,934 sf.)
56+ yrs. old; sf. listed above; property well maintained; sits on 14 acres of land; property unavailable due to an expressed federal need
Comments: Contact GSA for more information.

Alaska

Eielson Education Center
Eielson Air Force Base
Eielson AFB AK 99702
Landholding Agency: Air Force
Property Number: 18201640045
Status: Unutilized
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

California

Naval Air Facility Substation
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77201640009
Status: Underutilized
Directions: (RPUID:153148)
Comments: Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

North Carolina

OLF NAS Oceana (Parcel 013)
NAS Oceana
Oceana NC
Landholding Agency: GSA
Property Number: 54201640009
Status: Surplus
GSA Number: 4–D–NC–0831–AG
Directions: Landholding Agency: Navy; Disposal Agency: GSA
Comments: Friable asbestos; Documented deficiencies: abandoned building; partially collapsing; collapsed ceiling; clear threat to physical safety
Reasons: Extensive deterioration; Contamination

Washington

Lake Wenatchee Ranger Station Compound
17420 N. Shore Drive
Leavenworth WA 98826
Landholding Agency: Agriculture
Property Number: 15201640022
Status: Excess
Directions: 0767200 1203 (1058.005511); 2071 (1077.005511); 2270 (1078.005511); 2274 (1067.005511); 2277 (1075.005511); 2372 (48216010700); 2671 (1084.005511)
Comments: Property located within floodway which has not been correct or contained.
Reasons: Floodway

Airport Rec Storage #5282
Chiwawa Loop Rd
Leavenworth WA 98826
Landholding Agency: Agriculture
Property Number: 15201640024
Status: Excess
Directions: (2189.005511) 0767200
Comments: Property located within floodway which has not been correct or contained.
Reasons: Floodway

[FR Doc. 2016–30620 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–96]

30-Day Notice of Proposed Information Collection: Recordkeeping for HUD's Continuum of Care Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* January 23, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna .P. Guido@ hud.gov* or telephone 202–402–5535. This is not a toll-free number. Persons with hearing or speech impairments

may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on September 26, 2016 at 81 FR 66073.

A. Overview of Information Collection

Title of Information Collection: Recordkeeping for HUD's Continuum of Care Program.

OMB Approval Number: 2506–0199.

Type of Request: Extension.

Form Number: None.

Description of the need for the information and proposed use: This submission is to request an extension of an Existing Collection in use with an OMB Control Number for the Recordkeeping for HUD's Continuum of Care Program. Continuum of Care program recipients will be expected to implement and retain the information collection for the recordkeeping requirements. The statutory provisions and implementing interim regulations govern the Continuum of Care Program recordkeeping requirements for recipient and subrecipients and the standard operating procedures for ensuring that Continuum of Care Program funds are used in accordance with the program requirements. To see the regulations for the new CoC program and applicable supplementary documents, visit HUD's Homeless Resource Exchange at *https://www.onecpd.info/resource/2033/hearth-coc-program-interim-rule/*.

Respondents (*i.e.* affected public): Continuum of Care program recipients and subrecipients.

Estimated Number of Respondents: The CoC record keeping requirements include 45 distinct activities. Each activity requires a different number of respondents ranging from 10 to 350,000. There are 366,500 unique respondents.

Estimated Number of Responses: 3,968,075.

Frequency of Response: Each activity has a unique frequency of response, ranging from once to 200 times annually.

Average Hours per Response: Each activity also has a unique associated number of hours of response, ranging from 15 minutes to 180 hours.

Total Estimated Burdens: The total number of hours needed for all reporting is 1,921,711 hours.

EXHIBIT A–1—ESTIMATED ANNUAL BURDEN HOURS FOR RECORDKEEPING FOR HUD'S CONTINUUM OF CARE PROGRAM

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours	Hourly rate	Burden cost per instrument
A	B	C	D	E	F		
§ 578.5(a) Establishing the CoC	450.00	1.00	450.00	8.00	3,600.00	$37.13	$133,668.00
§ 578.5(b) Establishing the Board	450.00	1.00	450.00	5.00	2,250.00	37.13	83,542.50
§ 578.7(a)(1) Hold CoC Meetings	450.00	2.00	900.00	4.00	3,600.00	37.13	133,668.00
§ 578.7(a)(2) Invitation for New Members	450.00	1.00	450.00	1.00	450.00	37.13	16,708.50
§ 578.7(a)(4) Appoint committees	450.00	2.00	900.00	0.50	450.00	37.13	16,708.50
§ 578.7(a)(5) Governance charter	450.00	1.00	450.00	7.00	3,150.00	37.13	116,959.50
§ 578.7(a)(6) and (7) Monitor performance and evaluation	450.00	1.00	450.00	9.00	4,050.00	37.13	150,376.50
§ 578.7(a)(8) Centralized or coordinated assessment system	450.00	1.00	450.00	8.00	3,600.00	37.13	133,668.00
§ 578.7(a)(9) Written standards	450.00	1.00	450.00	5.00	2,250.00	37.13	83,542.50
§ 578.7(b) Designate HMIS	450.00	1.00	450.00	10.00	4,500.00	37.13	167,085.00
§ 578.9 Application for funds	450.00	1.00	450.00	180.00	81,000.00	37.13	3,007,530.00
§ 578.11(c) Develop CoC plan	450.00	1.00	450.00	9.00	4,050.00	37.13	150,376.50
§ 578.21(c) Satisfying conditions	8,000.00	1.00	8,000.00	4.00	32,000.00	37.13	1,188,160.00
§ 578.23 Executing grant agreements	8,000.00	1.00	8,000.00	1.00	8,000.00	37.13	297,040.00
§ 578.35(b) Appeal—solo	10.00	1.00	10.00	4.00	40.00	37.13	1,485.20
§ 578.35(c) Appeal—denied or decreased funding	15.00	1.00	15.00	1.00	15.00	37.13	556.95
§ 578.35(d) Appeal—competing CoC	10.00	1.00	10.00	5.00	50.00	37.13	1,856.50
§ 578.35(e) Appeal—Consolidated Plan certification	5.00	1.00	5.00	2.00	10.00	37.13	371.30
§ 578.49(a)—Leasing exceptions	5.00	1.00	5.00	1.50	7.50	37.13	278.48
§ 578.65 HPC Standards	20.00	1.00	20.00	10.00	200.00	37.13	7,426.00
§ 578.75(a)(1) State and local requirements—appropriate service provision	7,000.00	1.00	7,000.00	0.50	3,500.00	37.13	129,955.00
§ 578.75(a)(1) State and local requirements—housing codes	20.00	1.00	20.00	3.00	60.00	37.13	2,227.80
§ 578.75(b) Housing quality standards	72,800.00	2.00	145,600.00	1.00	145,600.00	37.13	5,406,128.00
§ 578.75(b) Suitable dwelling size	72,800.00	2.00	145,600.00	0.08	11,648.00	37.13	432,490.24
§ 578.75(c) Meals	70,720.00	1.00	70,720.00	0.50	35,360.00	37.13	1,312,916.80

EXHIBIT A–1—ESTIMATED ANNUAL BURDEN HOURS FOR RECORDKEEPING FOR HUD'S CONTINUUM OF CARE PROGRAM—Continued

Information collection	Number of respondents	Response frequency (average)	Total annual responses	Burden hours per response	Total annual hours	Hourly rate	Burden cost per instrument
A	B	C	D	E	F		
§ 578.75(e) Ongoing assessment of supportive services	8,000.00	1.00	8,000.00	1.50	12,000.00	37.13	445,560.00
§ 578.75(f) Residential supervision	6,600.00	3.00	19,800.00	0.75	14,850.00	37.13	551,380.50
§ 578.75(g) Participation of homeless individuals	11,500.00	1.00	11,500.00	1.00	11,500.00	37.13	426,995.00
§ 578.75(h) Supportive service agreements	3,000.00	100.00	300,000.00	0.50	150,000.00	37.13	5,569,500.00
§ 578.77(a) Signed leases/occupancy agreements	104,000.00	2.00	208,000.00	1.00	208,000.00	37.13	7,723,040.00
§ 578.77(b) Calculating occupancy charges	1,840.00	200.00	368,000.00	0.75	276,000.00	37.13	10,247,880.00
§ 578.77(c) Calculating rent	2,000.00	200.00	400,000.00	0.75	300,000.00	37.13	11,139,000.00
§ 578.81(a) Use restriction	20.00	1.00	20.00	0.50	10.00	37.13	371.30
§ 578.91(a) Termination of assistance	400.00	1.00	400.00	4.00	1,600.00	37.13	59,408.00
§ 578.91(b) Due process for termination of assistance	4,500.00	1.00	4,500.00	3.00	13,500.00	37.13	501,255.00
§ 578.95(d)—Conflict-of-Interest exceptions	10.00	1.00	10.00	3.00	30.00	37.13	1,113.90
§ 578.103(a)(3) Documenting homelessness	300,000.00	1.00	300,000.00	0.25	75,000.00	37.13	2,784,750.00
§ 578.103(a)(4) Documenting at risk of homelessness	10,000.00	1.00	10,000.00	0.25	2,500.00	37.13	92,825.00
§ 578.103(a)(5) Documenting imminent threat of harm	200.00	1.00	200.00	0.50	100.00	37.13	3,713.00
§ 578.103(a)(7) Documenting program participant records	350,000.00	6.00	2,100,000.00	0.25	525,000.00	37.13	19,493,250.00
§ 578.103(a)(7) Documenting case management	8,000.00	12.00	96,000.00	1.00	96,000.00	37.13	3,564,480.00
§ 578.103(a)(13) Documenting faith-based activities	8,000.00	1.00	8,000.00	1.00	8,000.00	37.13	297,040.00
§ 578.103(b) Confidentiality procedures	11,500.00	1.00	11,500.00	1.00	11,500.00	37.13	426,995.00
§ 578.105(a) Grant/project changes—UFAs	20.00	2.00	40.00	2.00	80.00	37.13	2,970.40
§ 578.105(b) Grant/project changes—multiple project applicants	800.00	1.00	800.00	2.00	1,600.00	37.13	59,408.00
Total	1,075,195.00		4,238,075		2,056,710.50		76,365,660.87

Annualized Cost @$37.13/hr (GS–12): $76,365,660.87.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 16, 2016.

Anna P. Guido,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30913 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–91]

30-Day Notice of Proposed Information Collection: Section 202 Housing for the Elderly and Section 811 Housing for the Disabled

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The

purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: January 23, 2017.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 12, 2016 at 81 FR 70436.

A. Overview of Information Collection

Title of Information Collection: Section 202 Housing for the Elderly and Section 811 Housing for the Disabled.

OMB Approval Number: 2502–0470.

Type of Request: Extension of a currently approved collection.

Form Number: HUD-: 2328;2453.1–CA; 2530; 2554; 2880; 935.2; 9832; 9839–A; 9839–B; 9839–C; 51994; 90163–CA; 90163.1–CA; 90164–CA; 90165–CA; 90166–CA; 90166a–CA; 90167–CA; 90169–CA; 90169.1–CA; 90170–CA; 90171–CA; 90172–A–CA; 90172–B–CA; 90173–A–CA; 90173–B–CA; 90173–C–CA; 90175–CA; 90175.1–CA; 90176–CA; 90177–CA; 90178–CA; 90179–CA; 91732–A–CA; 92013; 92013–SUPP; 92264; 92330; 92330–A; 92329; 92331; 92403.1; 92403–CA; 92408–M; 92412–CA,92433–CA; 92434–CA; 92435–CA; 92437; 92442–CA; 92442–A–CA; 92443–CA; 92448; 92450–CA; 92452; 92452a; 92452–CA; 92457; 92458; 92464; 92466–CA; 92466.1–CA; 92476–A; 92476–A–CA; 92485; 92580–CA; 93432–CA; 93479; 93480–CA; 93481; 93566–CA; 93566.1–CA; 27054; 50080–CAH,SF–425; SF–1199a; SF–LLL; and FM–1006.

Description of the need for the information and proposed use: This submission is to permit the continued processing of all Sections 202 and 811 capital advance projects that have not yet been finally closed. The submission includes processing of the application for firm commitment to final closing of the capital advance. It is needed to assist HUD in determining the Owner's eligibility and capacity to finalize the development of a housing project under the Section 202 and Section 811 Capital Advance Programs.

Respondents: (*i.e.,* affected public): Multifamily HUD-sponsored property owners.

Estimated Number of Respondents: 195.

Estimated Number of Responses: 7,809.75.

Frequency of Response: 40.05.

Average Hours per Response: 1.07.

Total Estimated Burden: 8,356.43.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: December 15, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30918 Filed 12–22–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2016–N181]; [FXES11140800000–178–FF08E00000]

City of San Diego Vernal Pool Habitat Conservation Plan and Draft Environmental Impact Report/Statement; San Diego County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of a draft environmental impact report/statement (EIS/EIR), which evaluates the impacts of, and alternatives to, the proposed City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP). The VPHCP was submitted by the City of San Diego in support of an application under the Endangered Species Act of 1973, as amended, for a permit authorizing the incidental take of federally listed covered species resulting from covered activities. We request review and comment on the VPHCP and the draft EIS/EIR from local, State, and Federal agencies; Tribes; and the public.

DATES: To ensure consideration, please send your written comments by February 21, 2017.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the draft EIR/EIS and draft VPHCP on the City's Web site at *https://www.sandiego.gov/planning/programs/mscp/vphcp.*
- *U.S. Mail:* A limited number of CD–ROM and printed copies of the draft EIR/EIS and draft VPHCP are available, by request, from the Field Supervisor, by mail at the Carlsbad Fish and Wildlife Office, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008; by phone at (760) 431–9440; or by fax at (760) 431–9624. Please note that your request is in reference to the City of San Diego VPHCP.
- *In-Person:* Copies of the draft EIR/EIS and draft VPHCP are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.
  - Department of the Interior, Natural Resources Library, 1849 C St. NW., Washington, DC 20240.

Submitting Comments: You may submit written comments by one of the following methods:

○ *U.S. Mail:* Field Supervisor, U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008.

○ *Fax:* Field Supervisor, 760–431–9624.

○ *Email: fw8cfwocomments@fws.gov;* please include ''Vernal Pool HCP'' in the subject line.

FOR FURTHER INFORMATION CONTACT: G. Mendel Stewart, by mail at the U.S. Fish and Wildlife Service, 2177 Salk Avenue, Suite 250, Carlsbad, CA 92008; or by phone at (760) 431–9440.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental impact report/statement (EIR/EIS), which evaluates the impacts of, and alternatives to, the proposed City of San Diego Vernal Pool Habitat Conservation Plan (VPHCP). The VPHCP was submitted by the City of San Diego (City) in support of an application under section 10 of the Endangered Species Act of 1973, as amended (ESA), for a permit authorizing the incidental take of federally listed covered species resulting from covered activities. The proposed VPHCP plan area encompasses 206,124 acres in the southwestern portion of San Diego County, within the State of California.

Introduction

Under the National Environmental Policy Act of 1969 (NEPA), this notice advises the public of the availability for public review of the VPHCP EIR/EIS, which evaluates the impacts of, and alternatives to, the proposed City of San Diego VPHCP for incidental take of federally listed covered species resulting from covered activities within the Plan area. This document has been prepared as a joint EIR/EIS due to the combined local, State, and Federal discretionary actions and permits associated with the VPHCP. Co-lead agencies are the City, pursuant to the California Environmental Quality Act (CEQA), and the Service, pursuant to NEPA, as further described in the draft EIR/EIS. The proposed Federal action is issuance of an incidental take permit (ITP) under section 10(a)(1)(B) of the ESA to the City of San Diego. With this notice, we continue the HCP process, which started through a notice in the **Federal Register** on December 20, 2011 (76 FR 78942), in which we announced the preparation of the HCP and NEPA document.

Background

Section 9 of the ESA prohibits ''take'' of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538, 1533, respectively). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the HCP program, go to *http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf.*

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. ''Incidental take'' is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate the impact of such taking;
- The applicant will develop an HCP and ensure that adequate funding for the plan will be provided;
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and
- The applicant will carry out any other measures that the Secretary may require as being necessary or appropriate for the purposes of the HCP.

The purpose of issuing an ITP to the City would be to permit incidental take of the covered species resulting from local development authorized by the City and conditioned on the City's minimization and mitigation of the impacts of such take in accordance with an approved VPHCP. Implementation of the VPHCP is intended to maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each project within the City's proposed plan area.

The proposed VPHCP includes measures intended to minimize and mitigate the impacts of the taking to the maximum extent practicable from residential, commercial, and other development activities within the proposed plan area.

The proposed VPHCP is a conservation plan for seven threatened and endangered vernal pool species that do not currently have Federal coverage under the City of San Diego's Multiple Species Conservation Program Subarea Plan (MSCP SAP) and the species' associated vernal pool habitat. The VPHCP would complement the City's existing MSCP SAP by conserving additional lands. The VPHCP will conserve vernal pool resources within the existing City of San Diego's Multi-Habitat Planning Area (MHPA). The species covered include the San Diego fairy shrimp, Riverside fairy shrimp, San Diego button celery, spreading navarretia, San Diego mesa mint, California Orcutt grass, and Otay mesa mint. The VPHCP would provide a comprehensive approach to the protection and management of the vernal pool preserve areas within the 206,124-acre plan area.

Alternatives

We are considering three alternatives as part of this process:

No Action Alternative: No ESA section 10(a)(1)(B) permit would be issued to the City. Instead, activities involving take of the covered species would require individual permits or ESA section 7 consultations if a Federal nexus exists under the current ESA regulations; for non-Federal projects that lack a Federal nexus, take activities would require individual ITPs under section 10 of the ESA.

Proposed Action Alternative: This alternative is issuance of an ITP by the Service for covered species in the HCP plan area, with a duration of 30 years. Incidental take authorized by the requested ITP would result from covered activities. The covered activities under the VPHCP are expected to include residential, commercial, and industrial development; airport operation; road and utility maintenance and construction; trail use; and vernal pool restoration and enhancement. Once fully implemented, the VPHCP would expand the City's existing Multi-Habitat Planning Area (MHPA) by adding approximately 275 acres of lands with valuable vernal pool resources. The VPHCP would conserve an additional 8 vernal pool complexes and an additional 226 pools, totaling 2.8 acres of basin area or 9 percent more vernal pool habitat than what is currently conserved within the MHPA. Once adopted, vernal pool lands within the MHPA would be subject to the provisions of the VPHCP, in addition to the City's MSCP SAP and other existing land use and biological resource plans, policies, and regulations.

Expanded Conservation Alternative: Once fully implemented, the Expanded Conservation Alternative would expand the City's existing MHPA by adding approximately 508 acres of lands with valuable vernal pool resources. The Expanded Conservation Alternative would conserve an additional 9 vernal pool complexes within the Plan Area and conserve an additional 277 pools (11 percent more vernal pool habitat),

totaling 3.3 acres of basin area, beyond what is currently conserved within the MHPA. All other aspects of the Expanded Conservation Alternative would be the same as the Proposed Action Alternative.

Request for Comments

Consistent with section 10(c) of the ESA, we invite your submission of written data, views, or arguments with respect to the City's permit application, VPHCP, and permitting decision.

Public Availability of Comments

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. We will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public disclosure in their entirety.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

Dated: December 19, 2016.

Alexandra Pitts,

Deputy Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2016–31037 Filed 12–22–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–MB–2016–N225; 91100–3740–GRNT 7C]

Announcement of Public Meetings via Teleconference: North American Wetlands Conservation Council

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meetings.

SUMMARY: The North American Wetlands Conservation Council will meet via teleconference to select North American Wetlands Conservation Act U.S. small grant proposals for reporting to the Migratory Bird Conservation Commission. This teleconference is open to the public, and interested persons may present oral or written statements.

DATES: *Teleconference:* The teleconference is scheduled for February 22, 2017, at 2 p.m. Eastern Standard Time.

Attendance: Because this is a teleconference, there is no meeting venue. Individuals wishing to participate in the teleconference should contact the Council Coordinator for the call-in information (see **FOR FURTHER INFORMATION CONTACT**) no later than February 17, 2017.

Presenting Information During the Teleconference: If you are interested in presenting information, contact the Council Coordinator no later than February 17, 2017.

Submitting Information: To submit written information or questions before the Council meeting for consideration during the meeting, contact the Council Coordinator no later than February 17, 2017.

FOR FURTHER INFORMATION CONTACT: Sarah Mott, Council Coordinator, by phone at 703–358–1784; by email at *dbhc@fws.gov*; or by U.S. mail at U.S. Fish and Wildlife Service, 5275 Leesburg Pike MS: MB, Falls Church, VA 22041. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 during normal business hours. Also, FRS is available 24 hours a day, 7 days a week, to leave a message or question. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

About the Council

In accordance with the North American Wetlands Conservation Act (Pub. L. 101–233, 103 Stat. 1968, December 13, 1989, as amended; NAWCA), the State-private-Federal North American Wetlands Conservation Council (Council) meets to consider wetland acquisition, restoration, enhancement, and management projects for recommendation to, and final funding approval by, the Migratory Bird Conservation Commission (Commission). NAWCA provides matching grants to organizations and individuals who have developed partnerships to carry out wetlands conservation projects in the United States, Canada, and Mexico. These projects must involve long-term protection, restoration, and/or enhancement of wetlands and associated uplands habitats for the benefit of all wetlands-associated migratory birds. Project proposal due dates, application instructions, and eligibility requirements are available on the NAWCA Web site at *www.fws.gov/birds/grants/north-american-wetland-conservation-act.php*.

Public Input

Submitting Written Information or Questions

Interested members of the public may submit relevant information or questions to be considered during the public meetings. If you wish to submit a written statement so information may be made available to the Council for their consideration prior to the meetings, you must contact the Council Coordinator by the date in **DATES**. Written statements must be supplied to the Council Coordinator in both of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

Giving an Oral Presentation

Individuals or groups requesting to make an oral presentation at the meetings will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator by the date in **DATES**, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for either of these meetings. Nonregistered public speakers will not be considered during the Council meeting. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, are invited to submit written statements to the Council within 30 days following the meeting.

Meeting Minutes

Summary minutes of the Council meeting will be maintained by the Council Coordinator at the address under **FOR FURTHER INFORMATION CONTACT**. Meeting notes will be available by contacting the Council Coordinator within 30 days following the meeting. Personal copies may be purchased for the cost of duplication.

Jerome Ford,

Assistant Director, Migratory Birds.

[FR Doc. 2016–31026 Filed 12–22–16; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC03200 L51100000.GA0000 LVEME15CE53015X; NDM–107039 MO#4500079552]

Notice of Availability of the Environmental Assessment for Federal Coal Lease Application NDM–107039, McLean County, ND, Notice of Public Hearing and Request for Comment on Environmental Assessment, Maximum Economic Recovery, and Fair Market Value

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with applicable regulations, the Bureau of Land Management (BLM), North Dakota Field Office (NDFO) is publishing this notice announcing the availability of an Environmental Assessment (EA) for the Falkirk Mining Company (Falkirk) Federal Coal Lease-By-Application (LBA) EA serial NDM–107039, for public review and comment. The BLM is also announcing that it will hold a public hearing to receive comments on the EA, Fair Market Value (FMV) for the LBA tract, and Maximum Economic Recovery (MER) of the coal resources contained in the proposed Falkirk LBA lease tract.

DATES: The public hearing will be held on January 10, 2017, from 5 p.m. to 7 p.m. Written comments must be received no later than January 26, 2017.

ADDRESSES: The public hearing will be held at the Underwood City Hall, 88 Lincoln Avenue, Underwood, ND 58576. Copies of the EA are available at the BLM North Dakota Field Office (NDFO) at the address below. The time, date, and location of the public hearing will also be announced in advance through local media outlets and through the North Dakota BLM Web site at: *http://bit.ly/2hz2FS9.*

You may submit written comments related to the Falkirk EA, FMV, and MER by any of the following methods:

- Email: *BLM_MT_North_Dakota_Falkirk_LBA@blm.gov;*
- Fax: 701–227–7701; or
- Mail: Bureau of Land Management, North Dakota Field Office, Falkirk LBA NDM–107039, Attention: Dorothy Van Oss, Geologist, 99 23rd Avenue West, Suite A, Dickinson, North Dakota 58601.

Please note ''Coal Lease by Application NDM–107039'' in the subject line for correspondence.

FOR FURTHER INFORMATION CONTACT: Dorothy Van Oss, Geologist; telephone (406) 233–3655 or at the address and email provided in the **ADDRESSES** section. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, seven days a week, to leave a message or question for Dorothy Van Oss. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: On November 13, 2013, Falkirk submitted an application to lease an approximately 320-acre tract of Federal coal located in McLean County, North Dakota. The BLM's EA analyzes and discloses the potential direct, indirect, and cumulative impacts of leasing, and subsequent mining, the proposed 320-acre coal tract. The tract contains approximately 3.4 million tons of mineable coal (1.7 million of which is Federal Coal). The tract is located approximately 1.2 miles from the town of Underwood. It underlies private surface and is described as follows:

Fifth Principal Meridian North Dakota

T. 146 N., R. 82 W., sec 10, E1/2.

The area described contains approximately 320 acres.

Through this notice the BLM is inviting the public to provide comments regarding the potential environmental impacts of the proposed action, and also to submit comments on the FMV and MER for the Falkirk tract. All public comments, whether written or oral, will receive consideration prior to the BLM offering the lease for sale. Public comments on the EA should address the environmental impacts of the proposed action. Public comments on the FMV and MER for the proposed lease tract may address, but do not necessarily have to be limited to, the following:

1. The quality and quantity of the coal resource;
2. The mining method or methods that would achieve MER of the coal, including specifications of seams to be mined, timing and rate of production, restriction of mining, and the inclusion of the tracts in an existing mining operation;
3. The price that the mined coal would bring when sold;
4. Costs, including mining and reclamation costs, of producing the coal and the anticipated timing of production;
5. The percentage rate at which anticipated income streams should be discounted, either with inflation or in the absence of inflation, in which case the anticipated rate of inflation should be given;
6. Depreciation, depletion, amortization and other tax accounting factors;
7. The value of any surface estate where held privately;
8. Documentation of the terms and conditions of recent and similar coal land transactions in the lease sale area; and
9. Any comparable sales data for similar coal lands and coal quantities.

Proprietary data marked as confidential may be submitted to the BLM as part of any public comments. Data so marked will be treated in accordance with the applicable laws and regulations governing the confidentiality of such information. A copy of the comments submitted by the public on the EA, FMV, and MER for the tract, except those portions identified as proprietary that meet one of the exemptions in the Freedom of Information Act, will be available for public inspection at the BLM, NDFO, 99 23rd Avenue West, Suite A, Dickinson, North Dakota, during regular business hours (8 a.m.–4:30 p.m.), Monday through Friday.

The proposed action announced in the notice are consistent with Secretarial Order (S.O.) 3338, which allows preparatory work, including National Environmental Policy Act and other related analysis, on already-pending applications to continue, while the BLM's programmatic review of the Federal coal program is pending. Additionally, the BLM has also determined that the lease application is not subject to the S.O.'s leasing pause because it qualifies for an exclusion under Section 6(a) of the Order based on the emergency leasing provisions of 43 CFR 3425.1–4. Falkirk's application satisfies the emergency leasing criteria because the coal covered by the application: (1) Is needed within 3 years; (2) Constitutes less than 8 years of recoverable reserves; and (3) Is needed for coal supply contracts that were signed prior to 1979. It should also be noted that when the application was originally submitted in 2013, it was submitted as an emergency application. The determination that the application is eligible for an exclusion from the S.O. means that the coal covered by the application can be offered for sale prior to the conclusion of the BLM's programmatic review.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment

to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 40 CFR 1506.6, 43 CFR 3425.3, and 3425.4

Allen Ollila,

Acting Field Manager, North Dakota.

[FR Doc. 2016–31039 Filed 12–22–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau Of Land Management

[LLORW00000.L16100000.DF0000.17XL1109AF.HAG17–0048]

Notice of Public Meeting for the Eastern Washington Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the Eastern Washington Resource Advisory Council (EWRAC) will meet as indicated below:

DATES: The EWRAC will hold a public meeting Wednesday, February 8th, 2017. The meeting will run from 9:30 a.m. to 3:30 p.m. The meeting will be held at the BLM Spokane District Office, 1103 N. Fancher, Spokane Valley, WA 99212. A public comment period will be available in the afternoon from noon until 1 p.m.

FOR FURTHER INFORMATION CONTACT: Jeff Clark, Spokane District Public Affairs Officer, 1103 N. Fancher, Spokane Valley, WA 99212, (509) 536–1297, or *jeffclark@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1(800) 877–8339 to contact the above individual during normal business hours. This service is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The fifteen member EWRAC was chartered to provide information and advice regarding the use and development of the lands administered by the Spokane District in central and eastern Washington. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. All advisory council meetings are open to the public. At noon members of the public will have the opportunity to make comments to the EWRAC during a one hour public comment period. Persons wishing to make comments during the public comment period should register in person with the BLM by 11 a.m. on the meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the EWRAC at BLM Spokane District, Attn. EWRAC, 1103 N. Fancher, Spokane Valley, WA 99212. The BLM appreciates all comments.

Linda Clark,

Spokane District Manager.

[FR Doc. 2016–31027 Filed 12–22–16; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–PCE–COR–22612; PPWOPCADT0, PPMPSPD1T.Y00000 (177)]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Application for Designation as National Recreation Trail or National Water Trail

AGENCY: National Park Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (National Park Service, NPS) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. To comply with the Paperwork Reduction Act of 1995 and as a part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to comment on this IC. We may not conduct or sponsor and a person is not required to respond to a collection unless it displays a currently valid OMB control number.

DATES: You must submit comments on or before January 23, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to Madonna L. Baucum, Information Collection Clearance Officer, National Park Service, 12201 Sunrise Valley Drive, Mail Stop 242, Reston, VA 20192 (mail); or *madonna_baucum@nps.gov* (email). Please include ''1024-New NRT NWTS'' in the subject line of your comments. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: For National Recreation Trails, contact Helen Scully, National Trails System Program Specialist/National Recreation Trails Coordinator for the Department of the Interior; 1849 C Street NW., Org Code 2220, Washington, DC 20240; *helen_scully@nps.gov* (email); (202) 354–6910 (phone); or (202) 371–5179 (fax). For National Water Trails, contact Corita Waters, NPS Rivers, Trails, and Conservation Assistance Program; 1849 C Street NW., Org Code 2220, Washington, DC 20240; *corita_waters@nps.gov* (email); (202) 354–6908 (phone); or (202) 371–5179 (fax).

SUPPLEMENTARY INFORMATION:

I. Abstract

The purpose of this information collection is to assist the National Park Service (NPS) in submitting suitable trails or trail systems to the Secretary of the Interior for designation as National Recreation Trails (NRTs), and in recommending exemplary water trails to the Secretary of the Interior for designation as National Water Trails (NWTs) to be included in the National Water Trails System (NWTS). The NPS administers the NRT program by authority of section 4 of the National Trails System Act (16 U.S.C. 1243). Secretarial Order No. 3319 established National Water Trails as a class of National Recreation Trails and directed that such trails collectively be considered in a National Water Trails System.

National Recreation Trail designation provides national recognition to local and regional trails or trail systems, acknowledging local and state efforts to build and maintain viable trails and trail systems. This recognition function is shared by the Secretary of Agriculture (for trails on National Forest lands and waters) and the Secretary of the Interior (for all other trails).

The National Water Trails System is focused on building a national network of exceptional water trails that can be sustained by an ever growing and vibrant water trail community. The NWTS connects Americans to the nation's waterways and strengthens the conservation and restoration of those waterways. Best management practices provide high quality water-based outdoor recreational opportunities.

II. Data

OMB Control Number: None.

Title: Application for Designation as National Recreation Trail or National Water Trail.

Form(s): Web-based forms: 10–1002, ''Application for Designation as National Water Trail System'' and 10–1003 Application for Designation as National Recreation Trail''.

Type of Request: Existing collection in use without OMB approval.

Description of Respondents: Private individuals; businesses; educational institutions; nonprofit organizations; state, tribal, and local governments; and Federal agency land units.

Respondent's Obligation: Required to obtain or retain benefits.

Frequency of Collection: On occasion.

	Annual respondents	Total annual responses	Avg. time per response (hours)	Total annual burden hours (rounded)
Application for Designation—National Recreation Trails				
Individual	1	1	8	8
Private Sector	5	5	8	40
State, Local, or Tribal Governments	6	8	8	64
Application for Designation—National Water Trails System				
Individual	1	1	11	11
Private Sector	2	2	11	22
State, Local, or Tribal Governments	3	3	11	33
Amendments/Updates—National Recreation Trails				
Individual	1	1	.5	1
Private Sector	1	1	.5	1
State, Local, or Tribal Governments	3	3	.5	2
Amendments/Updates—National Water Trails System				
Individual	1	1	.5	1
Private Sector	1	1	.5	1
State, Local, or Tribal Governments	1	1	.5	1
Total	23	28	.....	185

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'': None.

III. Comments

On August 8 2016, we published in the **Federal Register** (81 FR 52459) a Notice of our intent to request that OMB approve this information collection. In that Notice, we solicited comments for 60 days, ending on October 7, 2016. We did not receive any comments in response to that Notice.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. 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 OMB and us in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Dated: December 20, 2016.

Madonna L. Baucum,

Information Collection Clearance Officer, National Park Service.

[FR Doc. 2016–30965 Filed 12–22–16; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

Office of Natural Resources Revenue

[Docket No. ONRR–2011–0002; DS63610000 DR2000000.CH7000 178D0102R2]

States' Decisions on Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties

AGENCY: Office of Natural Resources Revenue (ONRR), Interior.

ACTION: Notice.

SUMMARY: Final regulations that ONRR published on September 13, 2004 (69 FR 55076) provide two types of accounting and auditing relief for Federal onshore or Outer Continental Shelf lease production from marginal properties. As the regulations require, for each calendar year ONRR provides, by October 31 preceding the calendar year, a list of qualifying marginal Federal oil and gas properties to States that receive a portion of Federal royalties. Each State then decides whether to participate in one or both relief options. For calendar year 2017, we provide in this notice the affected States' decisions to allow one or both types of relief.

DATES: Effective January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Lindsay Goldstein, Economic and Market Analysis Office, at (303) 231–3301; or email at *lindsay.goldstein@onrr.gov.*

SUPPLEMENTARY INFORMATION: The regulations, codified at 30 CFR part 1204, subpart C, implement certain provisions of section 7 of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA) (30 U.S.C. 1726), which allows States to relieve the lessees of marginal properties from certain reporting, accounting, and auditing requirements. States make an annual determination of whether or not to allow relief. Two options for relief are provided: (1) Notification-based relief

for annual reporting and (2) other requested relief, as industry proposed and ONRR and the affected State approved. The regulations require ONRR to publish by December 1 of each year a list of the States and their decisions regarding marginal property relief.

To qualify for the first relief option (notification-based relief) for calendar year 2016, properties must produce less than 1,000 barrels-of-oil-equivalent (BOE) per year for the base period (July 1, 2014, through June 30, 2015). Annual reporting relief will begin January 1, 2017, with the annual report and payment due February 28, 2018, or March 31, 2018, if you have an estimated payment on file. To qualify for the second relief option (other requested relief), the combined equivalent production of the marginal properties during the base period must equal an average daily well production of less than 15 BOE per well, per day calculated under 30 CFR 1204.4(c).

The following table shows the States that have qualifying marginal properties and the States' decisions to allow one or both forms of relief.

State	Notification-based relief (less than 1,000 BOE per year)	Request-based relief (less than 15 BOE per well per day)
Alabama	No	No.
Arkansas	Yes	Yes.
California	No	No.
Colorado	No	No.
Kansas	No	No.
Louisiana	Yes	Yes.
Michigan	Yes	Yes.
Mississippi	No	No.
Montana	No	No.
Nebraska	No	No.
Nevada	No	No.
New Mexico	No	Yes.
North Dakota	No	No.
Oklahoma	Yes	Yes.
South Dakota	No	No.
Utah	No	No.
Wyoming	Yes	No.

Federal oil and gas properties located in all other States where ONRR does not share a portion of Federal royalties with the State are eligible for relief if they qualify as marginal under the regulations (*see* section 117(c) of RSFA, 30 U.S.C. 1726(c)). For information on how to obtain relief, please refer to 30 CFR 1204.205 or to the published rule, which you may view at *http://www.onrr.gov/Laws_R_D/FRNotices/PDFDocs/55076.pdf.*

Unless the information that ONRR received is proprietary data, all correspondence, records, or information that we receive in response to this notice may be subject to disclosure under the Freedom of Information Act (FOIA) (5 U.S.C. 552 *et seq.*). If applicable, please highlight the proprietary portions, including any supporting documentation, or mark the page(s) that contain proprietary data. We protect the proprietary information under the Trade Secrets Act (18 U.S.C. 1905), FOIA Exemption 4 (5 U.S.C. 552(b)(4)), and the Department of the Interior's FOIA regulations (43 CFR part 2).

Dated: December 13, 2016.

Gregory J. Gould,

Director, Office of Natural Resources Revenue.

[FR Doc. 2016–30925 Filed 12–22–16; 8:45 am]

BILLING CODE 4335–30–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2014–0001]

Final Environmental Impact Statement for the Cook Inlet Outer Continental Shelf Oil and Gas Lease Sale 244; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of availability of a final environmental impact statement.

SUMMARY: BOEM is announcing the availability of the Final Environmental Impact Statement (Final EIS) for the Cook Inlet Outer Continental Shelf Oil and Gas Lease Sale 244 (Cook Inlet Lease Sale 244). The Final EIS offers a discussion of potential impacts of the proposed action, provides an analysis of reasonable alternatives to the proposed action, and identifies the Bureau's preferred alternative.

The Final EIS is available on the agency Web site at *http://www.boem.gov/Sale-244/.* BOEM will primarily distribute digital copies of the Final EIS on compact discs. You may request a paper copy or the location of a library with a digital copy of the Final EIS from BOEM, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823, (907) 334–5200.

FOR FURTHER INFORMATION CONTACT: For more information on the Cook Inlet Lease Sale 244 Final EIS, you may contact Sharon Randall, Bureau of Ocean Energy Management, Alaska OCS Region, 3801 Centerpoint Drive, Suite 500, Anchorage, Alaska 99503–5823; (907) 334–5200.

Authority: This Notice of Availability for the Final EIS is in compliance with the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4231 *et seq.*), and is published pursuant to 40 CFR 1502.19.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–30930 Filed 12–22–16; 8:45 am]

BILLING CODE P

INTERNATIONAL TRADE COMMISSION

[USITC SE–16–044]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: January 6, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–566 and 731–TA–1342 (Preliminary) (Softwood Lumber Products from Canada). The Commission is currently scheduled to complete and file its determinations on January 9, 2017; views of the Commission are currently scheduled to be completed and filed on January 17, 2017.
5. Vote in Inv. Nos. 701–TA–560 and 731–TA–1319, 1326, and 1328 (Final) (Carbon and Alloy Steel Cut-to-Length Plate from Brazil, South Africa, and Turkey). The Commission is currently scheduled to complete and file its determinations and views of the Commission by January 18, 2017.
6. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: December 20, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–31126 Filed 12–21–16; 11:15 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1002]

Certain Carbon and Alloy Steel Products; Commission Determination To Review an Initial Determination Granting Respondents' Motion To Terminate Complainant's Antitrust Claim; Request for Written Submissions and Setting of Date for Possible Oral Argument

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review an initial determination (''ID'') (Order No. 38) of the presiding administrative law judge (''ALJ'') granting Respondents' motion to terminate Complainant's antitrust claim and sets the date of March 14, 2017, for possible oral argument.

FOR FURTHER INFORMATION CONTACT: Houda Morad, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–4716. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Investigation No. 337–TA–1002 on June 2, 2016, based on a complaint filed by Complainant United States Steel Corporation of Pittsburgh, Pennsylvania (''U.S. Steel''), alleging a violation of Section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337. *See* 81 FR 35381 (June 2, 2016). The complaint alleges violations of Section 337 based upon the importation into the United States, or in the sale of certain carbon and alloy steel products by reason of: (1) A conspiracy to fix prices and control output and export volumes, the threat or effect of which is to restrain or monopolize trade and commerce in the United States; (2) misappropriation and use of trade secrets, the threat or effect of which is to destroy or substantially injure an industry in the United States; and (3) false designation of origin or manufacturer, the threat or effect of which is to destroy or substantially injure an industry in the United States. *Id.* The notice of investigation identified forty (40) respondents that are Chinese steel manufacturers or distributors, as well as some of their Hong Kong and United States affiliates. *Id.* In addition, the Office of Unfair Import Investigations is a party in this investigation. *Id.*

On July 6, 2016, the presiding ALJ issued, *sua sponte,* an initial determination (Order No. 19) suspending the investigation pursuant to Section 337(b)(3). On August 5, 2016, the Commission reversed and vacated the suspension. *See Certain Carbon and Alloy Steel Products,* USITC Inv. No. 337–TA–1002, Comm'n Notice (Aug. 5, 2016).

On August 26, 2016, Respondents filed a motion to terminate U.S. Steel's antitrust claim under 19 CFR 210.21. On September 6, 2016, U.S. Steel filed a response in opposition to Respondents' motion to terminate. On September 9, 2016, the Commission Investigative Attorney (''IA'') filed a response in opposition to Respondents' motion to terminate. On November 14, 2016, the ALJ issued the subject ID, granting Respondents' motion to terminate Complainant's antitrust claim under 19 CFR 210.21 and, in the alternative, under 19 CFR 210.18. On November 23, 2016, Complainant and the IA filed petitions for review of the ID. Complainant also requested oral argument before the Commission. On December 1, 2016, Respondents filed a response to the petitions for review. Also on December 1, 2016, Complainant filed a response to the IA's petition for review.

The Commission has determined to review the ID. In connection with its review, the Commission requests written responses regarding the following questions:

1. Please explain the policies that underlie the injury requirement under Section 337(a)(1)(A)(iii), including an analysis of any relevant statutory language, legislative history, Commission determinations, case law, or other authority. In discussing this question, please also explain how the injury requirement under Section 337(a)(1)(A)(iii) is different from, or relates to, the injury requirement that applies under Section 337(a)(1)(A)(i).

2. Please explain what Complainant must prove to satisfy the injury requirement under Section 337(a)(1)(A)(iii), where the alleged unfair act in violation of Section 337 is based on a claim alleging a conspiracy to fix prices and control output and export volumes (''antitrust claim''). Please include an analysis of any relevant statutory language, legislative history, Commission determinations, case law, or other authority.

3. Please explain how ''antitrust injury'' standing, as required for private litigants in federal district courts asserting antitrust claims, *see, e.g., Atl. Richfield Co.* v. *USA Petroleum Co.,* 495 U.S. 328, 335 (1990), compares to, or differs from, the injury requirement under Section 337(a)(1)(A). Please include an analysis of any relevant statutory language, legislative history, Commission determinations, case law, or other authority. In discussing this question, please explain the chronology of the adoption of the ''antitrust injury'' standing requirement in relation to the injury requirement under Section 337(a)(1)(A).

4. Please explain whether ''antitrust injury'' standing is, or should be,

required for establishing a Section 337 violation based on a claim alleging a conspiracy to fix prices and control output and export volumes as a matter of law and/or policy. Please include an analysis of any relevant statutory language, legislative history, Commission determinations, case law, or other authority.

5. Please explain whether good cause exists under Commission Rule 210.14 to amend the complaint, presuming the Complainant is required to plead ''antitrust injury'' in its complaint.

6. To the extent not specifically requested above, please further explain any other legal reasoning and/or argument (with citation to legal authority) advanced before the ALJ with respect to Order No. 38, and/or raised in a corresponding petition for review of the ID, and not otherwise waived, why Complainant's antitrust claim should or should not be terminated at the present stage of the investigation.

Written Submissions: The parties to the investigation, including the Office of Unfair Import Investigations, and interested government agencies are requested to file written submissions on the issues identified in this notice. Written submissions must be filed no later than close of business on January 17, 2017 and may not exceed 50 pages in length, exclusive of any exhibits. Responsive submissions must be filed no later than the close of business on February 1, 2017 and may not exceed 25 pages in length, exclusive of any exhibits. No further submissions on any of these issues will be permitted unless otherwise ordered by the Commission.

Oral Argument: Upon review of written submissions, the Commission will determine whether to conduct oral argument. Notice of the Commission's determination will be announced no later than February 24, 2017. Any oral argument, if granted, will be held on March 14, 2017. The oral argument would be expected to last two hours. Further details about the specifics of the oral argument will be forthcoming if one is granted.

The written submissions and any oral argument must be limited to explanation and analysis of the existing factual record in this investigation in view of governing legal authority as applied to the issues identified in this notice. The written submissions and the oral argument shall not include the submission of any factual evidence, such as testimony or documents, not already in the factual record of this investigation, absent the grant of specific permission to submit new evidence based upon good cause shown upon consideration of a specific request.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight (8) true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1002'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel [1], solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 19, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–30934 Filed 12–22–16; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–567 (Advisory Opinion Proceeding)]

Certain Foam Footwear; Commission Determination To Adopt a Report Issued by the Office of Unfair Import Investigations as Its Advisory Opinion

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to adopt the report prepared by the Office of Unfair Import Investigations (''OUII'') as the Commission's advisory opinion in the above-captioned proceeding.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 11, 2006, based on a complaint, as amended, filed by Crocs, Inc. (''Crocs'') of Niwot, Colorado. 71 FR 27514–15 (May 11, 2006). The complaint alleged, *inter alia,* violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain foam footwear, by reason of infringement of claims 1–2 of U.S. Patent No. 6,993,858 (''the '858 patent'') and U.S. Patent No. D517,789 (''the '789 patent''). The notice of investigation named several respondents including Double Diamond Distribution Ltd. (''Double Diamond'') of Saskatoon, Canada.

On July 25, 2008, the Commission issued its final determination finding no

violation of section 337 based on non-infringement and non-satisfaction of the technical prong of the domestic industry requirement with respect to the '789 patent, and invalidity of the '858 patent as obvious under 35 U.S.C. 103. 73 FR 45073–74 (Aug. 1, 2008). On July 15, 2011, after an appeal to the U.S. Court of Appeals for the Federal Circuit and subsequent remand vacating the Commission's previous finding of no violation, the Commission found a violation of section 337 based on infringement of the asserted claims of the patents and issued a general exclusion order and, *inter alia,* a cease and desist order directed against Double Diamond. 76 FR 43723–24 (July 21, 2011).

On July 12, 2016, Double Diamond and U.S.A. Dawgs, Inc. (''USA Dawgs'') of Las Vegas, Nevada (collectively, the ''requesters'') petitioned for institution of an advisory opinion proceeding as to whether their Fleece Dawgs footwear is covered by the general exclusion order or cease and desist order directed against Double Diamond. No responses were filed.

On August 11, 2016, the Commission determined that requesters' petition complied with the requirements for institution of an advisory opinion proceeding under Commission Rule 210.79. The Commission therefore determined to institute an advisory opinion proceeding and assigned the proceeding to OUII. 81 FR 54820 (Aug. 17, 2016). The Commission assigned OUII the task of investigating and preparing a report concerning requesters' Fleece Dawgs footwear, and it named Crocs, Double Diamond, and USA Dawgs as parties to the proceeding.

On November 7, 2016, OUII issued a report concluding that requesters' Mossy Oak Women's Fleece Dawgs footwear (''the Subject Articles'') is not covered by the general exclusion order and cease and desist order directed against Double Diamond issued in the underlying investigation. In so doing, OUII concluded, *inter alia,* that (1) requesters met their burden of showing non-infringement by the Subject Articles with respect to the claim term ''strap section'' for claims 1–2 of the '858 patent; and (2) the Subject Articles do not meet the ''ordinary observer'' test for infringement of the '789 patent. *See Crocs, Inc.* v. *ITC,* 598 F.3d 1294, 1302 (Fed. Cir. 2010). No party filed comments on the OUII report.

After reviewing the report, the Commission has determined to adopt the report issued by OUII as its advisory opinion in this proceeding.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–31051 Filed 12–22–16; 8:45 am]

BILLING CODE 7020–02–P

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a meeting of the Advisory Committee on Actuarial Examinations (portions of which will be open to the public) in Arlington, VA, on January 9–10, 2017.

DATES: Monday, January 9, 2017, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 10, 2017, from 8:30 a.m. to 5:00 p.m.

ADDRESSES: The meeting will be held at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Executive Director of the Joint Board for the Enrollment of Actuaries, at 703–414–2173.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet at the Internal Revenue Service, 2345 Crystal Drive, Suite 400, Arlington, VA 22202, on Monday, January 9, 2017, from 9:00 a.m. to 5:00 p.m., and Tuesday, January 10, 2017, from 8:30 a.m. to 5:00 p.m.

The purpose of the meeting is to discuss topics and questions that may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in 29 U.S.C. 1242(a)(1)(B) and to review the November 2016 Pension (EA–2F) Examination in order to make recommendations relative thereto, including the minimum acceptable pass score. Topics for inclusion on the syllabus for the Joint Board's examination program for the May 2017 Basic (EA–1) Examination and the May 2017 Pension (EA–2L) Examination also will be discussed.

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. App., that the portions of the meeting dealing with the discussion of questions that may appear on the Joint Board's examinations and the review of the November 2016 Pension (EA–2F) Examination fall within the exceptions to the open meeting requirement set forth in 5 U.S.C. 552b(c)(9)(B), and that the public interest requires that such portions be closed to public participation.

The portion of the meeting dealing with the discussion of the other topics will commence at 1:00 p.m. on January 9, 2017, and will continue for as long as necessary to complete the discussion, but not beyond 3:00 p.m. Time permitting, after the close of this discussion by Committee members, interested persons may make statements germane to this subject. Persons wishing to make oral statements should notify the Executive Director in writing prior to the meeting in order to aid in scheduling the time available and should submit the written text, or at a minimum, an outline of comments they propose to make orally. Such comments will be limited to 10 minutes in length. All persons planning to attend the public session should notify the Executive Director in writing to obtain building entry. Notifications of intent to make an oral statement or to attend must be sent electronically, by no later than January 2, 2017, to *nhqjbea@irs.gov.* Any interested person also may file a written statement for consideration by the Joint Board and the Committee by mailing it to: Internal Revenue Service; Attn: Patrick W. McDonough, Executive Director; Joint Board for the Enrollment of Actuaries SE:RPO; Park 4, Floor 4; 1111 Constitution Avenue NW; Washington, DC 20224.

Dated: December 16, 2016.

Patrick W. McDonough,

Executive Director, Joint Board for the Enrollment of Actuaries.

[FR Doc. 2016–30903 Filed 12–22–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0356]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Reinstatement to a Previously Approved Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of State and Local Law Enforcement Agencies Serving Tribal Lands (CSLLEASTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 21, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving PL–280 Tribal Lands (SLJASTL): Survey of State and Local Law Enforcement Agencies Serving PL–280 Tribal Lands (SSLLEASTL).

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be general purpose state and local law enforcement agencies (LEAs) that are responsible for policing tribal lands in the sixteen Public Law 280 (PL–280) states, including state police departments, sheriff's offices, and general purpose local law enforcement agencies. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics (BJS) is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to include state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands in PL–280 states. Specifically, the SSLLEASTL will collect information that will help fill the gaps we have in our understanding of the nature of crime on tribal lands. There are two survey instruments: One for Alaska and one for the remaining fifteen PL–280 states. The data collection instruments are designed to capture administrative, operational and caseload data from respondents. Information requested includes the staffing and budgets of the state and local law enforcement agencies, the types of agreements state and local law enforcement agencies have with tribal governments, types of patrol services, traffic services, and detention services provided to tribal lands, information sharing between state and local law enforcement and tribal governments, training provided by state and local law enforcement to tribal law enforcement (including cross-deputization agreements), training received by state and local law enforcement agencies on tribal jurisdiction, tribal law and tribal culture, and the number and types of incidents policed by state and local law enforcement agencies. This survey is the first of its kind to describe the role that state and local law enforcement play in policing crime on tribal lands in PL–280 states.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 1,600 agencies. The expected burden placed on these respondents is about 70 minutes per respondent, including follow-up time.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 1,773 burden 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: December 19, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–30931 Filed 12–22–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On December 19, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Columbia in the lawsuit entitled *United States* v. *Anthony Spanos, Inc., et al.,* Civil Action No. 1:14–cv–01625–RJL.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''). The United States' complaint names George A. Spanos, in his capacity as the trustee of the George A. Spanos Living Trust, Anthony Spanos, Inc., and Gus Dinos as defendants. The United States' complaint asserts claims against George A. Spanos, in his capacity as trustee of the George A. Spanos Living Trust, for recovery of costs incurred and to be incurred by the Environmental Protection Agency in connection with the removal of hazardous substances at the Georgia Avenue PCE Site, Anthony Spanos, Inc. for recovery of costs incurred and to be incurred by the

Environmental Protection Agency in connection with the removal of hazardous substances at the Georgia Avenue PCE Site, as well as civil penalties for failure to respond to an information request issued by the Environmental Protection Agency, and Gus Dinos for civil penalties for failure to respond to an information request issued by the Environmental Protection Agency.

The United States previously lodged with the Court a proposed consent decree that, if entered by the Court, would resolve the United States' claims against George A. Spanos, in his capacity as the trustee of the George A. Spanos Living Trust. The presently proposed consent decree resolves the United States' remaining claims against Anthony Spanos, Inc. and Gus Dinos. Under the proposed consent decree, Anthony Spanos, Inc. agrees to assign its rights to proceeds under its insurance policies to the United States. In return, the United States agrees not to sue Anthony Spanos, Inc. under Sections 106 and 107 of CERCLA. In addition, under the proposed consent decree, Gus Dinos agrees to pay a $5,000 civil penalty.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Anthony Spanos, Inc., et al.,* D.J. Ref. No. 90–11–3–10721. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $6.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert Brook,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–31005 Filed 12–22–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed eCollection eComments Requested; New Collection: State and Local Justice Agencies Serving Tribal Lands (SLJASTL): Census of Prosecutor Offices Serving Tribal Lands (CSLPOSTL)

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 21, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Suzanne Strong, Statistician, Prosecution and Judicial Statistics, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Suzanne.M.Strong@usdoj.gov;* telephone: 202–616–3666).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection:

(1) *Type of Information Collection:* New collection.

(2) *The Title of the Form/Collection:* State and Local Justice Agencies Serving PL–280 Tribal Lands (SLJASTL): Survey of State and Local Prosecutor Offices Serving PL–280 Tribal Lands (SSLPOSTL)

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* No agency form number at this time. The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Respondents will be state and local prosecutor offices located in the sixteen Public Law 280 (PL–280) states. *Abstract:* Among other responsibilities, the Bureau of Justice Statistics is charged with collecting data regarding crimes occurring on tribal lands. The SLJASTL is the first effort by BJS to include state and local justice agencies responsible for policing and prosecuting crimes that occur on tribal lands. Specifically, the SSLPOSTL will collect information that will help fill the gaps we have in our understanding of the nature of crime on tribal lands. There are two survey instruments: One for Alaska and one for the remaining fifteen PL–280 states. The data collection instruments are designed to capture administrative, operational and caseload data from prosecutor offices that investigate and prosecute crimes that occur on tribal lands in PL–280 states. The information collected includes the staffing and budget of the prosecutor office, the types of agreements prosecutor offices have with tribal governments, where prosecutors try crimes occurring on tribal lands (*i.e.,* in tribal or state courts), non-prosecutorial services provided on tribal lands (such

as victim services and community outreach services), information sharing with tribal governments, training received by prosecutors about tribal lands, joint training opportunities with state prosecutors and tribes, and the number and types of referrals to and cases prosecuted by state prosecutors. This survey is the first of its kind to describe the role that state and local prosecutor offices play in charging and prosecuting crimes that occur on tribal lands in PL–280 states.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* An agency-level survey will be sent to approximately 460 offices, including a full census of prosecutor offices in counties with tribal lands (approximately 210) and a sample of prosecutor offices in counties without tribal lands (approximately 250 of the remaining 520). The expected burden placed on these respondents is about 70 minutes per respondent, including follow-up time.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total respondent burden is approximately 510 burden hours.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: December 19, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–30932 Filed 12–22–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate for Range Occupations in 2017

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2017 Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform herding or production of livestock on the range.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment so that the wages of similarly employed U.S. workers will not be adversely affected. In this notice, the Department announces the annual update of the AEWR for workers engaged in the herding or production of livestock on the range, as required by the methodology established in the *Temporary Agricultural Employment of H–2A Foreign Workers in the Herding or Production of Livestock on the Range in the United States,* 80 FR 62958, 63067–63068 (Oct. 16, 2015); 20 CFR 655.211.

DATES: *Effective Date:* This notice is effective January 1, 2017.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Acting Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, 200 Constitution Avenue NW., Room PPII–12–200, Washington, DC 20210. Telephone: 202–693–3010 (this is not a toll-free number). Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The U.S. Citizenship and Immigration Services of the Department of Homeland Security will not approve an employer's petition for the admission of H–2A nonimmigrant temporary agricultural workers in the U.S. unless the petitioner has received from the Department an H–2A labor certification. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rate for 2017

The Department's H–2A regulations covering the herding or production of livestock on the range (H–2A Herder Rule) at 20 CFR 655.210(g) and 655.211(a)(1) provide that employers must offer, advertise in recruitment and pay each worker employed under 20 CFR 655.200–655.235 a wage that is at least the highest of: (i) The monthly AEWR, (ii) the agreed-upon collective bargaining wage, or (iii) the applicable minimum wage imposed by Federal or State law or judicial action. Further, when the monthly AEWR is adjusted during a work contract, and is higher than both the agreed-upon collective bargaining wage and the applicable minimum wage imposed by Federal or State law or judicial action in effect at the time the work is performed, the employer must pay that adjusted monthly AEWR upon publication by the Department in the **Federal Register**. 20 CFR 655.211(a)(2).

As provided in 20 CFR 655.211(c) of the H–2A Herder Rule, the methodology for establishing the monthly AEWR for range occupations in all states is based on the rate of $7.25/hour multiplied by 48 hours per week, and then multiplied by 4.333 weeks per month. Beginning for calendar year 2017, the monthly AEWR shall be adjusted annually based on the Employment Cost Index (ECI) for wages and salaries published by the Bureau of Labor Statistics for the preceding annual period. The 12-month change in the ECI for wages and salaries between September 2015 and September 2016 was 2.4 percent. ETA used that percentage to adjust the monthly AEWR.[1]

The H–2A Herder Rule applies a two-year transition to the full monthly AEWR. In applying the transition wage rate methodology set forth under 20 CFR 655.211(d)(2) for calendar year 2017, the Department is setting the national monthly AEWR at 90 percent of the full wage calculated using the H–2A Herder Rule methodology. Thus, the national monthly AEWR rate for all range occupations in the H–2A program is calculated at ($7.25 × 48 × 4.333 × 1.024 × .90 = 1,389.67) or $1,389.67.

Accordingly, any employer certified or seeking certification for range workers must pay each worker a wage that is at least the highest of the monthly AEWR of $1,389.67, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State legislation or judicial action, at the time work is performed on or after the effective date of this notice.

[1] The regulation at 20 CFR 655.211(c)(2) states that the monthly AEWR is calculated based on the Employment Cost Index for wages and salaries for the preceding October—October period. This was intended to refer the October publication of data by BLS of wages and salaries for the September—September period. Accordingly, the most recent 12-month change in the Employment Cost Index published on October 28, 2016 by the Bureau of Labor Statistics was used for establishing the monthly AEWR for the second transition year under the regulations. See *http://www.bls.gov/news.release/eci.nr0.htm.*

Signed in Washington, DC.

Portia Wu,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2016–30923 Filed 12–22–16; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: 2017 Adverse Effect Wage Rates

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) is issuing this notice to announce the 2017 Adverse Effect Wage Rates (AEWRs) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform agricultural labor or services.

AEWRs are the minimum wage rates the Department has determined must be offered and paid by employers to H–2A workers and workers in corresponding employment for a particular occupation and area so that the wages of similarly employed U.S. workers will not be adversely affected. In this notice, the Department announces the annual update of the AEWRs.

DATES: *Effective Date:* This notice is effective December 23, 2016.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Acting Administrator, U.S. Department of Labor, Employment and Training Administration, Office of Foreign Labor Certification, 200 Constitution Avenue NW., Room PPII–12–200, Washington, DC 20210. Telephone: 202–513–7350 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: As a condition precedent to receiving an H–2A visa, employers must first obtain a labor certification from the Department of Labor. The labor certification provides that: (1) There are not sufficient U.S. workers who are able, willing, and qualified and who will be available at the time and place needed to perform the labor or services involved in the petition; and (2) the employment of the foreign worker(s) in such labor or services will not adversely affect the wages and working conditions of workers in the U.S. similarly employed. 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c)(1), and 1188(a); 8 CFR 214.2(h)(5); 20 CFR 655.100.

Adverse Effect Wage Rates for 2017

The Department's H–2A regulations at 20 CFR 655.120(l) provide that employers must pay their H–2A workers and workers in corresponding employment at least the highest of: (i) The AEWR; (ii) the prevailing hourly wage rate; (iii) the prevailing piece rate; (iv) the agreed-upon collective bargaining wage rate, if applicable; or (v) the Federal or State minimum wage rate, in effect at the time the work is performed.

Except as otherwise provided in 20 CFR part 655, subpart B, the region-wide AEWR for all agricultural employment (except those occupations characterized by other than a reasonably regular workday or workweek as described in 20 CFR 655.102) for which temporary H–2A certification is being sought is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) in the State or region as published annually by the United States Department of Agriculture (USDA). 20 CFR 655.120(c) requires that the Administrator of the Office of Foreign Labor Certification publish the USDA field and livestock worker (combined) wage data as AEWRs in a **Federal Register** notice. Accordingly, the 2017 AEWRs to be paid for agricultural work performed by H–2A and U.S. workers on or after the effective date of this notice are set forth in the table below:

TABLE—2017 ADVERSE EFFECT WAGE RATES

State	2017 AEWRs
Alabama	$10.62
Arizona	10.95
Arkansas	10.38
California	12.57
Colorado	11.00
Connecticut	12.38
Delaware	12.19
Florida	11.12
Georgia	10.62
Hawaii	13.14
Idaho	11.66
Illinois	13.01
Indiana	13.01
Iowa	13.12
Kansas	13.79
Kentucky	10.92
Louisiana	10.38
Maine	12.38
Maryland	12.19
Massachusetts	12.38
Michigan	12.75
Minnesota	12.75
Mississippi	10.38
Missouri	13.12
Montana	11.66
Nebraska	13.79
Nevada	11.00
New Hampshire	12.38
New Jersey	12.19
New Mexico	10.95
New York	12.38
North Carolina	11.27
North Dakota	13.79
Ohio	13.01
Oklahoma	11.59
Oregon	13.38
Pennsylvania	12.19
Rhode Island	12.38
South Carolina	10.62
South Dakota	13.79
Tennessee	10.92
Texas	11.59
Utah	11.00
Vermont	12.38
Virginia	11.27
Washington	13.38
West Virginia	10.92
Wisconsin	12.75
Wyoming	11.66

Pursuant to the H–2A regulations at 20 CFR 655.173, the Department will publish a separate **Federal Register** notice in early 2017 to announce (1) the allowable charges for 2017 that employers seeking H–2A workers may charge their workers for providing them three meals a day; and (2) the maximum travel subsistence reimbursement which a worker with receipts may claim in 2017.

Signed in Washington, DC

Portia Wu,

Assistant Secretary, Employment and Training Administration.

[FR Doc. 2016–30928 Filed 12–22–16; 8:45 am]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Workforce Innovation Fund Grants Reporting and Recordkeeping Requirements

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Workforce Innovation Fund Grants Reporting and Recordkeeping Requirements.'' This comment request is part of continuing Departmental

efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Consideration will be given to all written comments received by February 21, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Wendy Havenstrite by telephone at (202) 693–2618, TTY 1–877–889–5627, (these are not toll-free numbers or by email at *havenstrite.wendy@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Washington, DC 20210; by email: *havenstrite.wendy@dol.gov;* or by Fax 202–693–3817.

FOR FURTHER INFORMATION CONTACT: Contact Wendy Havenstrite by telephone at (202) 693–2618 (this is not a toll-free number) or by email at *havenstrite.wendy@dol.gov.*

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

The Workforce Innovation Fund (WIF) was created as a grant program by the Full-Year Continuing Appropriations Act, 2011 (in Sec. 1801, Title VIII, Div. B of Pub. L. 112–10), the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6), and the Consolidated Funding Act, 2014 (Pub. L. 113–76). The first round of grants was awarded in June 2012, with service delivery beginning in 2013. (The first round of grants are ending by the current ICR end date). The second round of grants, awarded September 2014, were awarded to a combination of state workforce agencies and local workforce investment boards and began service delivery in 2015. The final round of grants, awarded in September 2015, went to five States and one tribal entity with service delivery beginning in 2016. According to these Acts, the WIF was established to ''carry out projects that demonstrate innovative strategies or replicate effective evidence-based strategies that align and strengthen the workforce investment system in order to improve program delivery and education and employment outcomes for program beneficiaries.'' One of the purposes of the WIF grants is to contribute to the documentation of evidence-based practice within the field of workforce development.

This document requests approval to continue to collect information to meet the reporting and recordkeeping requirements of the WIF grant program through the end of each grantee's reporting cycle. In applying for the WIF grant program, grantees agreed to submit quarterly reports—both narrative and performance reports—that describe project activities and outcomes that relate to the project and document the training or labor market information approaches used by the grantee. The quarterly performance narrative report will provide a format for a detailed account of program activities, accomplishments, and progress toward performance outcomes during the quarter. These reports will collect aggregate information on participants' grant progress and accomplishments, grant challenges, grant technical assistance needs and success stories and lessons learned through five questions—four programmatic questions and one performance question. Because WIF grants tackle a range of employment and training services and strategies, each grant will have a unique set of performance goals and outcome measures designed by the grantee for the specific innovation and project being pursued in the grant. The fifth of the five questions in the quarterly performance narrative report will ask for performance data based on the unique grant performance measures and key project milestones identified by each grantee.

The information from these reports will be used to evaluate the performance of the WIF projects; manage performance risk; and collect lessons learned in terms of processes, strategies, and performance from the projects. ETA will use the data to help inform policy about the workforce and possible changes in structures and policies that enable a closer alignment and integration of workforce development, education, human services, social insurance, and economic development programs. The data will also be used to determine what technical assistance needs the WIF grantees have so that ETA can provide such assistance to support improvement of grantee outcomes.

The information provided in the quarterly performance narrative reports, including the lessons learned through innovative projects, is necessary for increasing the body of knowledge about what works in workforce development. This information collection maintains a reporting and record-keeping system for a minimum level of information collection that is necessary to hold WIF grantees appropriately accountable for the Federal funds they receive and to allow the Department to fulfill its oversight and management responsibilities.

To reduce grantee burden, grantees will only report on performance measures they identify in their project that are specifically applicable to their grant. This approach minimizes the reporting burden on grantees and encourages grantees to identify and document a new set of achievements and performance measures that apply directly to the grant projects. The Full-Year Continuing Appropriations Act, 2011 (in Sec. 1801, Title VIII, Div. B of Pub. L. 112–10), the Consolidated and Further Continuing Appropriations Act, 2013 (Pub. L. 113–6), and the Consolidated Funding Act, 2014 (Pub. L. 113–76) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention Workforce Innovation Fund Grants Reporting and Recordkeeping Requirements, OMB Control Number 1205–0515.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential

business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Type of Review: Extension without changes.

Title of Collection: Workforce Innovation Fund Grants Reporting and Recordkeeping Requirements.

Form: Quarterly narrative and performance reports.

OMB Control Number: 1205–0515.

Affected Public: Workforce Innovation Fund grant recipients.

Estimated Number of Respondents: 17.

Frequency: Quarterly.

Total Estimated Annual Responses: 68.

Estimated Average Time per Response: 20 hours.

Estimated Total Annual Burden Hours: 1,360 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Portia Wu,

Assistant Secretary for Employment and Training Administration, Department of Labor.

[FR Doc. 2016–30922 Filed 12–22–16; 8:45 am]

BILLING CODE 4510–FN–P

OFFICE OF MANAGEMENT AND BUDGET

Reissuance of OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication Under the Privacy Act''

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of availability.

SUMMARY: The Office of Management and Budget (OMB) has reissued OMB Circular A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication under the Privacy Act.'' The reissued Circular revises and relocates the guidance that previously had been included in Circular A–130, ''Management of Federal Information Resources,'' Appendix I, ''Federal Agency Responsibilities for Maintaining Records About Individuals.'' The reissued Circular replaces the November 28, 2000 version of Appendix I to Circular A–130 and supplements and clarifies existing OMB guidance.

DATES: Effective upon publication as of December 23, 2016, OMB is making reissued Circular A–108 available to the public at *https://www.whitehouse.gov/omb/inforeg_infopoltech.*

FOR FURTHER INFORMATION CONTACT: Kevin Herms, Office of Management and Budget, Office of Information and Regulatory Affairs, at *privacy-oira@omb.eop.gov*

SUPPLEMENTARY INFORMATION:

Background

The Privacy Act of 1974, which has been in effect since September 27, 1975, sets forth a series of requirements governing Federal agency practices with respect to certain information about individuals. Although the Privacy Act places principal responsibility for compliance on agencies, the statute requires the Director of OMB to develop guidelines and provide continuing assistance to and oversight of implementation by agencies. *See* 5 U.S.C. 552a(v). The reissuance of Circular A–108 describes agency responsibilities for implementing the review, reporting, and publication requirements of the Privacy Act of 1974 and related OMB policies. It supplements and clarifies existing OMB guidance, including OMB Circular No. A–130, ''Managing Information as a Strategic Resource,'' ''Privacy Act Implementation: Guidelines and Responsibilities,'' ''Implementation of the Privacy Act of 1974: Supplementary Guidance,'' and ''Final Guidance Interpreting the Provisions of Public Law 100–503, the Computer Matching and Privacy Protection Act of 1988.'' All OMB guidance is available on the OMB Web site at *https://www.whitehouse.gov/omb/inforeg_infopoltech.*

Comments

On October 7, 2016, OMB requested public comment (81 FR 69871) and posted the proposed Circular A–108 on its Web site. Although some commenters were critical of specific aspects of the proposed policy, the commenters were generally supportive of the overall Circular and the approaches taken.

While OMB carefully considered all of the comments submitted, some of them were beyond the scope of the Circular. Several of the comments criticized agency compliance with Privacy Act legal and policy requirements, while others appeared to be inconsistent with certain statutory provisions or other OMB policy requirements, or would have the effect of modifying certain statutory provisions or prohibiting certain legally permissible agency actions. The reissuance of Circular A–108 and the supplementary guidance and clarification it provides are intended to assist agencies in their implementation of, and facilitate their compliance with, the Privacy Act's review, reporting, and publication requirements. The Circular is meant to establish general standards and it would be beyond the scope of the Circular to address specific agency practices or compliance efforts or to accept comments that may be inconsistent with other legal or policy requirements.

Several comments identified areas in which the guidance could be modified to improve the quality of notice provided to the public in agency system of records notices. Based on OMB's consideration and responses to the public comments, the revised Circular A–108:

• Revises the routine use section of the guidance to state that agency routine uses that only apply to certain records in a system of records should indicate their limited scope. In addition, a subheading in the section of the Circular describing the scope of a system of records was revised to better emphasize the need to consider routine uses when determining the scope of a system.

• Requires that the description of linkages between different systems be in the ''Policies and Practices for Retrieval of Records'' section of the notice, which is included in the Privacy Act Issuances. In addition, the language describing the requirement to describe linkages

between different systems was clarified so that agencies better understand the requirement and public notice will be improved.

• Includes a ''History'' section in the system of records notice templates for agencies to provide citations to the last full **Federal Register** notice, as well as any subsequent notices of revision. This will improve transparency and assist the public in learning about systems of records as they are established and revised over time.

Howard Shelanski,

Administrator, Office of Information and Regulatory Affairs.

Marc Groman,

Senior Advisor for Privacy, Office of the Director.

[FR Doc. 2016–30901 Filed 12–22–16; 8:45 am]

BILLING CODE P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 16–090]

Notice of Intent To Grant Exclusive Term License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Application entitled, ''System, Apparatus, and Method for Liquid Purification,'' LEW–18732–1, to SageGuard Solutions, LLC, having its principal place of business in Westlake, Ohio. The fields of use may be limited to anaerobic digestion of agricultural by-products and run-off, semiconductor manufacturing process water and wastewater treatment, and food and beverage manufacturing process water and wastewater treatment.

DATES: The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated exclusive license. Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act.

ADDRESSES: Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, MS 142–7, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland, OH 44135. Phone (216) 433–3663. Facsimile (216) 433–6790.

FOR FURTHER INFORMATION CONTACT: Robert Earp, Patent Counsel, Office of Chief Counsel, MS 142–7, NASA Glenn Research Center, 21000 Brookpark Rd, Cleveland OH 44135. Phone (216) 433–3663. Facsimile (216) 433–6790.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i). The patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at http://technology.nasa.gov.

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2016–30889 Filed 12–22–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

[Notice (16–091)]

National Environmental Policy Act: Kennedy Space Center—Center Master Plan

AGENCY: National Aeronautics and Space Administration

ACTION: Notice of Availability (NOA)

SUMMARY: NASA has prepared and issued a Final Programmatic Environmental Impact Statement (FPEIS) for implementation of the Kennedy Space Center (KSC) Center Master Plan (CMP). The purpose of the CMP is to provide overall management guidance for KSC from 2016 to 2032. Implementation of the CMP will facilitate a two-decade transformation from a single, government-user launch complex to a multi-user spaceport. This multi-user spaceport will be developed in concert with NASA's programmatic missions and requirements to explore destinations outside of low Earth orbit. The need for the action is to update KSC's CMP in a manner that supports achievement of NASA's programmatic mission objectives, at the same time as maximizing the provision of excess capabilities and assets in support of non-NASA access to space.

DATES: NASA will issue a Record of Decision (ROD) for the FPEIS on the proposed KSC CMP either by December 19, 2016, or after 30 days from the date of publication of the NOA for the PFEIS in the **Federal Register** by the U.S. Environmental Protection Agency (EPA), whichever is later.

ADDRESSES: The FPEIS may be reviewed at the NASA Headquarters Library (Washington, DC), as well as public libraries in Florida including New Smyrna Beach, Cocoa Beach, Merritt Island, Port St. John, Cape Canaveral and Titusville. Limited hard copies of the PFEIS are available and may be requested by contacting Mr. Donald Dankert at the address, telephone number, or electronic mail address indicated below. The PFEIS is available electronically to download and read at *http://environmental.ksc.nasa.gov/projects/peis.htm.* NASA's ROD will also be placed on this Web site when it is issued. Anyone who desires a hard copy of NASA's ROD when it is issued should contact Mr. Dankert.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Dankert, Environmental Management Branch, NASA Kennedy Space Center, Mail Code: TA–A4C, Kennedy Space Center, FL 32899, Email: *Donald.J.Dankert@nasa.gov,* Telephone: (321) 861–1196.

SUPPLEMENTARY INFORMATION: Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA (40 CFR parts 1500–1508), and NASA NEPA regulations (14 CFR part 1216 subpart 1216.3), NASA has prepared and issued a PFEIS for implementation of the CMP.

Overall, KSC is transitioning to a re-focused mission that redefines its relationship with industry and leverages the potential of partnerships. Amid the challenges of an aging and unsustainable asset base, as well as a highly constrained federal budget, NASA must adopt and implement strategies that preserve the institutional infrastructure needed to support its purpose and programs.

This FPEIS is a programmatic document. In keeping with guidance from CEQ, the FPEIS outlines and broadly describes actions associated with KSC's proposed programs in the

limited detail with which they are known at present. Three programmatic alternatives are described—No Action, Proposed Action, and Alternative 1—and their potential environmental effects are assessed in fairly general terms. At such time as a given specific project of detailed dimensions and scale is proposed at a specific location, and is in the process of being reviewed and approved, the FPEIS can serve as a master NEPA document to which future NEPA compliance documents may be ''tiered''. That is, having already been addressed at a programmatic level, the action or project can incorporate discussion from the broader FPEIS by reference and focus on the issues specific to the subsequent tiered proposal. Ideally, this will serve to expedite the environmental review process and facilitate project approval, funding, and implementation. The FPEIS provides an overview of the affected environment at and near the Kennedy Space Center and the potential environmental consequences associated with the Proposed Action and alternatives. There would be a number of direct and indirect adverse impacts but none that are considered to be significantly adverse. Beneficial impacts would also occur. Under each of the three alternatives evaluated, NASA would continue to work closely with its partners, including the U.S. Fish and Wildlife Service, National Park Service, Federal Aviation Administration, Space Florida, Cape Canaveral Air Force Station, U.S. Army Corps of Engineers, and state agencies.

Of the three alternatives considered in the FPEIS, NASA prefers Alternative 1. This alternative would allow for implementation of the CMP while at the same time protecting natural resources and the environment to a greater extent than the Proposed Action.

As a result of comments received during internal and external (public) scoping, NASA developed three alternatives that are assessed in this FPEIS. Under the first of these, the Proposed Action, KSC would transition to a multi-user spaceport. A number of new land uses are proposed, including two seaports and horizontal and vertical launch and landing facilities. There would be changes in the acreage of existing designated land use categories at KSC. Alternative 1 was crafted as a direct response to concerns expressed in comments received during the PEIS public scoping period in June 2014, as well as other observations and data acquired from stakeholders and other agencies during the scoping process. Alternative 1 is similar to the Proposed Action in many regards, but is differentiated in several key respects, primarily, differences in the siting and size of vertical and horizontal launch and landing facilities. Also, the two new seaports would not be constructed.

In the No Action Alternative, KSC management would continue its emphasis on dedicated NASA Programs and would not transition in the coming years towards a multi-user spaceport. Rather, each NASA Program would continue to be operated as an independent entity to a significant degree, to be funded separately, and to manage activities and buildings in support of its own program. There would continue to be a limited non-NASA presence at KSC. Under the three PEIS alternatives, there would be differences in the sizes of the areas of designated land uses at KSC. These varying acreages are a function of the different emphases, priorities, and projects of the three PEIS alternatives. Only in the recreation and water categories are the acreages identical in all three alternatives.

The PFEIS assesses potential environmental impacts for all three alternatives under the topics of soils and geology, water resources, hazardous materials and waste, air quality, climate change, noise, biological resources, cultural resources, land use, transportation, utilities, socioeconomics, recreation, environmental justice, and protection of children.

Cheryl E. Parker,

Federal Register Liaison Officer, Mission Support Directorate.

[FR Doc. 2016–30907 Filed 12–22–16; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Information Security Oversight Office

[NARA–2017–016]

State, Local, Tribal, and Private Sector Policy Advisory Committee Meeting

AGENCY: Information Security Oversight Office (ISOO). National Archives and Records Administration (NARA).

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, NARA announces an upcoming State, Local, Tribal, and Private Sector Policy Advisory Committee (SLTPS–PAC) meeting.

DATES: The meeting will be on January 25, 2017, from 10:00 a.m. to 12:00 p.m. EDT.

ADDRESSES: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW., Jefferson Room; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Robert J. Skwirot, Senior Program Analyst, ISOO, by mail at National Archives Building; 700 Pennsylvania Avenue NW., Washington, DC 20408, by telephone at 202.357.5398, or by email at *robert.skwirot@nara.gov.* Contact ISOO at *ISOO@nara.gov.*

SUPPLEMENTARY INFORMATION: The meeting's purpose is to discuss matters relating to the Classified National Security Information Program for State, Local, Tribal, and Private Sector entities. This meeting is open to the public. However, due to space limitations and access procedures, you must register in advance if you wish to attend the meeting. Submit your name and telephone number to ISOO at the contact information above no later than Wednesday, January 18, 2017. ISOO will provide additional instructions for gaining access to the Jefferson Room.

Authority: 5 U.S.C. app 2.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2016–30949 Filed 12–22–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2017–015]

Advisory Committee on the Presidential Library-Foundation Partnerships Meeting

AGENCY: National Archives and Records Administration (NARA)

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Archives and Records Administration announces an upcoming Advisory Committee on Presidential Library-Foundation Partnerships meeting.

ADDRESSES: The meeting will be Thursday, February 29, 2017, from 9:00 a.m. to 12:00 noon.

LOCATION: National Archives and Records Administration (NARA); 700 Pennsylvania Avenue NW., Room 105; Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Denise LeBeck, by telephone at 301–

837–3250, or by email at *denise.lebeck@nara.gov*.

SUPPLEMENTARY INFORMATION: The meeting's purpose is to discuss the Presidential Library program and topics related to public-private partnerships between Presidential Libraries and Presidential Foundations. The meeting is open to the public. Meeting attendees may enter from the Pennsylvania Avenue entrance, and must show photo identification to enter. No visitor parking is available at the Archives building; however, there are commercial parking lots and metered curb parking nearby.

Authority: 5 U.S.C. appendix 2.

Patrice Little Murray,

Committee Management Officer.

[FR Doc. 2016–30948 Filed 12–22–16; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Submission for OMB Review; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice.

SUMMARY: The National Credit Union Administration (NCUA) will be submitting 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 January 23, 2017 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 NCUA, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) NCUA PRA Clearance Officer, 1775 Duke Street, Alexandria, VA 22314, Suite 5067, or email at *PRAComments@ncua.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRAComments@ncua.gov* or viewing the entire information collection request at *www.reginfo.gov.*

SUPPLEMENTARY INFORMATION:

OMB Number: 3133–0024.

Type of Review: Extension of a currently approved collection.

Title: Mergers of Federally-Insured Credit Unions; Voluntary Termination or Conversion of Insured Status, 12 CFR part 708b.

Abstract: Part 708b of NCUA's rules sets forth the procedural and disclosure requirements for mergers of federally-insured credit unions, conversions from federal share insurance to nonfederal insurance, and federal share insurance terminations. Part 708b is designed to ensure NCUA has sufficient information whether to approve a proposed merger, share insurance conversion, or share insurance termination. It further ensures that members of credit unions have sufficient and accurate information to exercise their vote properly concerning a proposed merger, insurance conversion, or insurance termination. The rule also protects the property interests of members who may lose their federal share insurance due to a merger, share insurance conversion, or share insurance termination.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 7,562.

OMB Number: 3133–0068.

Type of Review: Extension of a currently approved collection.

Title: Nondiscrimination Requirements in Real Estate-Related Lending—Appraisals, 12 CFR 701.31.

Abstract: Section 701.31 of NCUA's regulations implements requirements of the Fair Housing Act. It requires Federal credit unions (FCUs) to maintain a copy of the real estate appraisal used to support an applicant's real estate-related loan application and to make it available to that member/applicant for a period of 25 months (§ 701.31(c)(5)). The regulation also requires FCUs that use the collateral's location as a factor in evaluating real estate-related loan applications to disclose such fact on the appraisal, along with a statement justifying its use (§ 701.31 (c)(4)). NCUA and consumers use the information to ensure compliance with Fair Housing Act nondiscrimination requirements that prohibit consideration of race, color, religion, national origin, sex, handicap, or familial status in real estate appraisals.

Affected Public: Private Sector: Not-for-profit institutions.

Estimated Total Annual Burden Hours: 3,721.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on December 20, 2016.

Dated: December 20, 2016.

Dawn D. Wolfgang,

NCUA PRA Clearance Officer.

[FR Doc. 2016–31042 Filed 12–22–16; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB review; comment request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995. This is the second notice for public comment; the first was published in the **Federal Register** at 81 FR 28107, requesting comments on the NSF Large Facilities Manual (LFM) and an accompanying Large Facilities Financial Data Collection Tool, and 205 comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

DATES: Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

ADDRESSES: Comments on this information collection should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

FOR FURTHER INFORMATION CONTACT: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.*

SUPPLEMENTARY INFORMATION:

Summary of Comments on the National Science Foundation's Large Facilities Manual

The draft Large Facilities Manual and Large Facilities Financial Data Collection Tool were made available for review by the public on the NSF Web site at *https://www.nsf.gov/bfa/lfo/lfo_documents.jsp.* In response to the **Federal Register** notice published May 9, 2016, at 81 FR 28107, NSF received 189 comments from 14 different institutions/individuals on the Large Facilities Manual and 16 comments on the Large Facilities Financial Data Collection Tool from 2 different institutions/individuals. A summary of the comments on the Large Facilities Manual follows:

- 54 requested further guidance on project management controls and NSF oversight processes and procedures;
- 47 requested clarification on the processes and requirements associated with cost and contingency through the various stage of the facility lifecycle;
- 25 requested clarifications of requirements during the operations and divestment stages of the facility lifecycle;
- 18 questioned the applicability to contracts versus cooperative agreements;
- 15 provided general observations; and
- 30 provided editing recommendations such as typos and sentence structure.

The full comments and NSF's response may be found via: *http://www.reginfo.gov/public/do/PRAMain* and *https://www.nsf.gov/bfa/lfo/lfo_documents.jsp.*

Title of Collection: ''Large Facilities Manual''.

OMB Approval Number: 3145–0239.

Type of Request: Intent to seek approval to renew with revisions an information collection for three years.

Proposed Project: The National Science Foundation Act of 1950 (Pub. L. 81–507) set forth NSF's mission and purpose:

''To promote the progress of science; to advance the national health, prosperity, and welfare; to secure the national defense. * * *''

The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

Among Federal agencies, NSF is a leader in providing the academic community with advanced instrumentation needed to conduct state-of-the-art research and to educate the next generation of scientists, engineers and technical workers. The knowledge generated by these tools sustains U.S. leadership in science and engineering (S&E) to drive the U.S. economy and secure the future. NSF's responsibility is to ensure that the research and education communities have access to these resources, and to provide the support needed to utilize them optimally, and implement timely upgrades.

The scale of advanced instrumentation ranges from small research instruments to shared resources or facilities that can be used by entire communities. The demand for such instrumentation is very high, and is growing rapidly, along with the pace of discovery. For large facilities and shared infrastructure, the need is particularly high. This trend is expected to accelerate in the future as increasing numbers of researchers and educators rely on such large facilities, instruments, and databases to provide the reach to make the next intellectual leaps.

NSF currently provides support for facility construction from two accounts: The Major Research Equipment and Facility Construction (MREFC) account, and the Research and Related Activities (R&RA) account. The MREFC account, established in FY 1995, is a separate budget line item that provides an agency-wide mechanism, permitting directorates to undertake large facility projects are roughly $70M or greater. Smaller projects continue to be supported from the R&RA Account.

Facilities are defined as shared-use infrastructure, instrumentation and equipment that are accessible to a broad community of researchers and/or educators. Facilities may be centralized or may consist of distributed installations. They may incorporate large-scale networking or computational infrastructure, multi-user instruments or networks of such instruments, or other infrastructure, instrumentation and equipment having a major impact on a broad segment of a scientific or engineering discipline. Historically, awards have been made for such diverse projects as accelerators, telescopes, research vessels and aircraft, and geographically distributed but networked sensors and instrumentation.

The growth and diversification of large facility projects require that NSF remain attentive to the ever-changing issues and challenges inherent in their planning, construction, operation, management and oversight. Most importantly, dedicated, competent NSF and awardee staff are needed to manage and oversee these projects; giving the attention and oversight that good practice dictates and that proper accountability to taxpayers and Congress demands. To this end, there is also a need for consistent, documented requirements and procedures to be understood and used by NSF program managers and awardees for all such large projects.

Use of the Information: Facilities are an essential part of the science and engineering enterprise, and supporting them is one major responsibility of the National Science Foundation (NSF). NSF makes awards to external entities—primarily universities, consortia of universities or non-profit organizations—to undertake construction, management and operation of facilities. Such awards frequently take the form of cooperative agreements. NSF does not directly construct or operate the facilities it supports. However, NSF retains responsibility for overseeing their development, management and successful performance. The Large Facilities Manual is intended to:

- Provide step-by-step guidance for NSF staff and awardees to carry out effective project planning, management and oversight of large facilities while considering the varying requirements of a diverse portfolio;
- Clearly state the policies, processes and procedures pertinent at each stage of a facility's life cycle from development through construction, operations, and termination; and
- Document and disseminate ''best practices'' identified over time so that NSF and awardees can carry out their responsibilities more effectively.

This version of the Large Facilities Manual reflects recent changes in terminology to be compatible with the Uniform Guidance 2 CRF 200 and Federal Acquisition Regulation definitions, project development, management of contingency, and fees and to improve the description of NSF oversight activities for Large Facilities. It also updates sections related to cost-estimating requirements to ensure alignment with the Government Accountability Office (GAO) guidelines. The Manual does not replace existing formal procedures required for all NSF awards, which are described in the *Proposal & Award Policies & Procedures*

Guide (PAPPG). Instead, it draws upon and supplements it for the purpose of providing detailed guidance on NSF policy and procedures related to the planning and management of Large Facilities. All facilities projects require merit and technical review, as well as approval of certain deliverables. The level of review and approval varies substantially from standard grants, as does the level of oversight needed to ensure appropriate and proper accountability for federal funds. The requirements, recommended procedures and best practices presented in the Manual apply to any facility significant enough to require close and substantial interaction with the Foundation and the National Science Board.

This Manual will be updated periodically to reflect changes in requirements, policies and/or procedures. Award Recipients are expected to monitor and adopt the requirements and best practices included in the Manual which are aimed at improving management and oversight of large facilities projects and at enabling the most efficient and cost-effective delivery of tools to the research and education communities.

The submission of proposals and subsequent project documentation to the Foundation related to the development, construction and operations of Large Facilities is part of the collection of information. This information is used to help NSF fulfill this responsibility in supporting merit-based research and education projects in all the scientific and engineering disciplines. The Foundation also has a continuing commitment to provide oversight on facilities development and construction which must be balanced against monitoring its information collection so as to identify and address any excessive reporting burdens.

NSF has approximately twenty-two (22) Large Facilities in various stages of development, construction, operations and termination. One to two (1 to 2) new awards are made approximately every five (5) years based on science community infrastructure needs and availability of funding. Of the twenty-two large facilities, there are approximately eight (8) facilities annually that are either in development or construction. These stages require the highest level of reporting and management documentation per the Large Facilities Manual.

Burden on the Public: The Foundation estimates that an average of three (3) Full Time Equivalents (FTEs) are necessary for each facility project in development or construction (Total Project Cost of $200–$500M) to respond to NSF routine reporting and project management documentation requirements on an annual basis; or 6240 hours per year. The Foundation estimates an average of one (1) FTE for a facility in operations; or 2080 hours per year. Assuming an average of eight (8) facilities in construction and the balance in operations, this equates to roughly 80,000 public burden hours annually.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Authority: Pub. L. 104–13 (44 U.S.C. 3501 *et seq.*).

Dated: December 19, 2016.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2016–30927 Filed 12–22–16; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0132]

Information Collection: NRC Form 314, Certificate of Disposition of Materials

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 314, ''Certificate of Disposition of Materials.'' The NRC Form 314 is submitted by a materials licensee who wishes to terminate its license. The form provides information needed by the NRC to determine whether the licensee has radioactive materials on hand which must be transferred or otherwise disposed of prior to expiration or termination of the license.

DATES: Submit comments by January 23, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (Docket ID NRC–2016–0132), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID Docket ID NRC–2016–0132 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID Docket ID NRC–2016–0132.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* A copy of the collection of Information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16292A666. The supporting statement is available in ADAMS under Accession No. ML16292A668.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not

want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''*NRC Form 314, Certification of Disposition of Material.*'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on July 19, 2016 (81 FR 46972).

1. *The title of the information collection: NRC Form 314 Certification of Disposition of Material.*

2. *OMB approval number:* 3150–0028.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 314.

5. *How often the collection is required or requested:* NRC Form 314 is submitted by materials licensee who wishes to terminate its license. The form provides information needed by the NRC to determine whether the licensee has radioactive materials on hand which must be transferred or otherwise disposed of prior to expiration or termination of the license.

6. *Who will be required or asked to respond:* Respondents are firms, institutions, and individual holding NRC licenses to possess and use radioactive materials who do not wish who do not wish to renew those licenses.

7. *The estimated number of annual responses:* 136 responses.

8. *The estimated number of annual respondents:* 136 respondents.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* Each form requires, on average, approximately 0.5 hours to prepare. 136 × 0.5 hour = a total annual burden for all respondents of 68 hours.

10. *Abstract:* The NRC Form 314 furnishes information to the NRC regarding transfer or other disposition of radioactive material by licensees who wish to terminate their licenses. The information is used by the NRC as part of the basis for its determination that the facility has been cleared of radioactive material before the facility is released for unrestricted use.

Dated at Rockville, Maryland, this 19th day of December 2016.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2016–30909 Filed 12–22–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0198]

Design of Structures, Components, Equipment, and Systems, and Reactor Coolant System and Connected Systems Guidance

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to several sections in Chapter 3, ''Design of Structures, Components, Equipment, and Systems Reactor Coolant System and Connected Systems,'' and Chapter 5, ''Reactor Coolant System and Connected Systems,'' of NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.'' The revisions to these standard review plan (SRP) sections reflect no changes in staff position; rather they clarify the original intent of these SRP sections using plain language throughout in accordance with the NRC's Plain Writing Action Plan. Additionally, these revisions reflect operating experience, lessons learned, and the inclusion of updated guidance since the last revision, and address the applicability of regulatory treatment of non-safety systems where appropriate. The staff also deleted text in one of the Chapter 5 SRPs, as the text contained guidance that was included in other SRPs and, therefore, does not constitute removal of guidance and added several references to updated standards and guidance.

DATES: The effective date of this Standard Review Plan (SRP) update is January 23, 2017.

ADDRESSES: Please refer to Docket ID NRC–2015–0198 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0198. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Mark Notich, Office of New Reactors, telephone: 301–415–3053; email: *Mark.Notich@nrc.gov;* or Nishka Devaser, Office of New Reactors, telephone: 301–415–5196; email: *Nishka.Devaser@nrc.gov;* both staff at U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Background

A summary of the comments and the NRC staff's disposition of the comments are available in a separate document, ''Response to Public Comments on Draft Standard Review Plan Sections from Chapters 3 and 5: Design of Structures, Components, Equipment, and Systems, and Reactor Coolant System and

Connected Systems'' (ADAMS Accession No. ML16088A345).

The Office of New Reactors and the Office of Nuclear Reactor Regulation are revising these sections from their current revisions. Details of specific changes in the proposed revisions are included at the end of each of the proposed sections.

The changes to these SRP sections reflect current NRC staff review methods and practices based on lessons learned from the NRC's reviews of design certification and combined license applications completed since the last revision of this chapter.

II. Backfitting and Finality Provisions

Issuance of these revised SRP sections does not constitute backfitting as defined in § 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Backfitting,'' (the Backfit Rule) or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. The SRP positions do not constitute backfitting, inasmuch as the SRP is internal guidance directed at the NRC staff with respect to their regulatory responsibilities.

The SRP provides guidance to the staff on how to review an application for the NRC's regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. The NRC staff has no intention to impose the SRP positions on current licensees and regulatory approvals either now or in the future.

The staff does not intend to impose or apply the positions described in the SRP to existing (already issued) licenses and regulatory approvals. Therefore, the issuance of a final SRP—even if considered guidance that is within the purview of the issue finality provisions in 10 CFR part 52—need not be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP on holders of already issued licenses in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must make the showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable issue finality provision.

3. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed in the next paragraph—were intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) and/or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP in a manner which does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

IV. Availability of Documents

The ADAMS accession numbers revised sections are available in ADAMS under the accession numbers in the table below.

Document	ADAMS accession No.*
Section 3.6.2, ''Determination of Rupture Locations and Dynamic Effects Associated with the Postulated Rupture of Piping,'' Revision 3	ML16088A041
Section 3.9.1, ''Special Topics for Mechanical Components,'' Revision 4	ML16088A068
Section 3.10, ''Seismic and Dynamic Qualification of Mechanical and Electrical Equipment,'' Revision 4	ML16088A101
Section 5.2.1.1, ''Compliance with the Codes and Standards Rule, 10 CFR 50.55a,'' Revision 4	ML16088A127
Section 5.2.1.2, ''Applicable Code Cases,'' Revision 4	ML16088A219
Branch Technical Position 3–4, ''Postulated Rupture Locations in Fluid System Piping Inside and Outside Containment,'' Revision 3	ML16085A315

* See documents in the package at ADAMS Accession Number ML16083A387 to see changes made since last revision.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Engineering, Infrastructure, and Advanced Reactors, Office of New Reactors.

[FR Doc. 2016–30908 Filed 12–22–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0268]

Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment draft regulatory guide (DG), DG–3050, ''Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation.'' This proposed revision (Revision 2) to RG 3.54 provides methods acceptable to the Nuclear Regulatory Commission (NRC) staff for calculating spent nuclear fuel heat generation rates for use for an independent spent fuel storage installation (ISFSI).

DATES: Submit comments by February 21, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given,

comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods:

• *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0268. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Alexis Sotomayor-Rivera, Office of Nuclear Material Safety and Safeguards, telephone: 301–415–7265; email: *Alexis.Sotomayor-Rivera@nrc.gov* and Harriet Karagiannis, Office of Nuclear Regulatory Research, telephone: 301–415–2493 or email: *Harriet.Karagiannis@nrc.gov,* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0268 when contacting the NRC about the availability of information regarding this document. You may obtain publically-available information related to this document, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0268.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if available in ADAMS) is provided the first time that a document is referenced. The DG is electronically available in ADAMS under Accession No. ML16139A215.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0268 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled, ''Spent Fuel Heat Generation in an Independent Spent Fuel Storage Installation,'' is temporarily identified by its task number, DG–3050. Draft Guide–3050 is proposed Revision 2 to Regulatory Guide (RG) 3.54, dated January 1999.

This revision (Revision 2) presents an up-to-date methodology for determining heat generation rates for both PWR and BWR fuel and provides greater flexibility (less restrictions) than the previous revision. It allows loading of higher burnup fuel by using more accurate methods for decay heat calculations by covering a wider range of fuel characteristics, including operating history.

III. Backfitting and Issue Finality

This draft regulatory guide, if finalized, would provide guidance to general and specific NRC part 72 licensees with respect to determining heat generation rates for spent fuel. Issuance of this draft regulatory guide, if finalized, would not constitute backfitting as defined in in section 72.62(a) of title 10 of the *Code of Federal Regulations* (10 CFR), which is applicable to ISFSIs. Issuance of the draft regulatory guide, if finalized, would also not constitute backfitting under 10 CFR 50.109, or otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. The staff's position is based upon the following considerations.

1. The draft regulatory guide positions, if finalized, describe a methodology acceptable to the NRC staff, and expressly states that current licensees may continue to use guidance the NRC found acceptable for complying with the identified regulations as long as the licensee does not initiate, as a voluntary matter, a change to its current licensing basis. Therefore, the guidance, if finalized, would not constitute backfitting as defined in 10 CFR 72.62(a).

2. The NRC has no intention of imposing the positions in the draft regulatory guide on existing ISFSI or nuclear power plant licenses either now or in the future (absent a voluntary request for change from the licensee).

3. The matters addressed in the regulatory guide apply equally to both specific licensees under part 72 as well as general licensees under who hold ISFSI licensees by virtue of their status as holders of part 50 operating licenses or as holders of part 52 combined licenses.

4. Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants. Applicants and potential applicants are not, with certain exceptions, protected by the backfitting provisions in 10 CFR 72.62. This is because the backfitting provisions in Part 72 were not intended to apply to every NRC action which substantially changes the expectations of current and future applicants.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2016–30896 Filed 12–22–16; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0224]

Restart of a Nuclear Power Plant Shut Down by a Seismic Event

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; extension of comment period.

SUMMARY: On November 3, 2016, the U.S. Nuclear Regulatory Commission (NRC) issued for public comment draft regulatory guide (DG) DG–1337, ''Restart of a Nuclear Power Plant Shut Down by a Seismic Event,'' in the **Federal Register** for a 60-day public comment period which ends on January 3, 2017. The NRC is extending the public comment period to February 28, 2017, recognizing the potential for unavailability of people during the holiday period. The guide describes methods acceptable to the NRC staff that can be used to demonstrate that a nuclear power plant is safe for restarting after a shutdown caused by a seismic event.

DATES: Submit comments by February 28, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specified subject):

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID: NRC–2016–0224. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12H08, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Thomas Weaver, telephone: 301–415–2383, email: *Thomas.Weaver@nrc.gov;* and Edward O'Donnell, telephone: 301–415–3317, email: *Edward.ODonnell@nrc.gov.* Both are staff of the Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID: NRC–2016–0224 when contacting the NRC about the availability of information regarding this action. You may obtain publically-available information related to this action, by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID: NRC–2016–0224.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The DG is electronically available in ADAMS under Accession No. ML16182A321.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0224 in your comment submission. The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as enters the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses. The DG, entitled ''Restart of a Nuclear Power Plant Shut Down by a Seismic Event,'' is a proposed revised guide temporarily identified by its task number, DG–1337. The proposed revision of RG 1.167 describes methods acceptable to the NRC staff that can be used to demonstrate that a nuclear power plant is safe for restarting after a shutdown caused by a seismic event. It incorporates lessons learned following the shutdown of nuclear power plants due to earthquake ground shaking and post-earthquake evaluations since Revision 0 was issued in 1997. They include experience gained through the shutdown and restart process of the North Anna nuclear power plant following the Mineral, Virginia earthquake in 2011. It endorses, with some exceptions, sections of ANS/ANSI–2.23–2016, ''Nuclear Power Plant Response to an Earthquake,'' that relate to post-shutdown inspections and tests, inspection criteria, documentation, and long-term evaluations. The guidance includes an action level matrix to direct actions based on the earthquake level and observed damage levels at a nuclear power plant.

II. Backfitting and Issue Finality

Draft Guide–1337 describes methods acceptable to the NRC staff that can be used to demonstrate that a nuclear power plant is safe for restarting after a shutdown caused by a seismic event. Issuance of this DG, if finalized, would not constitute backfitting as defined in § 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR) (the

Backfit Rule) and would not otherwise be inconsistent with the issue finality provisions in 10 CFR Part 52. As discussed in the ''Implementation'' section of this DG, the NRC has no current intention to impose this guide, if finalized, on holders of current operating licenses or combined licenses.

This DG may be applied to applications for operating licenses, combined licenses, early site permits, and certified design rules docketed by the NRC as of the date of issuance of the final regulatory guide, as well as future applications submitted after the issuance of the regulatory guide. Such action would not constitute backfitting as defined in the Backfit Rule or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants or potential applicants are not within the scope of entities protected by the Backfit Rule or the relevant issue finality provisions in part 52.

Dated at Rockville, Maryland, this 19th day of December, 2016.

For the Nuclear Regulatory Commission.

Thomas H. Boyce,

Chief, Regulatory Guidance and Generic Issues Branch, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 2016–30895 Filed 12–22–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79590; File No. SR–C2–2016–024]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Debit/Credit Price Reasonability Check for Complex Orders

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 9, 2016, C2 Options Exchange, Incorporated (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the debit/credit price reasonability check for complex orders. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

C2 Options Exchange, Incorporated

Rules

* * * * *

Rule 6.13. Complex Order Execution

(a)–(c) No change.

. . . Interpretations and Policies:

.01–.03 No change.

.04 Price Check Parameters: On a class-by-class basis, the Exchange may determine (and announce via Regulatory Circular) which of the following price check parameters will apply to eligible complex orders. Paragraphs (b), (e) and (g) will not be applicable to stock-option orders.

For purposes of this Interpretation and Policy .04:

Vertical Spread. A ''vertical'' spread is a two-legged complex order with one leg to buy a number of calls (puts) and one leg to sell the same number of calls (puts) with the same expiration date but different exercise prices.

Butterfly Spread. A ''butterfly'' spread is a three-legged complex order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice as many calls (puts), all with the same expiration date but different exercise prices, and the exercise price of the middle leg is between the exercise prices of the other legs. If the exercise price of the middle leg is halfway between the exercise prices of the other legs, it is a ''true'' butterfly; otherwise, it is a ''skewed'' butterfly.

Box Spread. A ''box'' spread is a four-legged complex order with one leg to buy calls and one leg to sell puts with one strike price, and one leg to sell calls and one leg to buy puts with another strike price, all of which have the same expiration date and are for the same number of contracts.

To the extent a price check parameter is applicable, the Exchange will not automatically execute an eligible complex order that is:

(a)–(b) No change.

(c) Debit/Credit Price Reasonability Checks:

(1) No change.

(2) The System defines a complex order as a debit or credit as follows:

(A)–(B) No change.

(C) an order for which all pairs and loners are debits (credits) is a debit (credit). For purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and [both]*the* legs have the same expiration date but different exercise prices or, for all options except European-style index options, [the same exercise price but]different expiration dates *and the exercise price for the call (put) with the farther expiration date is the same as or lower (higher) than the exercise price for the nearer expiration date.* A ''loner'' is any leg in an order that the System cannot pair with another leg in the order (including legs in orders for European-style index options that have the same exercise price but different expiration dates). The System treats the stock leg of a stock-option order as a loner.

(i) No change.

(ii) The System then, for all options except European-style index options, pairs legs to the extent possible [with the same exercise prices]across expiration dates, pairing one [leg]*call (put)* with the [leg]*call (put)* that has the next nearest expiration date *and the same or next lower (higher) exercise price.*

(iii) A pair of calls is a credit (debit) if the exercise price of the buy (sell) leg is higher than the exercise price of the sell (buy) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the [pair has the same]exercise price *of the sell (buy) leg is the same as or lower than the exercise price of the buy (sell) leg*).

(iv) A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the [pair has the same]exercise price *of the sell (buy) leg is the same as or higher than the exercise price of the buy (sell) leg*).

(v) No change.

The System does not apply the check in subparagraph (1) to an order for which the System cannot define whether it is a debit or credit.

(3)–(5) No change.

(d)–(h) No change.

.05–.07 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the debit/credit price reasonability check for complex orders in Rule 6.13, Interpretation and Policy .04(c) to expand its applicability. Pursuant to the debit/credit price reasonability check, the System rejects back to the Trading Permit Holder any limit order for a debit strategy with a net credit price or any limit order for a credit strategy with a net debit price, and cancels any market order (or any remaining size after partial execution of the order) for a credit strategy that would be executed at a net debit price. The System defines a complex order as a debit (credit) if all pairs and loners are debits (credits).[3] For purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and both legs have the same expiration date but different exercise prices or, for all options except European-style index options, the same exercise price but different expiration dates. A ''loner'' is any leg in an order that the System cannot pair with another leg in the order (including legs in orders for European-style index options that have the same exercise price but different expiration dates).[4]

(1) The System first pairs legs to the extent possible within each expiration date, pairing one leg with the leg that has the next highest exercise price.

(2) The System then, for options except European-style index options, pairs legs to the extent possible with the same exercise prices across expiration dates, pairing one leg with the leg that has the next nearest expiration date.

(3) A pair of calls is a credit (debit) if the exercise price of the buy (sell) leg is higher than the exercise price of the sell (buy) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).

(4) A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).

(5) A loner to buy is a debit, and a loner to sell is a credit.

The System does not apply the check in subparagraph (1) to an order for which the System cannot define whether it is a debit or credit.

As discussed in the rule filing proposing the current check, the System determines whether an order is a debit or credit based on general options volatility and pricing principles, which the Exchange understands are used by market participants in their option pricing models.[5] With respect to options with the same underlying:

- If two calls have the same expiration date, the price of the call with the lower exercise price is more than the price of the call with the higher exercise price;
- if two puts have the same expiration date, the price of the put with the higher exercise price is more than the price of the put with the lower exercise price; and
- if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration.

In other words, a call (put) with a lower (higher) exercise price is more expensive than a call (put) with a higher (lower) exercise price, because the ability to buy stock at a lower price is more valuable than the ability to buy stock at a higher price, and the ability to sell stock at a higher price is more valuable than the ability to sell stock at a lower price. A call (put) with a farther expiration is more expensive than the price of a call (put) with a nearer expiration, because locking in a price further into the future involves more risk for the buyer and seller and thus is more valuable, making an option (call or put) with a farther expiration more expensive than an option with a nearer expiration.

Under the current check, the System only pairs calls (puts) if they have the same expiration date but different exercise prices or the same exercise price but different expiration dates. With respect to pairs with different expiration dates but the same exercise price,[6] a pair of calls is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg)[sic], and a pair of puts is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg)[sic]. However, based on the principles described above, if the sell (buy) leg of a pair of calls has a farther expiration date (and thus is more expensive) than the expiration date of the buy (sell) leg as well as a lower exercise price (and thus is more expensive) than the exercise price of the sell (buy) leg, then the pair is a credit (debit) (as is the case if the exercise prices of each call were the same under the current rule). Similarly, if the sell (buy) leg of a pair of puts has a farther expiration date (and thus is more expensive) than the expiration date of the buy (sell) leg as well as a higher exercise price (and thus is more expensive) than the exercise price of the buy (sell) leg, then the pair of puts is a credit (as is the case if the exercise prices of each put were the same under the current rule).

Therefore, the proposed rule change expands this check to pair calls (puts) with different expiration dates if the exercise price for the call (put) with the farther expiration date is lower (higher) than the exercise price for the nearer expiration date in addition to those with different expiration dates and the same exercise price. Specifically, the proposed rule change amends subparagraph (c)(2)(C) to state, for purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and the legs have different expiration dates and the exercise price for the call (put) with

[3] Rule 6.13, Interpretation and Policy .04(c)(2)(C). The System also determines certain call and put butterfly spreads as debits and credits. *See* Rule 6.13, Interpretation and Policy .04(c)(2)(A) and (B).

[4] The System treats the stock leg of a stock-option order as a loner.

[5] Securities Exchange Act Release No. 34–76959 (January 21, 2016), 81 FR 4708 (January 27, 2016) (SR–C2–2015–033) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Price Protection Mechanisms for Quotes and Orders).

[6] A complex order consisting of a buy leg and a sell leg with different expiration dates are commonly referred to in the industry as ''calendar spreads.''

the farther expiration date is the same as or lower (higher) than the exercise price for the nearer expiration date. The proposed rule change also amends subparagraphs (c)(2)(C)(ii) through (iv) to incorporate these additional pairs of calls (puts). When pairing legs across expiration dates, the System will pair one call (put) with the call (put) that has the next nearest expiration date and the same or next lower (higher) exercise price. Based on the pricing principles described above, a pair of calls is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the exercise price of the sell (buy) leg is the same as or lower than the exercise price of the buy (sell) leg). A pair of puts is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the exercise price of the sell (buy) leg is the same as or higher than the exercise price of the buy (sell) leg).[7] Entering a calendar spread with a credit (debit) strategy at a debit (credit) price (or that would execute at a debit (credit) price), which price is inconsistent with the strategy, may result in executions at prices that are extreme and potentially erroneous.

Below are examples demonstrating how the System determines whether a complex order with two legs, which have different expiration dates and exercise prices, is a debit or credit, and whether the System will reject the order pursuant to the debit/credit price reasonability check.[8]

Example #1—Limit Call Spread

A Trading Permit Holder enters a spread to buy 10 Sept 30 XYZ calls and sell 10 Oct 20 XYZ calls at a net debit price of −$10.00. The System defines this order as a credit, because the buy leg is for the call with the nearer expiration date and higher exercise price (and is thus the less expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a credit strategy that contains a net debit price.

Example #2—Limit Put Spread

A Trading Permit Holder enters a spread to buy 20 Oct 30 XYZ puts and sell 20 Sept 20 XYZ puts at a net credit price of $9.00. The System defines this order as a debit, because the buy leg is for the put with the farther expiration date and the higher exercise price (and thus the more expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a debit strategy that contains a net credit price.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change expands the applicability of the current debit/credit price reasonability check to additional complex orders for which the Exchange can determine whether the order is a debit or credit. By expanding the orders to which these checks apply, the Exchange can further assist with the maintenance of a fair and orderly market by mitigating the potential risks associated with additional complex orders trading at prices that are inconsistent with their strategies (which may result in executions at prices that are extreme and potentially erroneous), which ultimately protects investors. This proposed expansion of the debit/credit price reasonability check promotes just and equitable principles of trade, as it is based on the same general option and volatility pricing principles the System currently uses to pair calls and puts, which principles the Exchange understands are used by market participants in their option pricing models.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition, because the debit/credit price reasonability check will continue to apply to all incoming complex orders of all Trading Permit Holders in the same manner. The proposed rule change expands the applicability of the current check to additional complex orders for which the Exchange can determine whether the order is a debit or credit, which will help further prevent potentially erroneous executions and benefits all market participants. The proposed rule change does not impose any burden on intercompany competition, as it is intended to prevent potentially erroneously priced orders from entering C2's system and executing on C2's market. The Exchange believes the proposed rule change would ultimately provide all market participants with additional protection from anomalous or erroneous executions.

The individual firm benefits of enhanced risk protections flow downstream to counterparties both at the Exchange and at other options exchanges, which increases systemic protections as well. The Exchange believes enhancing risk protections will allow Trading Permit Holders to enter orders and quotes with further reduced fear of inadvertent exposure to excessive risk, which will benefit investors through increased liquidity for the execution of their orders. Without adequate risk management tools, such as the one proposed to be enhanced in this filing, Trading Permit Holders could reduce the amount of order flow and liquidity they provide. Such actions may undermine the quality of the markets available to customers and other market participants. Accordingly, the proposed rule change is designed to encourage Trading Permit Holders to submit additional order flow and liquidity to the Exchange, which may ultimately promote competition. In addition, providing Trading Permit Holders with more tools for managing risk will facilitate transactions in securities because, as noted above, Trading Permit Holders will have more confidence protections are in place that reduce the risks from potential system errors and market events.

[7] The proposed rule change makes no changes to this check with respect to pairs of orders with the same expiration date but different exercise prices. Therefore, the rule filing omits references to the portions of the current rule related to those pairs to focus on the changes made to pairs with different expiration dates.

[8] The same principles would apply to complex orders with more than two legs, which include two legs that can be paired in this way.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–C2-*2016–024 on the subject line.*

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–C2–2016–024. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2016–024 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30938 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

(Release No. 34–79599; File No. SR–NYSEMKT–2016–120]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing of Proposed Rule Change Amending Rule 971.1NY and To Make Permanent the Aspects of Customer Best Execution Auction That Are Subject to a Pilot

December 19, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 16, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 971.1NY and to make permanent the aspects of Customer Best Execution Auction (''CUBE'') that are subject to a pilot, as amended. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 971.1NY to make permanent the aspects of Customer Best Execution Auction (''CUBE'') that are subject to a pilot. Currently, the provisions of Rule 971.1NY that govern execution of CUBE Orders of fewer than 50 contracts are operating on a pilot basis.[4] The Exchange proposes to make these provisions permanent and introduce an additional scenario when the Exchange would reject a CUBE Order for fewer than 50 contracts.

Background

Rule 971.1NY sets forth an electronic crossing mechanism for single-leg

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Commentary .01 to Rule 971.1NY and Rules 971.1NY(b)(1)(B) and (b)(8).

orders with a price improvement auction on the Exchange, referred to as the CUBE (or the ''CUBE Auction'').[5] The CUBE Auction, which was approved in April 2014, is designed to provide price improvement for paired orders of any size.[6] Two aspects of the CUBE were approved on a pilot basis—Rule 971.1NY(b)(1)(B), which establishes the permissible range of executions for CUBE Auctions for fewer than 50 contracts; and Rule 971.1NY(b)(8), which establishes that the minimum size for a CUBE Auction is one contract (together, the ''CUBE Pilot'').

To commence an Auction, an ATP Holder (''Initiating Participant'') may electronically submit for execution a limit order it represents as agent on behalf of a public customer, broker dealer, or any other entity (''CUBE Order''). The Initiating Participant would agree to guarantee the execution of the CUBE Order by submitting a contra-side order representing principal interest or interest it has solicited to trade with the CUBE Order at a specified price (the ''single stop price'') or by utilizing auto-match or auto-match limit.[7]

Rule 971.1NY(b)(1) sets forth the permissible range of executions for a CUBE Order.[8] Pursuant to the CUBE Pilot, a CUBE Order for fewer than 50 contracts is subject to tighter ranges of execution than larger CUBE Orders to maximize price improvement.[9] Specifically, if the CUBE Order is for fewer than 50 contracts, the range of permissible execution will be equal to or better than the National Best Bid/Offer (''NBBO''), provided that such price must be at least one cent better than any displayed interest in the Exchange's Consolidated Book.[10]

The CUBE Pilot was initially approved for a one-year pilot, and has since been extended for three subsequent years.[11] Pursuant to Commentary .01 to Rule 971.1NY, the CUBE Pilot would, if not amended or made permanent, end on January 18, 2017.[12]

Proposal To Make CUBE Pilot Permanent

The Exchange implemented the CUBE Auction to provide an electronic crossing mechanism for single-leg orders with a price improvement auction to create tighter markets and ensure that each order receives the best possible price. The Exchange believes that the CUBE Pilot attracts order flow and promotes competition and price improvement opportunities for CUBE Orders of fewer than 50 contracts. The Exchange therefore proposes to make permanent the CUBE Pilot before it expires on January 18, 2017.

In connection with the proposal to make the CUBE Pilot permanent, the Exchange proposes to modify Rule 971.1NY to introduce an additional scenario when a CUBE Order for fewer than 50 contracts would either be rejected or require price improvement. Currently, Rule 971.1NY(b)(6) provides that CUBE Orders for fewer than 50 contracts that are submitted when the BBO is $0.01 wide will be rejected. The Exchange proposes to amend this rule to provide that CUBE Orders for fewer than 50 contracts entered when the NBBO is $0.01 wide would be rejected unless they are guaranteed a penny of price improvement. To reflect this change, the Exchange proposes to amend Rule 971.NY(b)(6) to provide that CUBE Orders for fewer than 50 contracts would be rejected when (A) the BBO is $0.01 wide (*i.e.,* the current requirement); or (B) the NBBO is $0.01 wide, unless the Initiating Participant guarantees the execution of the CUBE Order to buy (sell) at a price that is equal to the NBO minus one cent (NBB plus one cent), utilizing a single stop price, auto-match, or auto-match limit as specified in paragraphs (c)(1)(A)–(C) of Rule 971.1NY. Accordingly, as proposed, the Exchange would reject a CUBE Order for fewer than 50 contracts when the NBBO is $0.01 wide unless the Initiating Participant guarantees a penny of price improvement.[13]

The Exchange believes this proposal would further the goal of the CUBE Auction, as the CUBE Order would be ''guaranteed an execution price of at least NBBO at the time the CUBE Auction commences and, moreover, would be given an opportunity for price improvement beyond the NBBO by being exposed to ATP Holders during the CUBE Auction.'' [14] The proposal would guarantee price improvement in penny-wide markets by requiring the Initiating Participant to guarantee to improve the contra-side NBBO when the spread is $0.01 wide at the time the CUBE Order for fewer than 50 contracts is submitted—such that the Initiating Participant would agree to buy at the bid or sell at the offer.

In connection with the proposal to make permanent the CUBE Pilot (*i.e.,* Rules 971.1NY(b)(1)(B) and 971.1NY(b)(8)), the Exchange proposes to delete Commentary .01 to Rule 971.1NY, which describes the CUBE Pilot and the Exchange's associated obligation to produce data, to hold this paragraph as ''Reserved.'' [15]

The Exchange has analyzed the data gathered during the CUBE Pilot (the ''CUBE Data'') and believes the CUBE Data indicates that there is meaningful competition in CUBE Auctions for all size orders, regardless of the size of the order or the bid/ask differential of the NBBO.[16] Specifically, between January and June 2015, a total of 4,493,429 contracts were executed in CUBE Auctions. Market Makers and other participants submitted competitive bids and offers during the CUBE Auction's Response Time Interval, indicating interest in participating in CUBE

[5] *See generally* Rule 971.1NY (Electronic Cross Transactions).

[6] *See* Securities Exchange Act Release No. 72025 (April 25, 2014), 79 FR 24779 (May 1, 2014) (NYSEMKT–2014–17) (the ''CUBE Approval Order'').

[7] *See* Rule 971.1NY(c)(1)(A)–(C). In addition, CUBE provides for the automatic execution, under certain conditions, of a crossing transaction where there is a public customer order in the same options series on each side.

[8] Subject to specified exceptions, a CUBE Order to buy (sell) may execute at prices equal to or between the initiating price as the upper (lower) bound and the National Best Bid (''NBB'') (National Best Offer (''NBO'')) as the lower (upper) bound. *See* Rule 971.1NY(b).

[9] *See* Rule 971.1NY(b)(1)(B). *See also* Rule 971.1NY(b)(8) (also part of the CUBE Pilot, providing that the minimum size for a CUBE Auction is one contract).

[10] *See* Rule 971.1NY(b)(1)(B).

[11] *See* CUBE Approval Order, *supra,* note 6. The CUBE Pilot was subsequently extended, most recently until January 18, 2017, to align the expiration of the pilot period with that of other competing options exchange that offer electronic price improvement auctions similar to the CUBE. *See* Securities Exchange Act Release Nos. 74695 (April 9, 2015), 80 FR 20274 (April 15, 2015) (SR–NYSEMKT–2015–28); 75460 (July 15, 2015), 80 FR 43141 (July 21, 2015) (SR–NYSEMKT–2015–48); 78324 (July 14, 2016), 81 FR 47196 (July 20, 2016) (SR–NYSEMKT–2016–69).

[12] In connection with the CUBE Pilot, the Exchange has provided specified data to the Commission to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the CUBE Auction. *See* CUBE Approval Order, *supra* note 6, 79 FR at 24785–86, fn. 94–95; Commentary .01 to Rule 971.1NY. *See also* Securities Exchange Act Release No. 78324 (July 14, 2016), 81 FR 47196 (July 20, 2016) (SR–NYSEMKT–2016–69).

[13] The proposal would not alter the separate price improvement requirement set forth in Rule 971.1NY(b)(1)(B), which establishes the range of permissible execution prices for CUBE Orders of fewer than 50 contracts will be equal to or better than the NBBO and at least one cent better than any displayed interest in the Exchange's Consolidated Book. *See also* Rule 971.1NY(b)(2)–(9) (delineating reasons CUBE Orders would be rejected, none of which would be altered by this proposal).

[14] *See* CUBE Approval Order, *supra* note 6 at 79 FR 24779, at 24787.

[15] *See* proposed Commentary .01 to Rule 971.1NY. The Exchange notes that it would retain the text of Rules 971.1NY(b)(1)(B) and 971.1NY(b)(8).

[16] *See* Exhibit 3 (summary of the CUBE Data from January—June 2015).

Auction trades. In addition, the Exchange believes the allocation of orders executed in CUBE Auctions—either at a single price or multiple prices—supports competitive bidding and offering.

The Exchange also believes that the CUBE Data reveals that there is an active and liquid market functioning on the Exchange outside of the CUBE Auction,[17] Competitive bidding and offering occurs outside of CUBE Auction and participants can submit bids/offers at improved prices or join a bid or offer (thus improving liquidity at that price) regardless of the bid/ask differential of the NBBO.

Although the Exchange continues to believe that the CUBE Auction provides opportunities for price improvement of CUBE Orders (*i.e.,* the agency order) with a size of less than 50 contracts when the NBBO has a bid/ask differential of $0.01 (*e.g.*because the market conditions may change during the CUBE Auction), the data have not demonstrated significant price improvement in this narrow circumstance. Between January and June 2015, a total of 171,822 contracts were executed in CUBE Auctions for fewer than 50 contracts when the NBBO had a bid/ask differential of $0.01. Only 1,660 of those contracts received price improvement of $0.01. Thus, consistent with the Exchange's view that price improvement auctions should provide improvement, particularly for small orders, the Exchange is proposing to require that Initiating Participants guarantee price improvement for CUBE Orders for 50 or fewer contracts in such market conditions.

Further, the Exchange notes that CUBE Auctions for fewer than 50 contracts have served as a valuable tool in providing price improvement when the NBBO has a bid/ask differential of greater than $0.01. For example, for CUBE Auctions of this size, the CUBE Data indicates that when the NBBO has a bid/ask differential between $0.02 and $0.05, contracts executed in CUBE Auctions received on average a price improvement of $0.0114. In wider markets (*i.e.,* bid/ask differentials greater than $0.05), contracts executed in CUBE Auctions received, on average, price improvement of more than $0.0759.

In the CUBE Approval Order, the Commission stated that ''the Exchange's proposal [for the CUBE Pilot] should provide small customer orders with the opportunity for price improvement in a manner that is consistent with the Act.'' [18]

Based on a review of the CUBE Data, the Exchange believes that the CUBE Auction, as modified herein, would allow the Exchange to continue to provide meaningful competition for all size orders—including small orders—as well as to continue to offer an active and liquid market outside of the CUBE Auction. Thus, the Exchange believes it would be beneficial to customers and to the options market to make the CUBE Pilot permanent, as amended. Once permanent, the CUBE Auction would continue to accept orders of fewer than 50 contracts, provided such Orders comply with the modified CUBE rules, which should continue to attract small orders and promote competition and price improvement opportunities for such CUBE Orders.

Implementation

Because of the technology changes associated with the proposed amendment to Rule 971.1NY(b)(6), the Exchange proposes to announce the implementation of the proposed change to the CUBE rules as well as the change to make the CUBE Pilot permanent, via Trader Update. Pending approval of this proposal by the Commission, the changes would be implemented prior to the expiration of the CUBE Pilot (*i.e.,* before January 18, 2017).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [19] in general, and furthers the objectives of Section 6(b)(5) of the Act [20] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes the proposal to make permanent the CUBE Pilot would remove impediments to and perfect the mechanism of a free and open market and a national market system because the CUBE Pilot, together with the proposal to amend CUBE herein, are reasonably designed to create tighter markets and ensure that each order receives the best possible price, which benefits investors by increasing competition thereby maximizing opportunities for price improvement. In particular, the proposal to require that Initiating Participants guarantee improvement of $0.01 (by buying at the bid or selling at the offer) on CUBE Orders for fewer than 50 contracts that are submitted when the NBBO is $0.01 wide in order to participate in the CUBE promotes just and equitable principles of trade as it would ensure that small orders receive at least minimal price improvement, which may encourage the submission and execution of more orders of fewer than 50 contracts in CUBE, thus providing an increased probability of price improvement for smaller orders.

The proposal to make permanent the CUBE Pilot would also allow the applicable rules (Rules 971.1NY(b)(1)(B) and 971.1NY(b)(8) to remain in effect, which would add certainty to Exchange rules and avoid any potential investor confusion that could result from a suspension or temporary interruption in the CUBE Pilot. Because the CUBE Pilot is applicable to all CUBE Orders for fewer than 50 contracts, and the requirement that the minimum size of the CUBE Auction is one contract, the proposal to make the Pilot permanent merely acts to maintain status quo on the Exchange, which promotes just and equitable principles of trade and removes impediments to, and perfects the mechanism of, a free and open market and a national market system.

The Exchange believes the proposed rule changes promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because price improvement auctions are widely recognized by market participants as invaluable, both as a tool to access liquidity and a mechanism to help meet their best execution obligations. The Exchange believes the proposed rule changes would further the ability of market participants to carry out these strategies.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that making the

[17] From January 2015 through June 2015, the Exchange executed a total of 152,193,516 contracts outside of CUBE Auctions, which the Exchange believes is indicative of an active and liquid market functioning on the Exchange outside of the CUBE Auctions.

[18] *See* CUBE Approval Order, *supra* note 6, 79 FR at 24787.

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

CUBE Pilot permanent would continue to foster competition among liquidity providers and maintain execution quality on the Exchange. The CUBE Auction for small orders, as modified herein, would continue to operate to create tighter markets and ensure that each order receives the best possible price, which benefits investors by increasing competition thereby maximizing opportunities for price improvement.

The Exchange notes that it operates in a highly competitive market in which market participants can easily direct their orders to competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2016–120 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–120. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–120 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

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BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79603; File No. SR–BatsBYX–2016–41]

Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, To Enhance the Exchange's Midpoint Routing Functionality

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 16, 2016, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, to enhance the Exchange's midpoint routing functionality.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.9, Orders and Modifiers, and Rule 11.13, Order Execution and Routing, to enhance the Exchange's midpoint routing functionality. Specifically, the Exchange proposes to amend Rule 11.13(b)(3)(Q) to adopt a new midpoint routing strategy known as RMPL. The Exchange also proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.13(b)(3)(E) and the proposed RMPL routing strategy described below.

RMPL Routing Strategy

The Exchange proposes to amend Rule 11.13(b)(3)(Q) to adopt a new midpoint routing strategy known as RMPL. Currently, the Exchange offers the RMPT routing strategy, which is described under Rule 11.13(b)(3)(Q). RMPT is a routing strategy under which a Mid-Point Peg Order [5] checks the System [6] for available shares and any remaining shares are then sent to destinations on the System routing table [7] that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the BYX Book [8] as a Mid-Point Peg Order, unless otherwise instructed by the User.[9]

The Exchange now proposes RMPL as an alternative to the RMPT routing strategy for those seeking to route Mid-Point Peg Orders to destinations that support midpoint eligible executions that are not included under the current RMPT routing strategy. Like RMPT, RMPL would be a routing strategy under which a Mid-Point Peg Order checks the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the BYX Book as a Mid-Point Peg Order, unless otherwise instructed by the User. As it does for RMPT, the Exchange would determine via the System routing table the specific trading venues that support midpoint eligible orders to which the System would route RMPL orders. While RMPL will operate in an identical manner as RMPT, the trading venues that each routing strategy would route to and the order in which it routes them will differ. As is the case for RMPT, the Exchange may alter the trading venues included under RMPL and the order in which they are routed to from time to time in accordance with its System routing table.[10]

The Exchange proposes to revise Rule 11.13(b)(3)(Q) to describe both the RMPT and proposed RMPL routing strategies. As a result of these revision, the construct of paragraph (b)(3)(Q) of Rule 11.13 would be similar to paragraph (b)(3)(G) of Rule 11.13, which also delineates routing strategies that include different sets of destinations as determined by the System routing table.

Mid-Point Peg Order Routing

The Exchange also proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with. Currently, Exchange Rule 11.9(c)(9) states that Mid-Point Peg Orders are not eligible for routing pursuant to Rule 11.13 unless routed utilizing the RMPT routing strategy.[11] The Exchange now proposes to amend Rule 11.9(c)(9) to expand the routing strategies that Mid-Point Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.13(b)(3)(E) and the proposed RMPL routing strategy described above.

Destination Specific is a routing option under which an order checks the System for available shares and then is sent to an away trading center or centers specified by the User.[12] As proposed, a User entering a Mid-Point Peg Order may select the Destination Specific routing strategy to route such order to a specific trading center or center that supports midpoint executions after being exposed to the BYX Book. This differs from RMPT and the proposed RMPL routing strategies in that the destinations orders subject to the RMPT and RMPL routing strategies are selected by the Exchange via the System routing table and not the User itself.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [13] in general, and furthers the objectives of Section 6(b)(5) of the Act [14] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [15] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The proposed rule change promotes just and equitable principles of trade because it would enhance the Exchange's midpoint routing functionality and provide Users with greater flexibility in routing Mid-Point Peg Orders to trading venues that support midpoint executions. This would save such Users from developing complicated order routing strategies on their own. The Exchange believes that the proposed rule change will also accomplish those ends by providing market participants with an additional voluntary routing strategies and options that will enable

[5] In sum, a Mid-Point Peg Order is a limit order that after entry into the System, the price of the order is automatically adjusted by the System in response to changes in the NBBO to be pegged to the mid-point of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. *See* Exchange Rule 11.9(c)(9).

[6] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(aa).

[7] The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. *See* Exchange Rule 11.13(b)(3). While the process for determining the specific trading venues to which orders are routed is proprietary, the Exchange publicly discloses the trading venues associated with each routing strategy via its Web site at *http://cdn.batstrading.com/resources/features/bats_exchange_routing-strategies.pdf*.

[8] The term ''BYX Book'' is defined as the ''System's electronic file of orders.'' *See* Exchange Rule 1.5(e).

[9] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(cc).

[10] The Exchange notes that the trading venues to which other of its routing strategies route orders to are also determined in accordance with the System routing table. *See e.g.,* Exchange Rule 11.13(b)(3)(G) (listing a series of routing options whose destinations are determined by the System routing table, like the proposed revisions to Exchange Rule 11.13(b)(3)(Q)). *See also* subparagraphs (A), (B), (C), (D) and (I) of Exchange Rule 11.9(b)(3) [sic] (describing routing strategies that route orders to destinations on the System routing table).

[11] The Exchange also proposes to amend the second to last sentence of Rule 11.9(c)(9) to correct an erroneous reference to Rule 11.13(a)(3)(Q) by replacing it with ''Rule 11.13(b)(3)''.

[12] *See* Rule 11.13(b)(3)(E).

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78k–1(a)(1).

them to easily access midpoint liquidity available on the Exchange and other trading venues. The Exchange notes that routing through the Exchange is voluntary and those seeking to access midpoint liquidity on other trading venues may do so directly and without the involvement of the Exchange. Therefore, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by self-regulatory organizations, alternative trading systems, other broker-dealers, market participants' own proprietary routing systems, and service bureaus. System enhancements, such as the changes proposed in this rule filing, do not burden competition, but rather encourage competition because they are designed to attract additional order flow to the Exchange through enhanced midpoint routing functionality. Such changes are intended to offer investors higher quality and better value than services offered by others. Encouraging competitors to provide higher quality and better value is the essence of a well-functioning competitive marketplace. Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[16] and paragraph (f)(6) of Rule 19b–4 thereunder,[17] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBYX–2016–41 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–BatsBYX–2016–41. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBYX–2016–41, and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30947 Filed 12–22–16; 8:45 am]

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[16] 15 U.S.C. 78s(b)(3)(A).

[17] 17 CFR 240.19b–4.

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79595; File No. SR–BatsEDGX–2016–73]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Market Data Section of Its Fee Schedule To Adopt Fees for EDGX Summary Depth and Amend Fees for EDGX Depth

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on December 6, 2016, Bats EDGX Exchange, Inc. (''EDGX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the Market Data section of its fee schedule to: (i) Adopt fees for a new market data product called EDGX Summary Depth; and (ii) amend the fees for EDGX Depth.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Market Data section of its fee schedule to: (i) Adopt fees for a new market data product called EDGX Summary Depth; and (ii) amend the fees for EDGX Depth.

EDGX Summary Depth

EDGX Summary Depth is a data feed that will provide aggregated two-sided quotations for all displayed orders entered into the System [5] for up to five (5) price levels for securities traded on the Exchange and for which the Exchange reports quotes under the Consolidated Tape Association (''CTA'') Plan or the Nasdaq/UTP Plan.[6] EDGX Summary Depth will also contain the individual last sale information, Market Status, Trading Status, and Trade Break messages. The individual last sale information will include the price, size, and time of execution. The last sale message will also include the cumulative number of shares executed on the Exchange for that trading day. The Exchange intends to begin to offer EDGX Summary Depth on January 3, 2017.[7]

The Exchange now proposes to amend its fee schedule to incorporate fees for distribution of EDGX Summary Depth to subscribers.[8] The proposed fees include the following, each of which are described in detail below: (i) Distribution Fees for both Internal and External Distributors; [9] (ii) Usage Fees for both Professional [10] and Non-Professional [11] Users; (iii) an Enterprise Fee; and (iv) a Digital Media Enterprise Fee.

Distribution Fees. As proposed, each Internal Distributor that receives EDGX Summary Depth shall pay a fee of $5,000 per month. The Exchange does not propose to charge any User fees for EDGX Summary Depth where the data is received and subsequently internally distributed to Professional or Non-Professional Users. In addition, the Exchange proposes to charge also External Distributors that receive EDGX Summary Depth a fee of $2,500 per month.

User Fees. The Exchange proposes to charge External Distributors that redistribute EDGX Summary Depth different fees for their Professional Users and Non-Professional Users. The Exchange will assess a monthly fee for Professional Users of $5.00 per User. Non-Professional Users will be assessed a monthly fee of $0.15 per User. The Exchange does not propose to charge per User fees to Internal Distributors.

External Distributors that receive EDGX Summary Depth will be required to count every Professional User and Non-Professional User to which they provide EDGX Summary Depth, the requirements for which are identical to that currently in place for other market data products offered by the Exchange.[12] Thus, the External Distributor's count will include every person and device that accesses the data regardless of the purpose for which the individual or device uses the data. External Distributors must report all Professional and Non-Professional Users in accordance with the following:

- In connection with an External Distributor's distribution of EDGX Summary Depth, the Distributor should count as one User each unique User that the Distributor has entitled to have access to EDGX Summary Depth. However, where a device is dedicated specifically to a single individual, the Distributor should count only the individual and need not count the device.
- The External Distributor should identify and report each unique User. If a User uses the same unique method to gain access to EDGX Summary Depth, the Distributor should count that as one User. However, if a unique User uses multiple methods to gain access to EDGX Summary Depth (*e.g.,* a single User has multiple passwords and user identifications), the External Distributor should report all of those methods as an individual User.

[5] ''System'' is defined as the ''the electronic communications and trading facility designated by the Board through which securities orders of Users Are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[6] *See* Exchange Rule 13.8(f).

[7] *See Reminder: Bats Global Markets to Introduce Bats Summary Depth Feeds on January 3, 2017, http://cdn.batstrading.com/resources/release_notes/2017/Reminder-Bats-Global-Markets-to-Introduce-Bats-Summary-Depth-Feeds-on-Jan-3-2017.pdf.*

[8] The Exchange notes that its affiliated exchanges, Bats EDGA Exchange, Inc. (''EDGA''), Bats BZX Exchange, Inc. (''BZX'') and Bats BYX Exchange, Inc. (''BYX'', together with the Exchange, EDGA and BZX, the ''Bats Exchanges''), also intent to file proposed rule changes with Commission to adopt similar fees for their respective Summary Depth market data product.

[9] A ''Distributor'' is defined as ''any entity that receives the Exchange Market Data product directly from the Exchange or indirectly through another entity and then distributes it internally or externally to a third party.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.* An ''Internal Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to one or more Users within the Distributor's own entity.'' *Id.* An ''External Distributor'' is defined as ''a Distributor that receives the Exchange Market Data product and then distributes that data to a third party or one or more Users outside the Distributor's own entity.'' *Id.*''

[10] A ''Professional User'' is defined as ''any User other than a Non-Professional User.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.*

[11] A ''Non-Professional User'' is defined as ''a natural person who is not: (i) Registered or qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 202(a)(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.'' *Id.*

[12] *See* Securities Exchange Act Release Nos. 74282 (February 18, 2015); 80 FR 9487 (February 23, 2015) (SR–EDGX–2015–09) (proposing fees for the Bats One Feed); 75397 (July 8, 2015), 80 FR 41104 (July 14, 2015) (SR–EDGX–2015–28) (proposing user fees for the EDGX Top and Last Sale data feeds); *and* 75788 (August 28, 2015), 80 FR 53364 (September 3, 2015) (SR–EDGX–2015–38) (proposing fees for EDGX Book Viewer).

• External Distributors should report each unique individual person who receives access through multiple devices as one User so long as each device is dedicated specifically to that individual.

• If an External Distributor entitles one or more individuals to use the same device, the External Distributor should include only the individuals, and not the device, in the count.

Each External Distributor will receive a credit against its monthly Distribution Fee for EDGX Summary Depth equal to the amount of its monthly Usage Fees up to a maximum of the Distribution Fee for EDGX Summary Depth. For example, an External Distributor will be subject to a $2,500 monthly Distribution Fee where they receive EDGX Summary Depth. If that External Distributor reports User quantities totaling $2,500 or more of monthly usage of EDGX Summary Depth, it will pay no net Distribution Fee, whereas if that same External Distributor were to report User quantities totaling $1,500 of monthly usage, it will pay a net of $1,000 for the Distribution Fee. External Distributors will remain subject to the per User fees discussed above.

Enterprise Fee. The Exchange also proposes to establish a $30,000 per month Enterprise Fee that will permit a recipient firm who receives EDGX Summary Depth from an External Distributor to receive the data for an unlimited number of Professional and Non-Professional Users. For example, if a recipient firm had 15,000 Professional Users who each receive EDGX Summary Depth at $5.00 per month, then that recipient firm will pay $75,000 per month in Professional Users fees. Under the proposed Enterprise Fee, the recipient firm will pay a flat fee of $30,000 for an unlimited number of Professional and Non-Professional Users for EDGX Summary Depth. A recipient firm must pay a separate Enterprise Fee for each External Distributor that controls the display of EDGX Summary Depth if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. However, every six months, a recipient firm must provide the Exchange with a count of the total number of natural person users of each product, including both Professional and Non-Professional Users. Lastly, the proposed Enterprise Fee would be counted towards the Distribution Fee credit described above, under which an External Distributor receives a credit towards its Distribution Fee equal to the amount of its monthly EDGX Summary Depth User fees.

Digital Media Enterprise Fee. The Exchange proposes to adopt a Digital Media Enterprise Fee of $7,500 per month for EDGX Summary Depth. As an alternative to proposed User fees discussed above, a recipient firm may purchase a monthly Digital Media Enterprise license to receive EDGX Summary Depth from an External Distributor to distribute to an unlimited number of Professional and Non-Professional Users for viewing via television, Web sites, and mobile devices for informational and non-trading purposes only without having to account for the extent of access to the data or the report the number of Users to the Exchange. Lastly, the proposed Digital Media Enterprise Fee would be counted towards the Distribution Fee credit described above, under which an External Distributor receives a credit towards its Distribution Fee equal to the amount of its monthly EDGX Summary Depth User fees.

EDGX Depth

EDGX Depth is an uncompressed market data feed that provides depth-of-book quotations and execution information based on equity orders entered into the System.[13] Currently, the Exchange charges fees for both internal and external distribution of EDGX Depth. The cost of EDGX Depth for an Internal Distributor is currently $1,500 per month. The Exchange also separately charges an External Distributor of EDGX Depth a flat fee of $2,500 per month. The Exchange does not currently charge Internal and External Distributors separate display User fees. The Exchange also charges a fee for Non-Display Usage [14] by Trading Platforms [15] by which subscribers to EDGX Depth are charged a fee of $5,000 per month. This fee is assessed in addition to existing Distribution fees. The Exchange now proposes to amend its fee schedule to incorporate Usage Fees for both Professional and Non-Professional Users and an Enterprise Fee for EDGX Depth. Each of these changes are described in detail below.

User Fees. The Exchange proposes to charge Internal and External Distributors that redistribute EDGX Depth different fees for their Professional Users and Non-Professional Users.[16] The Exchange will assess a monthly fee for Professional Users of $40.00 per User. Non-Professional Users will be assessed a monthly fee of $5.00 per User. Distributors that receive EDGX Depth will be required to count every Professional User and Non-Professional User to which they provide EDGX Depth, the requirements for which are identical to that set forth above for EDGX Summary Depth and as currently in place for other market data products offered by the Exchange.[17]

Enterprise Fee. The Exchange also proposes to establish a $100,000 per month Enterprise Fee that will permit an Internal Distributor, External Distributor, or a recipient firm who receives EDGX Depth from an External Distributor to receive the data for an unlimited number of Professional and Non-Professional Users. For example, if a recipient firm had 15,000 Professional Users who each receive EDGX Depth at $40.00 per month, then that recipient firm will pay $600,000 per month in Professional Users fees. Under the proposed Enterprise Fee, the recipient firm will pay a flat fee of $100,000 for an unlimited number of Professional and Non-Professional Users for EDGX Depth. Like proposed above for EDGX Summary Depth, a recipient firm must pay a separate Enterprise Fee for each External Distributor that controls the display of EDGX Depth if it wishes such User to be covered by an Enterprise Fee rather than by per User fees. A recipient firm that pays the Enterprise Fee will not have to report its number of such Users on a monthly basis. However, every six months, a recipient firm must provide the Exchange with a count of the total number of natural person users of each product, including both Professional and Non-Professional Users.

Implementation Date

The Exchange intends to implement the proposed fee change on January 3, 2017.

[13] *See* Exchange Rule 13.8(a).

[14] The term ''Non-Display Usage'' is defined as ''any method of accessing a Market Data product that involves access or use by a machine or automated device without access or use of a display by a natural person or persons.'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.*

[15] The term ''Trading Platform'' is defined as ''any execution platform operated as or by a registered National Securities Exchange (as defined in Section 3(a)(1) of the Exchange Act), an Alternative Trading System (as defined in Rule 300(a) of Regulation ATS), or an Electronic Communications Network (as defined in Rule 600(b)(23) of Regulation NMS).'' *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.*

[16] The Exchange notes that, unlike as proposed for EDGX Summary Depth described above, both Internal and External Distributors of EDGX Depth would be charged the same User fee for their Professional and Non-Professional Users.

[17] *See supra* note 12 and accompanying text.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[18] in general, and furthers the objectives of Section 6(b)(4),[19] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its members and other recipients of Exchange data. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all recipients of Exchange data. The Exchange believes the proposed fees are competitive with those charged by other venues and, therefore, reasonable and equitably allocated to recipients. The Exchange also believes it is reasonable to charge different rates for EDGX Depth and EDGX Summary Depth as both products different levels of content (*e.g.,* EDGX Depth contains quotations for all individual orders while EDGX Summary Depth contains the aggregation quotation information for all orders up to five (5) price levels). Lastly, the Exchange also believes that the proposed fees are reasonable and non-discriminatory because they will apply uniformly to all recipients of Exchange data.

The Exchange also believes that the proposed rule change is consistent with Section 11(A) of the Act [20] in that it supports (i) fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets and (ii) the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Furthermore, the proposed rule change is consistent with Rule 603 of Regulation NMS,[21] which provides that any national securities exchange that distributes information with respect to quotations for or transactions in an NMS stock do so on terms that are not unreasonably discriminatory. In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data.

In addition, the proposed fees would not permit unfair discrimination because all of the Exchange's customers and market data vendors will be subject to the proposed fees on an equivalent basis. EDGX Summary Depth and EDGX Depth are distributed and purchased on a voluntary basis, in that neither the Exchange nor market data distributors are required by any rule or regulation to make this data available. Accordingly, Distributors and Users can discontinue use at any time and for any reason, including due to an assessment of the reasonableness of fees charged. Firms have a wide variety of alternative market data products from which to choose, such as similar proprietary data products offered by other exchanges and consolidated data. Moreover, the Exchange is not required to make any proprietary data products available or to offer any specific pricing alternatives to any customers.

In addition, the fees that are the subject of this rule filing are constrained by competition. As explained below in the Exchange's Statement on Burden on Competition, the existence of alternatives to EDGX Summary Depth and EDGX Depth further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect such alternatives. That is, the Exchange competes with other exchanges (and their affiliates) that provide similar market data products. If another exchange (or its affiliate) were to charge less to distribute its similar product than the Exchange charges to consolidate and distribute EDGX Summary Depth and EDGX Depth, prospective Users likely would not subscribe to, or would cease subscribing to, EDGX Summary Depth and EDGX Depth.

The Exchange notes that the Commission is not required to undertake a cost-of-service or rate-making approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically.[22]

EDGX Summary Depth

Distribution Fee. The Exchange believes that the proposed Distribution Fees are also reasonable, equitably allocated, and not unreasonably discriminatory. The fees for Members and non-Members are uniform except with respect to reasonable distinctions with respect to internal and external distribution. The Exchange believes that the Distribution Fees for EDGX Summary Depth are reasonable and fair in light of alternatives offered by other market centers. For example, EDGX Summary Depth provides investors with alternative market data and competes with similar market data product currently offered by the New York Stock Exchange, Inc. (''NYSE'') and the Nasdaq Stock Market LLC (''Nasdaq'').[23] Specifically, the NYSE charges an access fee of $5,000 per month for NYSE OpenBook-Aggregated,[24] which is more than the External Distribution fee proposed herein for EDGX Summary Depth.

User Fees. The Exchange believes that implementing the Professional and Non-Professional User fees for EDGX Summary Depth are equitable and reasonable because they will result in greater availability to Professional and Non-Professional Users. Moreover, introducing a modest Non-Professional User fee for EDGX Summary Depth is reasonable because it provides an additional method for retail investors to

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78k–1.

[21] 17 CFR 242.603.

[22] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm. See also* Securities Exchange Act Release No. 73816 (December 11, 2014), 79 FR 75200 (December 17, 2014) (SR–NYSE–2014–64) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Establish an Access Fee for the NYSE Best Quote and Trades Data Feed, Operative December 1, 2014).

[23] *See* Nasdaq Rule 7023(a)(1)(C) (describing Nasdaq TotalView is a depth-of-book data feed that includes all orders and quotes from all Nasdaq members displayed in the Nasdaq Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the Nasdaq Market Center). *See also* Nasdaq Book Viewer, a description of which is *available at https://data.nasdaq.com/Book* Viewer.aspx. *See* NYSE OpenBook *available at http://www.nyxdata.com/openbook* (providing real-time view of the NYSE limit order book).

[24] *See* NYSE Market Data Pricing dated November 2016 *available at http://www.nyxdata.com/.* Nasdaq charges distribution fees ranging from $375 for 1–39 subscribers to $75,000 for more than 250 subscribers. *See* Nasdaq Rule 7023(b)(4).

access EDGX Summary Depth data by providing the same data that is available to Professional Users. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The fee structure of differentiated Professional and Non-Professional fees is utilized by the Exchange for the Bats One Feed and has long been used by other exchanges for their proprietary data products, and by the Nasdaq UTP and the CTA and CQ Plans in order to reduce the price of data to retail investors and make it more broadly available.[25] Offering EDGX Summary Depth to Non-Professional Users with the same data available to Professional Users results in greater equity among data recipients.

In addition, the proposed fees are reasonable when compared to similar fees for comparable products offered by the NYSE and Nasdaq. Specifically, NYSE offers NYSE OpenBook for a monthly fee of $60.00 per professional subscriber and $15 per non-professional subscriber.[26] Nasdaq offers Nasdaq TotalView-Aggregated for a monthly fee of $70.00 per professional subscriber and $14 per non-professional subscriber.[27] The Exchange's proposed per User Fees for EDGX Summary Depth are less than the NYSE and Nasdaq fees.

Enterprise Fee. The proposed Enterprise Fee for EDGX Summary Depth is equitable and reasonable as the fees proposed are less than the enterprise fees currently charged for Nasdaq TotalView-Aggregated. Nasdaq charges an enterprise fee of $100,000 per month for Nasdaq TotalView-Aggregated,[28] which is far greater than the proposed Enterprise Fee of $30,000 per month for EDGX Summary Depth. In addition, the Enterprise Fee proposed by the Exchange could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of EDGX Summary Depth, then it may continue using the per User structure and benefit from the per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute EDGX Summary Depth, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count natural person users every six months, which is a significant reduction in administrative burden. Finally, the Exchange believes that it is equitable and not unfairly discriminatory to establish an Enterprise Fee because it reduces the Exchange's costs and the Distributor's administrative burdens in tracking and auditing large numbers of Users.

Digital Media Enterprise Fee. The Exchange believes that the proposed Digital Media Enterprise Fee for EDGX Summary Depth provides for an equitable allocation of reasonable fees among recipients of the data and is not designed to permit unfair discrimination among customers, brokers, or dealers. In establishing the Digital Media Enterprise Fee, the Exchange recognizes that there is demand for a more seamless and easier-to-administer data distribution model that takes into account the expanded variety of media and communication devices that investors utilize today. The Exchange believes the Digital Media Enterprise Fee will be easy to administer because data recipients that purchase it would not be required to differentiate between Professional and Non-Professional Users, account for the extent of access to the data, or report the number of Users. This is a significant reduction on a recipient firm's administrative burdens and is a significant value to investors. For example, a television broadcaster could display EDGX Summary Depth data during market-related programming and on its Web site or allow viewers to view the data via their mobile devices, creating a more seamless distribution model that will allow investors more choice in how they receive and view market data, all without having to account for and/or measure who accesses the data and how often they do so.

The proposed Digital Media Enterprise Fee is equitable and reasonable because it will also enable recipient firms to more widely distribute data from EDGX Summary Depth to investors for informational purposes at a lower cost than is available today. For example, a recipient firm may purchase an Enterprise license in the amount of $30,000 per month for to receive EDGX Summary Depth from an External Distributor for an unlimited number of Professional and Non-Professional Users, which is greater than the proposed Digital Media Enterprise Fee. The Exchange also believes the amount of the Digital Media Enterprise Fee is reasonable as compared to the existing enterprise fees discussed above because the distribution of EDGX Summary Depth data is limited to television, Web sites, and mobile devices for informational purposes only, while distribution of EDGX Summary Depth data pursuant to an Enterprise license contains no such limitation. The Exchange also believes that the proposed Digital Media Enterprise Fee is equitable and reasonable because it is less than similar fees charged by other exchanges.[29]

EDGX Depth

User Fees. The Exchange believes that implementing the Professional and Non-Professional User fees for EDGX Depth are equitable and reasonable because they will result in greater availability to Professional and Non-Professional Users. Moreover, introducing a modest Non-Professional User fee for EDGX Depth is reasonable because it provides an additional method for retail investors to access EDGX Depth data by providing the same data that is available to Professional Users. The Exchange believes that the proposed fees are equitable and not unfairly discriminatory because they will be charged uniformly to recipient firms and Users. The fee structure of differentiated Professional and Non-Professional fees is utilized by the

[25] *See* Securities Exchange Act Release Nos. 74285 (February 18, 2015), 80 FR 9828 (February 24, 2015) (SR–BATS–2015–11); 74283 (February 18, 2015), 80 FR 9809 (February 24, 2015) (SR–EDGA–2015–09); 74282 (February 17, 2015), 80 FR 9487 (February 23, 2015) (SR–EDGX–2015–09); *and* 74284 (February 18, 2015), 80 FR 9792 (February 24, 2015) (SR–BYX–2015–09) (''Initial BATS One Feed Fee Filings''). *See also, e.g.,* Securities Exchange Act Release No. 20002, File No. S7–433 (July 22, 1983) (establishing nonprofessional fees for CTA data); *and* Nasdaq Rules 7023(b), 7047.

[26] *See* NYSE Market Data Pricing dated November 2016 *available at http://www.nyxdata.com/.*

[27] *See* Nasdaq Rule 7023(b)(2).

[28] *See* Nasdaq Rule 7023(c)(2) (stating that a distributor that is also a broker-dealer pays a monthly fee of $100,000 for the right to provide Nasdaq TotalView and for display usage for internal distribution, or for external distribution to both professional and non-professional subscribers with whom the firm has a brokerage relationship.) Nasdaq also charges an enterprise fee of $25,000 to provide Nasdaq TotalView to an unlimited number of non-professional subscribers only. *See* Nasdaq Rule 7023(c)(1).

[29] Nasdaq offers proprietary data products for distribution over the internet and television under alternative fee schedules that are subject to maximum fee of $50,000 per month. *See* Nasdaq Rule 7039(b). The NYSE charges a Digit Media Enterprise fee of $40,000 per month for the NYSE Trade Digital Media product. *See* Securities Exchange Act Release No. 69272 (April 2, 2013), 78 FR 20983 (April 8, 2013) (SR–NYSE–2013–23).

Exchange and has long been used by other exchanges for their proprietary data products, and by the Nasdaq UTP and the CTA and CQ Plans in order to reduce the price of data to retail investors and make it more broadly available.[30] Offering EDGX Depth to Non-Professional Users with the same data available to Professional Users results in greater equity among data recipients. The Exchange also believes it is equitable, reasonable, and not unfairly discriminatory to charge User fees to Internal Distributors, as such fees are currently charged by NYSE and Nasdaq.[31]

In addition, the proposed fees are reasonable when compared to similar fees for comparable products offered by the NYSE and Nasdaq. Specifically, NYSE offers NYSE OpenBook Ultra for a monthly fee of $60.00 per professional subscriber and $15 per non-professional subscriber.[32] Nasdaq offers Nasdaq TotalView-ITCH for a monthly fee of $70.00 per professional subscriber and $14 per non-professional subscriber.[33] The Exchange's proposed per User Fees for EDGX Depth are less than the NYSE and Nasdaq fees.

Enterprise Fee. The proposed Enterprise Fee for EDGX Depth is equitable and reasonable as compared to the enterprise fees currently charged for Nasdaq TotalView-ITCH. Nasdaq charges an enterprise fee of $100,000 per month for Nasdaq TotalView-ITCH,[34] which is equal to the proposed Enterprise Fee of $100,000 per month for EDGX Depth. In addition, the Enterprise Fee proposed by the Exchange could result in a fee reduction for recipient firms with a large number of Professional and Non-Professional Users. If a recipient firm has a smaller number of Professional Users of EDGX Depth, then it may continue using the per User structure and benefit from the per User Fee reductions. By reducing prices for recipient firms with a large number of Professional and Non-Professional Users, the Exchange believes that more firms may choose to receive and to distribute EDGX Depth, thereby expanding the distribution of this market data for the benefit of investors.

The Exchange further believes that the proposed Enterprise Fee is reasonable because it will simplify reporting for certain recipients that have large numbers of Professional and Non-Professional Users. Firms that pay the proposed Enterprise Fee will not have to report the number of Users on a monthly basis as they currently do, but rather will only have to count natural person users every six months, which is a significant reduction in administrative burden. Finally, the Exchange believes that it is equitable and not unfairly discriminatory to establish an Enterprise Fee because it reduces the Exchange's costs and the Distributor's administrative burdens in tracking and auditing large numbers of Users.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange's ability to price EDGX Depth and EDGX Summary Depth is constrained by: (i) Competition among exchanges, other trading platforms, and Trade Reporting Facilities (''TRF'') that compete with each other in a variety of dimensions; (ii) the existence of inexpensive real-time consolidated data and market-specific data and free delayed data; and (iii) the inherent contestability of the market for proprietary data.

The Exchange and its market data products are subject to significant competitive forces and the proposed fees represent responses to that competition. To start, the Exchange competes intensely for order flow. It competes with the other national securities exchanges that currently trade equities, with electronic communication networks, with quotes posted in FINRA's Alternative Display Facility, with alternative trading systems, and with securities firms that primarily trade as principal with their customer order flow.

In addition, EDGX Summary Depth and EDGX Depth compete with a number of alternative products. For instance, EDGX Summary Depth and EDGX Depth do provide a complete picture of all trading activity in a security. Rather, the other national securities exchanges, the several TRFs of FINRA, and Electronic Communication Networks (''ECN'') that produce proprietary data all produce trades and trade reports. Each is currently permitted to produce last sale information products, and many currently do, including Nasdaq and NYSE. In addition, market participants can gain access to EDGX last sale and depth-of-book quotations, though integrated with the prices of other markets, on feeds made available through the SIPs.

In sum, the availability of a variety of alternative sources of information imposes significant competitive pressures on Exchange data products and the Exchange's compelling need to attract order flow imposes significant competitive pressure on the Exchange to act equitably, fairly, and reasonably in setting the proposed data product fees. The proposed data product fees are, in part, responses to that pressure. The Exchange believes that the proposed fees would reflect an equitable allocation of its overall costs to users of its facilities.

In addition, when establishing the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all Users. The existence of alternatives to EDGX Depth and EDGX Summary Depth, including existing similar feeds by other exchanges, consolidated data, and proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if its cost to purchase is not justified by the returns any particular vendor or subscriber would achieve through the purchase.

Lastly, the Exchange represents that the increase in pricing of EDGX Depth and the proposed pricing of the EDGX Summary Feed would continue to enable a competing vendor to create a competing product to the Exchange's Bats One Feed on the same price and latency basis as the Exchange. The Bats One Feed is a data feed that disseminates, on a real-time basis, the aggregate BBO of all displayed orders for securities traded on each of the Bats Exchanges and for the Bats Exchanges report quotes under the CTA Plan or the Nasdaq/UTP Plan. The Bats One Feed also contains the individual last sale information for the Bats Exchanges (collectively with the aggregate BBO, the ''Bats One Summary Feed''). In addition, the Bats One Feed contains optional functionality which enables recipients to receive aggregated two-sided quotations from the Bats Exchanges for up to five (5) price levels

[30] *See supra* note 24.

[31] *See supra* notes 24 and 25 (not limiting the application of user fees to external distribution only).

[32] *See supra* note 25.

[33] *See supra* note 26.

[34] *See supra* note 27.

(''Bats One Premium Feed'').[35] The Exchange uses the following data feeds to create the Bats One Feed, each of which are available to vendors: EDGX Depth, EDGA Depth, BYX Depth, and the BZX Depth.

When adopting the Bats One Feed, the Exchange represented that a vendor could create a competing product based in the data feed used to construct the Bats One Feed on the same cost and latency basis as the Exchange.[36] Therefore, the Exchange designed the pricing of these products so that their aggregate cost is not greater than the Bats One Feed, thereby enabling a vendor to create a competing product to the Bats One Feed on the same cost basis as the Exchange. However, the Exchange now proposes to increase the cost of EDGX Depth, which when combined with the proposed increases by its affiliates for their depth products, would cause their aggregate cost to be higher than the Bats One Premium Feed.[37] However, to ensure that a vendor could continue to create a competing product to the Bats One Premium Feed at no greater cost, that vendor could now utilize EDGX Summary Depth, as well as the Summary Depth feeds of EDGA, BZX, and BYX to create a competing product to the Bats One Premium Feed for less cost and on the same latency basis as the Exchange.[38] The Exchange has designed the content and pricing of EDGX Summary Depth, and related products by its affiliates, so that a vendor could utilize those feeds, in lieu of the Bats Exchange's existing depth-of-book products, to construct a competing product on the same cost and latency basis as the Exchange. The pricing the Exchange and its affiliates propose to charge for Summary Depth feeds would be lower than the cost to obtain the Bats One Premium Feed.[39] Such pricing would continue to enable a vendor to receive each of the Bats Exchange's Summary Depth feeds and offer a similar product to the Bats One Premium Feed on a competitive basis and at no greater cost than the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[40] and paragraph (f) of Rule 19b–4 thereunder.[41] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGX–2016–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsEDGX–2016–73. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGX–2016–73, and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[40]

Eduardo A. Aleman,

Assistant Secretary.

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[35] *See* Exchange Rule 13.8(b). *See also* Securities Exchange Act Release No. 73918 (December 23, 2014), 79 FR 78920 (December 31, 2014) (File Nos. SR–EDGX–2014–25; SR–EDGA–2014–25; SR–BATS–2014–055; SR–BYX–2014–030) (Notice of Amendments No. 2 and Order Granting Accelerated Approval to Proposed Rule Changes, as Modified by Amendments Nos. 1 and 2, to Establish a New Market Data Product called the Bats One Feed) (''Bats One Approval Order'').

[36] *Id.*

[37] The Exchange notes that a vendor seeking to create a product to compete with the Bats One Summary Feed may continue to utilize each of the Bats Exchange's Top and Last Sale data feeds, the aggregate cost of which is less than the Bats One Summary Feed.

[38] While the proposed EDGX Summary Depth feed does not contain the symbol summary or consolidated volume data included in the Bats One Feed, a vendor could include this information in a competing product as this information is easily derivable from the proposed feeds or can be obtained from the securities information processors on the same terms as the Exchange.

[39] While the aggregate cost of each of the Bats Exchange's Summary Depth Products equals the cost of the Bats One Premium Feed, the cost of the Bats One Feed continues to be greater because subscribers are required to pay an additional $1,000 aggregation fee. *See* the Exchange's fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/edgx/.*

[40] 15 U.S.C. 78s(b)(3)(A).

[41] 17 CFR 240.19–b4(f).

[40] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79592; File No. SR–NSCC–2016–803]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of No Objection to Advance Notice Filing To Accelerate Its Trade Guaranty, Add New Clearing Fund Components, Enhance Its Intraday Risk Management, Provide for Loss Allocation of ''Off-the-Market Transactions,'' and Make Other Changes

December 19, 2016.

National Securities Clearing Corporation (''NSCC'') filed on October 25, 2016 with the Securities and Exchange Commission (''Commission'') advance notice SR–NSCC–2016–803 (''Advance Notice'') pursuant to Section

806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 (''Payment, Clearing and Settlement Supervision Act'') [1] and Rule 19b–4(n)(1)(i) [2] under the Securities Exchange Act of 1934 (''Exchange Act''). The Advance Notice was published for comment in the **Federal Register** on November 30, 2016.[3] The Commission did not receive any comments on the Advance Notice. This publication serves as notice of no objection to the Advance Notice.

I. Description of the Advance Notice

The Advance Notice, as described by NSCC, is a proposal to modify NSCC's Rules & Procedures (''Rules'') [4] to: (i) Accelerate NSCC's trade guaranty from midnight of one day after trade date (''T+1'') to the point of trade comparison and validation for bilateral submissions or to the point of trade validation for locked-in submissions; (ii) add three new components to NSCC's Clearing Fund formula, in the form of a a Margin Requirement Differential (''MRD''), a Coverage Component, and an Intraday Backtesting Charge); (iii) enhance NSCC's current intraday mark-to-market margin process; (iv) introduce a new loss allocation provision for any trades that fall within the proposed definition of ''Off-the-Market Transactions;'' and (v) make other related and technical changes, such as eliminating the current Specified Activity charge [5] from the Clearing Fund formula, no longer permitting NSCC to delay processing and reporting for certain index receipt transactions, clarifying the calculation of the Excess Capital Premium charge,[6] and removing certain references to ID Net Subscribers.[7] These proposed modifications are described in detail below.

(A) Accelerated Trade Guaranty

Pursuant to Addendum K of the Rules, NSCC currently guarantees the completion of trades that are cleared and settled through NSCC's Continuous Net Settlement, or ''CNS'' system [8] (''CNS trades''), and through its Balance Order Accounting Operation [9] (''Balance Order trades'') that have reached the later of midnight of T+1 or midnight of the day they are reported to NSCC members (''Members'').[10] NSCC proposes to shorten the time at which its trade guaranty applies to trades by amending its Rules to guarantee the completion of CNS trades and Balance Order trades upon comparison and validation for bilateral submissions to NSCC or upon validation for locked-in submissions to NSCC.[11]

NSCC has previously shortened the time at which its trade guaranty applied to trades in response to processing developments, risk management considerations, and to follow industry settlement cycles.[12] According to NSCC, the accelerated trade guaranty and related changes it now proposes would benefit the industry by mitigating counterparty risk and enhancing counterparties' ability to assess that risk by having NSCC become the central counterparty (''CCP'') to CNS trades and by applying the trade guaranty to Balance Order trades at an earlier point in the settlement cycle. The transfer of counterparty credit risk from Members to NSCC at an earlier point in the settlement cycle would facilitate a shortened holding period of bilateral credit risk for Members by transferring the obligation onto NSCC.

To implement this proposed change, NSCC would amend Addendum K of the Rules [13] to provide that CNS trades and Balance Order trades would be guaranteed by NSCC at the time of trade validation.[14] NSCC also proposes to clarify in Addendum K [15] that the guaranty of obligations arising out of the exercise or assignment of options that are settled at NSCC is not governed by Addendum K [16] but by a separate arrangement between NSCC and The Options Clearing Corporation, as referred to in Procedure III of the Rules.[17]

(B) Proposed Enhancements to NSCC's Clearing Fund Formula

In conjunction with the proposed accelerated trade guaranty, NSCC would enhance its Clearing Fund formula to address the risks posed by the expanded trade guaranty. Specifically, NSCC proposes to amend Procedure XV (Clearing Fund Formula and Other Matters) of the Rules [18] to include three new components: the MRD, the Coverage Component, and the Intraday Backtesting Charge.

1. Margin Requirement Differential

The MRD component is designed by NSCC to help mitigate the risks posed to NSCC by day-over-day fluctuations in a Member's portfolio. It would do this by forecasting future changes in a Member's portfolio based on a historical look-back at each Member's portfolio over a given time period. A Member's portfolio may fluctuate significantly from one trading day to the next as the Member executes trades throughout the

[1] 12 U.S.C. 5465(e)(1). The Financial Stability Oversight Council designated NSCC a systemically important financial market utility on July 18, 2012. *See* Financial Stability Oversight Council 2012 Annual Report, Appendix A, *http://www.treasury.gov/initiatives/fsoc/Documents/2012%20Annual%20Report.pdf.* Therefore, NSCC is required to comply with the Payment, Clearing and Settlement Supervision Act and file advance notices with the Commission. *See* 12 U.S.C. 5465(e).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Securities Exchange Act Release No. 79391 (November 23, 2016), 81 FR 86348 (November 30, 2016) (SR–NSCC–2016–803) (''Notice''). NSCC also filed a related proposed rule change with the Commission pursuant to Section 19(b)(1) of the Exchange Act and Rule 19b–4 thereunder, seeking approval of changes to its rules necessary to implement the Advance Notice. 15 U.S.C. 78s(b)(1) and 17 CFR 240.19b–4, respectively. The proposed rule change was published in the **Federal Register** on November 10, 2016. Securities Exchange Act Release No. 79245 (November 4, 2016), 81 FR 79071(November 10, 2016) (SR–NSCC–2016–005). The Commission did not receive any comments on that proposal.

[4] *Available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] The Specified Activity charge is a current component of the Clearing Fund formula that mitigates the risk of NSCC's trade guaranty attaching prior to NSCC collecting margin on the transactions, where there is a shortened settlement cycle for the transaction. Notice, *supra* note 3.

[6] The Excess Capital Premium is a charge imposed on a Member when the Member's Required Deposit exceeds its excess net capital, as described in Procedure XV of the Rules. Notice, *supra* note 3.

[7] The ID Net service allows subscribers to the service to net all eligible affirmed institutional transactions at the Depository Trust Company against their CNS transactions at NSCC. *See* Securities Exchange Act Release No. 57901 (June 2, 2008), 73 FR 32373 (June 6, 2008) (SR–NSCC–2007–14). NSCC's ID Net service is defined further in Rule 65. Rules, *supra* note 4.

[8] CNS and its operation are described in Rule 11 and Procedure VII. Rules, *supra* note 4.

[9] The Balance Order Accounting Operation is described in Rule 5 and Procedure V. Rules, *supra* note 4. NSCC does not become a counterparty to Balance Order trades, but it does provide a trade guaranty to the receive and deliver parties that remains effective through close of business on the originally scheduled settlement date.

[10] Today, shortened process trades, such as same-day and next-day settling trades, are already guaranteed upon comparison or trade recording processing.

[11] Validation refers to the process whereby NSCC validates a locked-in trade, or compares and validates a bilateral trade, to confirm such trade has sufficient and correct information for clearance and settlement processing. For purposes of this description in the proposed rule change, the process of comparing and validating bilateral submissions and the process for validating locked-in submissions are collectively referred to as ''trade validation.'' Notice, *supra* note 3.

[12] *See* Securities Exchange Act Release Nos. 44648 (August 2, 2001), 66 FR 42245 (August 10, 2001) (SR–NSCC–2001–11); 35442 (March 3, 1995), 60 FR 13197 (March 10, 1995) (SR–NSCC–95–02); 35807 (June 5, 1995), 60 FR 31177 (June 13, 1995) (SR–NSCC–95–03); and 27192 (August 29, 1989), 54 FR 37010 (approving SR–NSCC–87–04, SR–MCC–87–03, and SR–SCCP–87–03 until December 31, 1990).

[13] *Supra* note 4.

[14] The proposed accelerated trade guaranty would not apply to items not currently guaranteed today.

[15] *Supra* note 4.

[16] *Id.*

[17] *Id.*

[18] *Id.*

day. Currently, daily fluctuations in a Member's portfolio resulting from such trades do not pose any additional or different risk to NSCC because those trades are not guaranteed by NSCC until a margin in the form of a Required Deposit [19] reflecting such trades is collected by NSCC. However, under the accelerated trade guaranty proposal, NSCC's trade guaranty would attach to current-day trades immediately upon trade validation, before Required Deposits reflecting these trades have been collected (which NSCC refers to herein as the ''coverage gap'').[20] The MRD would increase Members' Required Deposits by an amount calculated to cover forecasted fluctuations in Members' portfolios, based upon historical activity.

The MRD would be calculated and charged on a daily basis, as a part of each Member's Required Deposit, and consists of two components: ''MRD VaR'' and ''MRD MTM.'' MRD VaR would look at historical day-over-day positive changes in the start of day (''SOD'') volatility component of a Member's Required Deposit [21] (the volatility component is referred to as the ''Volatility Charge'') over a 100-day look-back period and would be calculated to equal the exponentially weighted moving average (''EWMA'') of such changes to the Member's Volatility Charge during the look-back period. MRD MTM would look at historical day-over-day increases to the SOD mark-to-market component of a Member's Required Deposit [22] over a 100-day look-back period and would be calculated to equal the EWMA of such changes to the Member's SOD mark-to-market component during the look-back period. The MRD would be calculated to equal the sum of MRD VaR and MRD MTM times a multiplier calibrated based on backtesting results. NSCC has determined that a 100-day look-back period would provide a sufficient time series to reflect current market conditions.

By addressing the day-over-day changes to each Member's SOD Volatility Charge and SOD mark-to-market component, NSCC states that the MRD would help mitigate the risks posed to NSCC by un-margined day-over-day fluctuations to a Member's portfolio resulting from intraday trading activity that would be guaranteed during the coverage gap.

2. Coverage Component

The Coverage Component is designed by NSCC to mitigate the risks associated with a Member's Required Deposit being insufficient to cover projected liquidation losses to the Coverage Target by adjusting a Member's Required Deposit towards the Coverage Target. NSCC would face increased exposure to a Member's un-margined portfolio as a result of the proposed accelerated trade guaranty and would have an increased need to have each Member's Required Deposit meet the Coverage Target. The Coverage Component would supplement the MRD by preemptively increasing a Member's Required Deposit by an amount calculated to forecast potential deficiencies in the margin coverage of a Member's guaranteed portfolio. The preemptive nature of the Coverage Component differentiates it from NSCC's current Backtesting Charge [23] (to be renamed as the ''Regular Backtesting Charge'' pursuant to this proposal, as described below) and the Intraday Backtesting Charge, both of which are backwards looking increases to the Member's Required Deposit to above the Coverage Target.

The Coverage Component would be calculated and charged on a daily basis as a part of each Member's Required Deposit. To calculate the Coverage Component, NSCC would compare the simulated liquidation profit and loss of a Member's portfolio, using the actual positions in the Member's portfolio and the actual historical returns on the security positions in the portfolio, against the sum of each of the following components of the Clearing Fund formula: Volatility Charge, the MRD, Illiquid Charge, and Market Maker Domination Charge (collectively, ''Market Risk Components''). The results of that calculation would determine if there were any deficiencies between the amounts collected by these components and the simulated profit and loss of the Member's portfolio that would have been realized had it been liquidated during a 100-day look-back period. NSCC would then determine a daily ''peak deficiency'' amount for each Member equal to the maximum deficiency over a rolling 10 business day period for the preceding 100 days. The Coverage Component would be calculated to equal the EWMA of the peak deficiencies over the 100-day look-back period.

3. Intraday Backtesting Charge

NSCC currently employs daily backtesting to determine the adequacy of each Member's Required Deposit. NSCC compares the Required Deposit [24] for each Member with the simulated liquidation profit and loss using the actual positions in the Member's portfolio and the actual historical returns on the security positions in the portfolio. NSCC investigates the cause of any backtesting deficiencies. As a part of this investigation, NSCC pays particular attention to Members with backtesting deficiencies that bring the results for that Member below the Coverage Target to determine if there is an identifiable cause of repeat backtesting deficiencies. NSCC also evaluates whether multiple Members experience backtesting deficiencies for the same underlying reason. Upon implementation of the accelerated trade guaranty, NSCC would employ a similar backtesting process on an intraday basis to determine the adequacy of each Member's Required Deposit. However, instead of backtesting a Member's Required Deposit against the Member's SOD portfolio, NSCC would use portfolios from two intraday time slices.[25]

NSCC's objective with the Intraday Backtesting Charge is to increase Required Deposits for Members that are likely to experience intraday backtesting deficiencies on the basis described above by an amount sufficient to maintain such Member's intraday backtesting coverage above the Coverage

[19] NSCC collects Required Deposits from all Members as margin to protect NSCC against losses in the event of a Member's default. The objective of the Required Deposit is to mitigate potential losses to NSCC associated with liquidation of the Member's portfolio if NSCC ceases to act for a Member (*i.e.,* a ''default''). NSCC determines Members' Required Deposit amounts using a risk-based margin methodology that is intended to capture market price risk. The methodology uses historical market moves to project or forecast the potential gains or losses on the liquidation of a defaulting Member's portfolio, assuming that a portfolio would take three days to liquidate or hedge in normal market conditions. The projected liquidation gains or losses are used to determine the Member's Required Deposit, which is calculated to cover projected liquidation losses to be at or above a 99 percent confidence level (''Coverage Target''). Notice, *supra* note 3.

[20] The coverage gap is the period between the time that NSCC would guarantee a trade and the time that NSCC would collect additional margin to cover such trade.

[21] The Volatility Charge component of the Clearing Fund formula for CNS trades and Balance Order trades is described in Procedure XV, Sections I.(A)(1)(a) and I.(A)(2)(a), respectively.

[22] The SOD mark-to-market component of the Clearing Fund formula for CNS trades consists of Regular Mark-to-Market and ID Net Mark-to-Market, which are described in Procedure XV, Sections I(A)(1)(b) and I(A)(1)(c), respectively. The SOD mark-to-market component of the Clearing Fund formula for Balance Order trades is described in Procedure XV, Section I(A)(2)(b).

[23] Rules, Procedure XV, Section I(B)(3), *supra* note 4.

[24] For backtesting comparisons, NSCC uses the Required Deposit amount without regard to the actual collateral posted by the Member.

[25] Intraday time slices are subject to change based upon market conditions and would include the positions from SOD plus any additional positions up to that time.

Target. Members that maintain consistent end of day positions but have a high level of intraday trading activity pose risk to NSCC if they were to default intraday.

Because the intraday trading activity and size of the intraday backtesting deficiencies vary among impacted Members, NSCC would assess an Intraday Backtesting Charge that is specific to each impacted Member. To do so, NSCC would examine each impacted Member's historical intraday backtesting deficiencies observed over the prior 12-month period to identify the five largest intraday backtesting deficiencies that have occurred during that time. The presumptive Intraday Backtesting Charge amount would equal that Member's fifth largest historical intraday backtesting deficiency, subject to adjustment as further described below. NSCC believes that applying an additional margin charge equal to the fifth largest historical intraday backtesting deficiency to a Member's Required Deposit would have brought the Member's historically observed intraday backtesting coverage above the Coverage Target.[26]

Although the fifth largest historical backtesting deficiency for a Member would be used as the Intraday Backtesting Charge in most cases, NSCC would retain discretion to adjust the charge amount based on other circumstances that might be relevant for assessing whether an impacted Member is likely to experience future backtesting deficiencies and the estimated size of such deficiencies. According to NSCC, examples of relevant circumstances that could be considered by NSCC in calculating the final, applicable Intraday Backtesting Charge amount include material differences among the Member's five largest intraday backtesting deficiencies observed over the prior 12-month period, variability in the net settlement activity after the collection of the Member's Required Deposit, and observed market price volatility in excess of the Member's historical Volatility Charge. Based on NSCC's assessment of the impact of these circumstances on the likelihood, and estimated size, of future intraday backtesting deficiencies for a Member, NSCC could, in its discretion, adjust the Intraday Backtesting Charge for such Member in an amount that NSCC determines to be more appropriate for maintaining such Member's intraday backtesting results above the Coverage Target.

In order to differentiate the Backtesting Charge assessed on the start of the day portfolio from the Backtesting Charge assessed on an intraday basis, NSCC would amend the Rules by adding a defined term ''Regular Backtesting Charge'' to Procedure XV, Section I.(B)(3).[27]

If NSCC determines that an Intraday Backtesting Charge should apply to a Member who was not assessed an Intraday Backtesting Charge during the immediately preceding month or that the Intraday Backtesting Charge applied to a Member during the previous month should be increased, NSCC would notify the Member on or around the 25th calendar day of the month prior to the assessment of the Intraday Backtesting Charge or prior to the increase to the Intraday Backtesting Charge, as applicable, if not earlier.

NSCC would impose the Intraday Backtesting Charge as an additional charge applied to each impacted Member's Required Deposit on a daily basis for a one-month period and would review each applied Intraday Backtesting Charge each month. However, the Intraday Backtesting Charge would only be applicable to those Members whose overall 12-month trailing intraday backtesting coverage falls below the Coverage Target. If an impacted Member's trailing 12-month intraday backtesting coverage exceeds the Coverage Target (without taking into account historically imposed Intraday Backtesting Charges), the Intraday Backtesting Charge would be removed.

(C) Enhanced Intraday Mark-to-Market Margining

NSCC proposes to enhance its current intraday margining to further mitigate the intraday coverage gap risk that may be introduced to NSCC as a result of the proposed accelerated trade guaranty. As part of its Clearing Fund formula, NSCC currently collects a SOD mark-to-market margin, which is designed to mitigate the risk arising out of the value change between the contract/settlement value of a Member's open positions and the current market value. A Member's SOD mark-to-market margin is calculated and collected daily as part of a Member's daily Required Deposit based on the Member's prior end-of-day positions. The SOD mark-to-market component of the daily Required Deposit is calculated to cover a Member's exposure due to market moves and/or trading and settlement activity by bringing the portfolio of open positions up to the current market value.

Because the SOD mark-to-market component is calculated only once daily using the prior end-of-day positions and prices, it does not cover a Member's exposure arising out of any intraday changes to position and market value in a Member's portfolio. For such exposure, the Volatility Charge already collected from each Member as part of the Member's daily Required Deposit is calculated to cover projected changes in the contract/settlement value of a Member's portfolio, which should be sufficient to cover intraday changes to a Member's portfolio, and thus NSCC's risk of loss as a result of that Member's intraday activities. However, in certain instances, a Member could have intraday mark-to-market changes that are significant enough that NSCC is exposed to an increased risk of loss that would not be covered by the Member's Volatility Charge. To monitor and account for these instances, NSCC measures each Member's intraday mark-to-market exposure against the Volatility Charge twice daily and collects an intraday mark-to-market amount from any Member whose intraday mark-to-market exposure meets or exceeds 100 percent of the Member's Volatility Charge, although NSCC may lower that threshold and measure exposure more often during volatile market conditions. NSCC believes that such Members pose an increased risk of loss to NSCC because the coverage provided by the Volatility Charge, which is designed to cover estimated losses to a portfolio over a specified time period, would be exhausted by an intraday mark-to-market exposure so large that the Member's Required Deposit would potentially be unable to absorb further intraday losses to the Member's portfolio.

To further mitigate the risk posed to NSCC by the proposed accelerated trade guaranty, NSCC is proposing to enhance its collection of intraday mark-to-market margin by imposing the intraday mark-to-market margin amount at a lower threshold. With this proposal, instead of collecting intraday mark-to-market margin if a Member's intraday mark-to-market exposure meets or exceeds 100 percent of the Member's Volatility Charge, NSCC would make an intraday margin call if a Member's intraday mark-to-market exposure meets or exceeds 80 percent of the Member's Volatility Charge (while still retaining the ability to reduce the threshold during volatile market conditions). This proposed change would serve to collect

[26] Intraday backtesting would include 500 observations per year (twice per day over 250 observation days). Each occurrence of a backtesting deficiency would reduce a Member's overall backtesting coverage by 0.2 percent (1 exception/500 observations). Accordingly, an Intraday Backtesting Charge equal to the fifth largest backtesting deficiency would have brought backtesting coverage up to 99.2 percent.

[27] *Supra* note 4.

more intraday margin earlier and more proactively preserve the coverage provided by a Member's Volatility Charge and Required Deposit.

Finally, to ensure that Members are aware that NSCC regularly monitors and considers intraday mark-to-market as part of its regular Clearing Fund formula and understand the circumstances and criteria for the assessment of an intraday mark-to-market call, NSCC proposes to amend Procedure XV to include a comprehensive description of the enhanced intraday mark-to-market margin charge and the proposed new criteria NSCC would use to assess it.

(D) Loss Allocation Provision for Off-the-Market Transactions

NSCC proposes to introduce a new loss allocation provision for any trades that fall within the proposed definition of ''Off-the-Market Transactions.'' This loss allocation provision would be designed to limit NSCC's exposure to certain trades that have a price that differs significantly from the prevailing market price for the underlying security at the time the trade is executed. It would apply in the event that NSCC ceases to act for a Member that engaged in Off-the-Market Transactions and only to the extent that NSCC incurs a net loss in the liquidation of such Transactions.[28]

NSCC would define ''Off-the-Market Transaction'' as a single transaction (or a series of transactions settled within the same trade cycle) that is (i) greater than $1 million in gross proceeds, and (ii) at trade price that differs significantly (*i.e.,* either higher or lower) from the most recently observed market price, at the time the trade was submitted to NSCC, by a percentage amount determined by NSCC based upon market conditions and factors that impact trading behavior of the underlying security, including volatility, liquidity and other characteristics of such security.

In addition to defining Off-the-Market Transactions, the proposed change would establish the loss allocation for when they occur. Specifically, any net losses to NSCC resulting from the liquidation of a guaranteed, Off-the-Market Transaction of a defaulted Member would be allocated directly and entirely to the surviving counterparty to that transaction, or on whose behalf the Off-the-Market Transaction was submitted to NSCC. Losses would be allocated to counterparties in proportion to their specific Off-the-Market Transaction gain and would be allocated only to the extent of NSCC's loss; however, no allocation would be made if the defaulted Member has satisfied all requisite intraday mark-to-market margin assessed by NSCC with respect to the Off-the-Market Transaction.[29]

According to NSCC, this proposed change would allow NSCC to mitigate the risk of loss associated with guaranteeing these Off-the-Market Transactions. NSCC has recognized that applying the accelerated trade guaranty to transactions whose price significantly differs from the most recently observed market price could inappropriately increase the loss that NSCC may incur if a Member that has engaged in Off-the-Market Transactions defaults and its open, guaranteed positions are liquidated. Members not involved in Off-the-Market Transactions, or not involved in Off-the-Market Transactions that result in losses to NSCC, would not be included in this process. This exclusion would apply only to losses that are attributable to Off-the-Market Transactions and would not exclude Members from other obligations that may result from any loss or liabilities incurred by NSCC from a Member default.

To implement this proposed change, NSCC would amend Rule 4 [30] (Clearing Fund) to provide that, if a loss or liability of NSCC is determined by NSCC to arise in connection with the liquidation of any Off-the-Market Transactions, such loss or liability would be allocated directly to the surviving counterparty to the Off-the-Market Transaction that submitted the transaction to NSCC for clearing. NSCC also would amend Rule 1[31] (Definitions and Descriptions) to include a definition of Off-the-Market Transactions.

(E) Other Related and Technical Changes

1. Removing the Specified Activity Charge

Currently, NSCC collects a Specified Activity charge, which is designed to cover the risk posed to NSCC by transactions that settle on a T+2, T+1, or T timeframe.[32] Because such transactions may be guaranteed by NSCC prior to the collection of margin, they pose an increased risk to NSCC (a similar risk that posed to NSCC by the proposed accelerated trade guaranty). The Specified Activity charge currently mitigates this risk by increasing the Required Deposit for a Member in relation to the number of Specified Activity trades submitted to NSCC by the Member over a 100-day look-back period. However, according to NSCC, the addition of the proposed MRD and Coverage Components to the Clearing Fund formula would mitigate the risks posed by trades guaranteed by NSCC prior to the collection of margin on those trades, thereby obviating the need to collect a separate Specified Activity charge. Accordingly, because it would be duplicative of the MRD and Coverage Components that are being added to the Clearing Fund Formula, NSCC proposes to eliminate the Specified Activity charge.

2. Eliminating Delay in Processing and Reporting of Next Day Settling Index Receipts

Next day settling index receipts may be guaranteed prior to the collection of margin reflecting such trades and thus carry a risk similar to the risk posed by Specified Activity trades described above. More specifically, because these trades are settled on the day after they are received and validated by NSCC, NSCC currently attaches its guaranty to them at the time of validation, prior to the collection of a Required Deposit that reflects such trades. Unlike the risk from Specified Activity trades, which is mitigated by the Specified Activity charge, the risk for next day settling index receipts is currently mitigated by permitting NSCC to delay the processing and reporting of these trades if a Member's Required Deposit is not paid on time. However, as with the risk associated with Specified Activity, under the proposed change, this risk would generally be mitigated by the addition of the MRD and Coverage Component. Therefore, NSCC proposes to amend Procedure II of the Rules [33] (Trade Comparison and Recording Service) to remove the language that permits NSCC to delay the processing and reporting of next day settling index receipts until the applicable margin on these transactions is paid.

[28] A net loss on liquidation of the Off-the-Market Transaction means that the loss on liquidation of the Member's portfolio exceeds the collected Required Deposit of the Member and such loss is attributed to the Off-the-Market Transaction.

[29] A Member's Off-the-Market Transaction that has been marked to market is, by definition, no longer an Off-the-Market Transaction when the mark-to-market component of the Member's Required Deposit is satisfied.

[30] *Supra* note 4.

[31] *Id.*

[32] Examples of these trades can include next day settling trades, same day settling trades, cash trades, and sellers' options.

[33] *Supra* note 4.

3. Clarifying That the MRD and Coverage Component Should Not Be Included in the Calculation of a Member's Excess Capital Premium Charge

The Excess Capital Premium charge [34] is designed to address significant, temporary increases in a Member's Required Deposit based upon any one day of activity. It is not designed to provide additional Required Deposits over an extended period of time. Currently, the Excess Capital Premium charge for a Member is calculated based upon the Member's Required Deposit and the Member's excess net capital. The Premium is the amount by which a Member's Required Deposit exceeds its excess regulatory capital multiplied by the Member's ratio of Required Deposit to excess regulatory capital, expressed as a percent. Because they would be new components of a Member's Required Deposit under the current proposal, the MRD and Coverage Component would necessarily be included in the calculation of a Member's Excess Capital Premium. However, the MRD and Coverage Component each utilize a historical look-back period, which accounts for the risk of such activity well after the relevant trades have settled. Risks related to such trades would be reflected in increased amounts assessed for these components over the subsequent time periods. If these components are included in the calculation of the Excess Capital Premium, especially during periods following an increase in activity, the increased MRD and Coverage Component could lead to more frequent Excess Capital Premium charges over an extended period of time. According to NSCC, this is not the intended purpose of the Excess Capital Premium and could place an unnecessary burden on Members. Accordingly, NSCC proposes to exclude these charges from the calculation of the Excess Capital Premium.

4. Removing Reference to ID Net Subscribers

NSCC also proposes to change Procedure XV [35] to clarify how the ''Regular Mark-to-Market'' component of the Required Deposit for CNS transactions is calculated. The Mark-to-Market component of a Member's Required Deposit is designed to protect NSCC from risk of loss based on changes to the value of a Member's portfolio and therefore may result in a debit to a Member (*i.e.,* NSCC would collect more Required Deposit), but cannot result in a credit from NSCC to a Member. Accordingly, if a Member's mark-to-market calculation for a CNS or Balance Order trade results in a credit to the Member, NSCC's policy is to adjust the calculation to zero, thereby avoiding a credit from NSCC to the Member. When NSCC implemented the ID Net service,[36] it added a provision to Procedure XV [37] that explicitly stated this policy with respect to CNS transactions of subscribers to the ID Net service. According to NSCC, this change inadvertently created an implication that the calculation of Regular Mark-to-Market credit for Members who were not ID Net Subscribers would not be set to zero. NSCC proposes to revise the applicable provision of Procedure XV to remove the reference to ID Net Subscribers.

II. Discussion and Commission Findings

Although the Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[38] Section 805(a)(2) of the Act authorizes the Commission to prescribe risk management standards for the payment, clearing, and settlement activities of designated clearing entities and financial institutions engaged in designated activities for which it is the Supervisory Agency or the appropriate financial regulator.[39] Section 805(b) of the Act states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to:

- Promote robust risk management;
- promote safety and soundness;
- reduce systemic risks; and
- support the stability of the broader financial system.[40]

The Commission has adopted risk management standards under Section 805(a)(2) of the Act [41] and Section 17A of the Exchange Act [42] (''Clearing Agency Standards'').[43] The Clearing Agency Standards require registered clearing agencies to establish, implement, maintain, and enforce written policies and procedures that are reasonably designed to meet certain minimum requirements for their operations and risk management practices on an ongoing basis.[44] It is therefore appropriate for the Commission to review proposed changes in advance notices against these Clearing Agency Standards and the objectives and principles of these risk management standards as described in Section 805(b) of the Act.[45]

The Commission believes the proposal in the Advance Notice is consistent with the objectives and principles described in Section 805(b) of the Act,[46] and the Clearing Agency Standards, in particular, Rule 17Ad–22(b)(1) [47] and Rule 17Ad–22(b)(2) [48] under the Exchange Act, as described in detail below.

A. Consistency With Section 805(b) of the Act

First, the Commission believes that the changes proposed in the Advance Notice, as described above, are consistent with promoting robust risk management. NSCC's proposal to add the three new components to its margin methodology (*i.e*, the MRD, Coverage Component, and Intraday Backtesting Charge) would enable NSCC to collect more margin, thereby promoting robust risk management practices at NSCC with respect to the potential default of a Member. By collecting more margin, NSCC would be in a better position to manage the counterparty credit risk presented by Members, particularly the additional counterparty credit risk from the proposed accelerated trade guaranty. Similarly, the proposal to lower the threshold for collection of intraday mark-to-margin by collecting intraday mark-to-market margin when NSCC's exposure to a Member meets or exceeds 80 percent of that Member's Volatility Charge, rather than 100 percent, would enhance NSCC's intraday mark-to-market margin practice by allowing NSCC to collect more intraday margin stemming from intraday price fluctuations more often. As such, the proposed threshold reduction would also promote robust risk management practices at NSCC. With respect to the

[34] As stated above, the Excess Capital Premium is a charge imposed on a Member when the Member's Required Deposit exceeds its excess net capital, as described in Procedure XV of the Rules. Rules, *supra* note 4.

[35] *Id.*

[36] *Supra* note 6.

[37] *Supra* note 4.

[38] *See* 12 U.S.C. 5461(b).

[39] 12 U.S.C. 5464(a)(2).

[40] 12 U.S.C. 5464(b).

[41] 12 U.S.C. 5464(a)(2).

[42] 15 U.S.C. 78q–1.

[43] *See* 17 CFR 240.17Ad–22. Securities Exchange Act Release No. 68080 (October 22, 2012), 77 FR 66220 (November 2, 2012) (S7–08–11).

[44] *Id.*

[45] 12 U.S.C. 5464(b).

[46] *Id.*

[47] 17 CFR 240.17Ad–22(b)(1).

[48] 17 CFR 240.17Ad–22(b)(2).

proposed change to introduce a new loss allocation provision for certain off-the-market transactions, it too would promote robust risk management at NSCC, as it would help protect NSCC from transactions of a defaulted Member that were made at prices that differed significantly from the prevailing market price at the time the trade is executed and resulted in a loss to NSCC in connection with NSCC's liquidation of the transaction.

Second, the Commission believes that the changes proposed in the Advance Notice are consistent with promoting safety and soundness. As described above, NSCC proposes to accelerate its trade guaranty for CNS trades and Balance Order trades from midnight of T+1 to the point of trade validation. This earlier guaranty would promote safety and soundness for Members because the counterparty credit risk that Members currently hold until NSCC's guaranty applies at midnight of T+1 would shift to NSCC almost immediately upon NSCC's receipt of the trade on T. Because NSCC risk manages its guaranteed transactions, NSCC is able to better ensure that trades settle if a counterparty defaults.

The above-described proposed changes to NSCC's margin methodology (*i.e.,* the addition of the MRD, Coverage Component, and Intraday Backtesting Charge), along with the proposed reduction of NSCC's intraday mark-to-margin threshold, also would promote safety and soundness at NSCC because they would improve NSCC's ability to collect margin. Likewise, the proposed loss allocation provision for off-the-market transactions would promote safety and soundness at NSCC by helping to protect NSCC from losses due to transactions of a defaulted Member that were made at prices significantly different from the prevailing market price at the time of the trade. Collectively, these proposed changes would enable NSCC to manage better the additional risk that would result from the proposed accelerated guaranty.

Third, the Commission believes that the Advance Notice is consistent with reducing systemic risks and promoting the stability of the broader financial system. As described above, by providing a trade guaranty at an earlier point in the settlement cycle, counterparty credit risk also would transfer from Members, which are not CCPs, to NSCC, which is a third-party CCP that risk-manages its guaranteed transactions, at an earlier point in the settlement cycle. Because NSCC risk manages its guaranteed transactions, NSCC is able to better ensure that trades settle if a counterparty defaults. Thus, the proposed accelerated process would help reduce systemic risks and promote the stability of the broader financial system by mitigating Members' exposure to a counterparty default earlier in the settlement cycle and by providing an earlier assurance that transactions will settle despite a Member default.

At the same time, the three proposed additions to NSCC's margin methodology, the proposed reduction of NSCC's intraday mark-to-margin threshold, and the proposed loss allocation provision for off-the-market transactions, as described above, would also help mitigate the systemic risks that NSCC presents as a CCP because they would improve NSCC's margining abilities and help protect NSCC against potential losses from a Member default. Accordingly, the changes would therefore promote the stability of the broader financial system.

B. Consistency With Rule 17Ad–22(b)(1)

Rule 17Ad–22(b)(1) under the Exchange Act requires a CCP, such as NSCC, to, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . limit its exposures to potential losses from defaults by its participants under normal market conditions . . . .'' As described above, because the proposed change would transfer counterparty credit risk to NSCC at an earlier point in the settlement cycle, NSCC proposes to enhance its margin methodology by adding three new margin components and by lowering the threshold for the intraday mark-to-market margin collection. It also proposes to establish a loss allocation provision for off-the-market transactions. These proposed changes are designed to limit NSCC's exposure to potential losses from the default of a Member by enabling NSCC to collect more margin, better manage when it collects margin, and protect itself from certain losses of a defaulted Member. Therefore, the Commission believes that the proposal would be consistent with Rule 17Ad–22(b)(1).

C. Consistency With Rule 17Ad–22(b)(2)

Rule 17Ad–22(b)(2) under the Exchange Act requires a CCP, such as NSCC, to, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [u]se margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements . . . .'' Again, the proposal would add three new components to NSCC's margin methodology (*i.e.*, the MRD, Coverage Component, and Intraday Backtesting Charge), which use risk based models and parameters to calculate charges, and would lower the threshold at which NSCC would make an intraday mark-to-market margin call. As such, the proposal would help NSCC better account for and cover its credit exposure to Members. In addition, by establishing the proposed margin components and the new intraday mark-to-market margin collection threshold, the proposal is consistent with using risk-based models and parameters to set margin requirements. Therefore, the Commission believes that the proposal would be consistent with Rule 17Ad–22(b)(2).

III. Conclusion

It is therefore noticed, pursuant to Section 806(e)(1)(I) of the Payment, Clearing and Settlement Supervision Act,[49] that the Commission *does not object* to Advance Notice (SR–NSCC–2016–803) and that NSCC is *authorized* to implement the proposed change as of the date of this notice or the date of an order by the Commission approving the proposed rule change (SR–NSCC–2016–005) that reflects rule changes that are consistent with this Advance Notice, whichever is later.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79596; File No. SR–BatsEDGA–2016–34]

Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 11.8, Order Types, and Rule 11.11, Routing to Away Trading Centers, To Enhance the Exchange's Midpoint Routing Functionality

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 16, 2016, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule

[49] 12 U.S.C. 5465(e)(1)(I).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 11.8, Order Types, and Rule 11.11, Routing to Away Trading Centers, to enhance the Exchange's midpoint routing functionality.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 11.8, Order Types, and Rule 11.11, Routing to Away Trading Centers, to enhance the Exchange's midpoint routing functionality. Specifically, the Exchange proposes to amend Rule 11.11(g)(13) to adopt a new midpoint routing strategy known as RMPL. The Exchange also proposes to amend Rule 11.8(d)(5) to expand the routing strategies that MidPoint Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.11(g)(14) and the proposed RMPL routing strategy described below.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

RMPL Routing Strategy

The Exchange proposes to amend Rule 11.11(g)(13) to adopt a new midpoint routing strategy known as RMPL. Currently, the Exchange offers the RMPT routing strategy, which is described under Rule 11.11(g)(13). RMPT is a routing strategy under which a MidPoint Peg Order [5] checks the System [6] for available shares and any remaining shares are then sent to destinations on the System routing table [7] that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA Book [8] as a MidPoint Peg Order, unless otherwise instructed by the User.[9]

The Exchange now proposes RMPL as an alternative to the RMPT routing strategy for those seeking to route MidPoint Peg Orders to destinations that support midpoint eligible executions that are not included under the current RMPT routing strategy. Like RMPT, RMPL would be a routing strategy under which a MidPoint Peg Order checks the System for available shares and any remaining shares are then sent to destinations on the System routing table that support midpoint eligible orders. If any shares remain unexecuted after routing, they are posted on the EDGA Book as a MidPoint Peg Order, unless otherwise instructed by the User. As it does for RMPT, the Exchange would determine via the System routing table the specific trading venues that support midpoint eligible orders to which the System would route RMPL orders. While RMPL will operate in an identical manner as RMPT, the trading venues that each routing strategy would route to and the order in which it routes them will differ. As is the case for RMPT, the Exchange may alter the trading venues included under RMPL and the order in which they are routed to from time to time in accordance with its System routing table.[10]

The Exchange proposes to revise Rule 11.11(g)(13) to describe both the RMPT and proposed RMPL routing strategies. As a result of these revision, the construct of paragraph (g)(13) of Rule 11.11 would be similar to paragraph (g)(3) of Rule 11.11, which also delineates routing strategies that include different sets of destinations as determined by the System routing table.

MidPoint Peg Order Routing

The Exchange also proposes to amend Rule 11.8(d)(5) to expand the routing strategies that MidPoint Peg Orders may be coupled with. Currently, Exchange Rule 11.8(d)(5) states that MidPoint Peg Orders are not eligible for routing pursuant to Rule 11.11 unless routed utilizing the RMPT routing strategy. The Exchange now proposes to amend Rule 11.8(d)(5) to expand the routing strategies that MidPoint Peg Orders may be coupled with to include the Destination Specific routing strategy described under Rule 11.11(g)(14) and the proposed RMPL routing strategy described above.

Destination Specific is a routing option under which an order checks the System for available shares and then is sent to an away trading center or centers specified by the User.[11] As proposed, a User entering a MidPoint Peg Order may select the Destination Specific routing strategy to route such order to a specific trading center or center that supports midpoint executions after being exposed to the EDGA Book. This differs from RMPT and the proposed RMPL routing strategies in that the destinations orders subject to the RMPT and RMPL routing strategies are selected by the Exchange via the System routing table and not the User itself.

[5] In sum, a MidPoint Peg Order is a non-displayed Market Order or Limit Order with an instruction to execute at the midpoint of the NBBO, or, alternatively, pegged to the less aggressive of the midpoint of the NBBO or one minimum price variation inside the same side of the NBBO as the order. *See* Exchange Rule 11.8(d).

[6] The term ''System'' is defined as ''the electronic communications and trading facility designated by the Board through which securities orders of Users are consolidated for ranking, execution and, when applicable, routing away.'' *See* Exchange Rule 1.5(cc).

[7] The term ''System routing table'' refers to the proprietary process for determining the specific trading venues to which the System routes orders and the order in which it routes them. *See* Exchange Rule 11.11(g). While the process for determining the specific trading venues to which orders are routed is proprietary, the Exchange publicly discloses the trading venues associated with each routing strategy via its Web site at *http://cdn.batstrading.com/resources/features/bats_exchange_routing-strategies.pdf.*

[8] The term ''EDGA Book'' is defined as the ''System's electronic file of orders.'' *See* Exchange Rule 1.5(d). The Exchange also proposed to capitalize the word ''Book'' within Rule 11.11(g)(13) as the term EDGA Book is a defined term in the Exchange's Rules.

[9] The term ''User'' is defined as ''any Member or Sponsored Participant who is authorized to obtain access to the System pursuant to Rule 11.3.'' *See* Exchange Rule 1.5(ee).

[10] The Exchange notes that the trading venues to which other of its routing strategies route orders to are also determined in accordance with the System routing table. *See e.g.,* Exchange Rule 11.11(g)(3) (listing a series of routing options whose destinations are determined by the System routing table, like the proposed revisions to Exchange Rule 11.11(g)(13)). *See also* subparagraphs (1), (2), and (5) of Exchange Rule 11.11(b)(3) (describing routing strategies that route orders to destinations on the System routing table).

[11] *See* Rule 11.11(g)(14).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [12] in general, and furthers the objectives of Section 6(b)(5) of the Act [13] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [14] of the Act in that it seeks to assure fair competition among brokers and dealers and among exchange markets. The proposed rule change promotes just and equitable principles of trade because it would enhance the Exchange's midpoint routing functionality and provide Users with greater flexibility in routing MidPoint Peg Orders to trading venues that support midpoint executions. This would save such Users from developing complicated order routing strategies on their own. The Exchange believes that the proposed rule change will also accomplish those ends by providing market participants with an additional voluntary routing strategies and options that will enable them to easily access midpoint liquidity available on the Exchange and other trading venues. The Exchange notes that routing through the Exchange is voluntary and those seeking to access midpoint liquidity on other trading venues may do so directly and without the involvement of the Exchange. Therefore, the Exchange believes the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system, and, in general, protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The Exchange provides routing services in a highly competitive market in which participants may avail themselves of a wide variety of routing options offered by self-regulatory organizations, alternative trading systems, other broker-dealers, market participants' own proprietary routing systems, and service bureaus. System enhancements, such as the changes proposed in this rule filing, do not burden competition, but rather encourage competition because they are designed to attract additional order flow to the Exchange through enhanced midpoint routing functionality. Such changes are intended to offer investors higher quality and better value than services offered by others. Encouraging competitors to provide higher quality and better value is the essence of a well-functioning competitive marketplace. Therefore, the Exchange does not believe the proposed rule change will result in any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No comments were solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act [15] and paragraph (f)(6) of Rule 19b–4 thereunder,[16] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGA–2016–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGA–2016–34. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsEDGA–2016–34 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78k–1(a)(1).

[15] 15 U.S.C. 78s(b)(3)(A).

[16] 17 CFR 240.19b–4.

[17] 17 CFR 200.30–3(a)(12).

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30942 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Regulations 13D and 13G; Schedules 13D and 13G, SEC File No. 270–137, OMB Control No. 3235–0145.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Schedules 13D and 13G (17 CFR 240.13d–101 and 240.13d–102) are filed pursuant to Sections 13(d) and 13(g) (15 U.S.C. 78m(d) and 78m(g)) of the Securities Exchange Act of 1934 (''Exchange Act'') and Regulations 13D and 13G (17 CFR 240.13d–1—240.13d–7) thereunder to report beneficial ownership of equity securities registered under Section 12 (15 U.S.C. 78*l*) of the Exchange Act. Regulations 13D and 13G provide investors, and the subject issuer with information about accumulations of equity securities that may have the potential to change or influence control of the issuer. Schedule 13D and Schedule 13G are filed by persons, including small entities, to report their ownership of more than 5% of a class of equity securities registered under Section 12. We estimate that Schedule 13D takes approximately 14.5 hours to prepare and is filed by approximately 1,508 filers. We estimate that 25% of the 14.5 hours (3.625 hours per response) is prepared by the filer for a total annual reporting burden of 5,467 hours (3.625 hours per response × 1,508 responses).

We estimate that Schedule 13G takes approximately 12.4 hours to prepare and is filed by approximately 7,079 filers. We estimate that 25% of the 12.4 hours (3.10 hours per response) is prepared by the filer for a total annual reporting burden of 21,945 hours (3.10 hours per response × 7,079 responses).

The information provided by respondents is mandatory. Schedule 13D or Schedule 13G is filed by a respondent only when necessary. All information provided to the Commission is public. However, Rules 0–6 and 24b–2 (17 CFR 240.0–6 and 240.24b–2) under the Exchange Act do permit reporting persons to request confidential treatment for certain sensitive information concerning national security, trade secrets, or privileged commercial or financial information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street, NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 16, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–30917 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32395; File No. 812–14595]

Delaware Management Business Trust, et al.; Notice of Application

December 19, 2016.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.[1]

APPLICANTS: Delaware Management Business Trust (''DMBT''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, Delaware Management Company, a series of DMBT, registered as an investment adviser under the Investment Advisers Act of 1940 (the ''Initial Adviser'' or ''DMC''), Optimum Fund Trust, Delaware Group Adviser Funds, Delaware Group Cash Reserve, Delaware Group Equity Funds I, Delaware Group Equity Funds II, Delaware Group Equity Funds IV, Delaware Group Equity Funds V, Delaware Group Foundation Funds, Delaware Group Global & International Funds, Delaware Group Government Fund, Delaware Group Income Funds, Delaware Group Limited-Term Government Funds, Delaware Group State Tax-Free Income Trust, Delaware Group Tax-Free Fund, Delaware Pooled Trust, Delaware VIP Trust, Voyageur Insured Funds, Voyageur Intermediate Tax Free Funds, Voyageur Mutual Funds, Voyageur Mutual Funds II, Voyageur Mutual Funds III, and Voyageur Tax Free Funds (each, a ''Trust'' and, collectively with DBMT and DMC, the ''Applicants'').

FILING DATES: The application was filed on December 23, 2015, and amended on June 8, 2016 and October 25, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 13, 2017, and should be accompanied by proof of service on the applicants, in the form of

[1] The requested order would supersede a previous order obtained by the Applicants granting relief solely with respect to Non-Affiliated Sub-Advisers (Delaware Management Business Trust, et al., Investment Company Act Rel. Nos. 27512 (Oct. 10, 2006) (notice) and 27547 (Nov. 7, 2006) (order) (''Prior Order''). If a Subadvised Series has obtained shareholder approval to operate as such with respect to Non-Affiliated Sub-Advisers only in the manner described in this Application and has met all other terms and conditions of the requested order, the Subadvised Series may rely on the order requested in this Application solely with respect to Non-Affiliated Sub-Advisers unless and until it obtains shareholder approval with respect to Wholly-Owned Sub-Advisers.

an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: One Commerce Square, 2005 Market Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Jessica Shin, Attorney-Adviser, at (202) 551–5921, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the relevant Trust (each an ''Investment Management Agreement'').[2] The Adviser will provide the Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, the board of trustees of the Trust (''Board''). The Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a ''Sub-Adviser'' and collectively, the ''Sub-Advisers'') the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Adviser.[3] The primary responsibility for managing each Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers, pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f-2 under the Act.[4] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Adviser and any Wholly-Owned Sub-Adviser; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser (collectively, Aggregate Fee Disclosure'').

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the Application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Series shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

For the Commission, by the Division of Investment Management, under delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–30936 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

[2] Applicants request relief with respect to the named Applicants, as well as to any future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Initial Adviser or any entity controlling, controlled by, or under common control with, the Initial Adviser or its successors (each, also an ''Adviser''); (b) uses the multi-manager structure described in the application; and (c) complies with the terms and conditions set forth in the application (each, a ''Subadvised Series''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[3] A ''Sub-Adviser'' for a Subadvised Series is (1) an indirect or direct ''wholly owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Subadvised Series, or (2) a sister company of the Adviser for that Subadvised Series that is an indirect or direct ''wholly-owned subsidiary'' of the same company that, indirectly or directly, wholly owns the Adviser (each of (1) and (2) a ''Wholly-Owned Sub-Adviser'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (3) not an ''affiliated person'' (as such term is defined in section 2(a)(3) of the Act) of the Subadvised Series, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to a Subadvised Series (''Non-Affiliated Sub-Advisers'').

[4] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in Section 2(a)(3) of the Act, of the Subadvised Series, the Trust or of the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79591; File Nos. SR–CBOE–2016–076; SR–C2–2016–022]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; C2 Options Exchange, Incorporated; Order Approving a Proposed Rule Change in Connection With a Proposed Corporate Transaction Involving CBOE Holdings, Inc. and Bats Global Markets, Inc.

December 19, 2016.

I. Introduction

On November 4, 2016, Chicago Board Options Exchange, Incorporated (''CBOE'') and C2 Options Exchange, Incorporated (''C2'' and, together with CBOE, the ''CBOE Exchanges'') each filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] proposed rule changes in connection with the proposed corporate transaction (the ''Transaction''), as described in more detail below, involving their ultimate parent company, CBOE Holdings, Inc. (''CBOE Holdings''), two wholly owned subsidiaries of CBOE Holdings, CBOE Corporation and CBOE V, LLC (''CBOE

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

V''), and Bats Global Markets, Inc. (''BGM''). BGM is the ultimate parent company of Bats BZX Exchange, Inc. (''Bats BZX''), Bats BYX Exchange, Inc. (''Bats BYX''), Bats EDGX Exchange, Inc. (''Bats EDGX''), and Bats EDGA Exchange, Inc. (''Bats EDGA'' and, together with Bats BZX, Bats BYX, and Bats EDGX, the ''Bats Exchanges''). Upon completion of the Transaction (the ''Closing''), CBOE Holdings will become the ultimate parent of the Bats Exchanges. The proposed rule changes were published for comment in the **Federal Register** on November 15, 2016.[4] The Commission received no comments on the proposals.

II. Description of the Proposed Rule Changes

A. Corporate Structure

1. Current Structure

The CBOE Exchanges are each Delaware corporations that are national securities exchanges registered with the Commission pursuant to Section 6(a) of the Act.[5] The CBOE Exchanges are each direct, wholly owned subsidiaries of CBOE Holdings, a publicly traded Delaware corporation. CBOE V is a Delaware limited liability company and a direct, wholly owned subsidiary of CBOE Holdings, which currently has no material assets and conducts no operations.

Each Bats Exchange is a Delaware corporation that is a national securities exchange registered with the Commission pursuant to Section 6(a) of the Act.[6] BGM is a publicly traded Delaware corporation and the ultimate parent of the Bats Exchanges.

2. The Transaction

On September 25, 2016, CBOE Holdings, CBOE Corporation, CBOE V, and BGM entered into an Agreement and Plan of Merger, as it may be amended from time to time (the ''Merger Agreement'').[7] Pursuant to and subject to the terms of the Merger Agreement, each share of BGM common stock (whether voting or non-voting) issued and outstanding (other than shares owned by CBOE Holdings, BGM, or any of their respective subsidiaries, and certain shares held by BGM stockholders that are entitled to and properly demand appraisal rights) will be converted into the right to receive a particular number of shares of CBOE Holdings common stock, an amount of cash, or a combination of both, at the election of the holder of such share of BGM common stock.[8] BGM will ultimately merge with and into CBOE Holdings' wholly owned subsidiary CBOE V, at which time the separate existence of BGM will cease and CBOE V will be the surviving company.[9]

As a result of the Transaction, CBOE Holdings will be the ultimate parent of the Bats Exchanges, each of which will continue to operate separately.[10] CBOE Holdings will continue to be a publicly owned company and the ultimate parent of the CBOE Exchanges, each of which will continue to operate separately.

B. Proposed Rule Change

Section 19(b) of the Act [11] and Rule 19b–4 [12] thereunder require a self-regulatory organization (''SRO'') to file proposed rule changes with the Commission. Although CBOE Holdings is not an SRO, certain provisions of its certificate of incorporation and bylaws, along with other corporate documents, are rules of the CBOE Exchanges, as defined in Rule 19b–4 under the Act, and must be filed with the Commission pursuant to Section 19(b) of the Act and Rule 19b–4 thereunder. Accordingly, each of the CBOE Exchanges filed with the Commission to seek approval of a provision in the Merger Agreement regarding the composition of the CBOE Holdings Board upon Closing.

The CBOE Exchanges represented that in connection with the Transaction, CBOE Holdings agreed in the Merger Agreement to take all requisite actions so, as of the Closing, the CBOE Holdings Board will include three individuals designated by BGM who (1) are serving as BGM directors immediately prior to the Closing and (2) comply with the policies (including clarifications of the policies provided to BGM) of the Nominating and Governance Committee of the CBOE Holdings Board as in effect on the date of the Merger Agreement and previously provided to BGM (each of whom will be appointed to the CBOE Holdings Board as of the Closing).[13] The CBOE Holdings Board currently consists of 14 directors.[14] The CBOE Exchanges expect three current CBOE Holdings directors to resign prior to the Closing, at which point the CBOE Holdings Board will fill those vacancies by appointing the three individuals designated by BGM that have complied with the policies of the Nominating and Governance Committee of the CBOE Holdings Board.[15]

III. Discussion and Commission Findings

The Commission has reviewed carefully the proposed rule changes and finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[16] In particular, the Commission finds that the proposed rule changes are consistent with Sections 6(b)(1) and (3) of the Act,[17] which, among other things, require a national securities exchange to be so organized and have the capacity to be able to carry out the purposes of the Act, and to enforce compliance by its members and persons associated with its members with the provisions of the Act, the rules and regulations thereunder, and the rules of the exchange, and assure the fair representation of its members in the selection of its directors and administration of its affairs, and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The CBOE Exchanges represented that the proposal is consistent with CBOE Holdings' governing documents previously filed with the Commission and noted that they are not proposing any changes to existing rules or governing documents of CBOE Holdings or the CBOE Exchanges.[18] The CBOE Exchanges' proposed rule changes are limited to the provision in the Merger Agreement regarding the ability of BGM to designate three directors to the CBOE Holdings Board one time in connection with Closing. The Nominating and Governance Committee of the CBOE Holdings Board, consistent with the governing documents of CBOE

[4] *See* Securities Exchange Act Release Nos. 79268 (November 8, 2016), 81 FR 80157 (SR–CBOE–2016–076); and 79267 (November 8, 2016), 81 FR 80132 (SR–C2–2016–022) (''Notices'').

[5] 15 U.S.C. 78f(a).

[6] *Id.*

[7] *See* Notices, *supra* note 4, at 80157 and 80132.

[8] *See id.* at 80158 and 80133.

[9] *See id.*

[10] *See id.; see also* Securities Exchange Act Release Nos. 79266 (November 8, 2016), 81 FR 80101 (November 15, 2016) (SR–BatsBZX–2016–68); 79269 (November 8, 2016), 81 FR 80093 (November 15, 2016) (SR–BatsBYX–2016–29); 79265 (November 8, 2016), 81 FR 80146 (November 15, 2016) (SR–BatsEDGA–2016–24) and 79264 (November 8, 2016), 81 FR 80114 (November 15, 2016) (SR–BatsEDGX–2016–60) (notice of filing of proposed rule changes related to a corporate transaction involving BGM and CBOE Holdings).

[11] 15 U.S.C. 78s(b).

[12] 17 CFR 240.19b–4.

[13] *See* Notices, *supra* note 4, at 80158 and 80133.

[14] *See id.*

[15] *See id.*

[16] In approving the proposed rule changes, the Commission has considered their impact on efficiency, competition and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78f(b)(1) and (b)(3).

[18] *See* Notices, *supra* note 4, at 80158 n.10 and accompanying text and 80133 n. 10 and accompanying text. *See also id.* at 80157–58 and 80132–33.

Holdings, must follow its policies in determining whether to recommend those candidates for election as directors to the Board. Accordingly, BGM's ability to recommend specific candidates is subject to CBOE Holdings' governance process and procedures.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act [19] that the proposed rule changes (SR–CBOE–2016–076 and SR–C2–2016–022), be, and hereby are, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30939 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79597; File No. SR–NYSEArca–2016–165]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

December 19, 2016.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 13, 2016, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule''). The Exchange proposes to implement the fee change effective December 13, 2016.[4] The proposed change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule to amend the volume criteria for the Exchange's tiered-rebate structure applicable to Lead Market Makers (''LMMs'') [5] and to ETP Holders and Market Makers affiliated with the LMM that provide liquidity in Tape B securities to the NYSE Arca Book. The Exchange proposes to implement the fee change effective December 13, 2016.

The Exchange currently provides tier-based incremental credits for orders that provide displayed liquidity to the NYSE Arca Book in Tape B Securities.[6] Specifically, LMMs that are registered as the LMM in Tape B securities that have a consolidated average daily volume (''CADV'') in the previous month of less than 100,000 shares (''Less Active ETP Securities''), and the ETP Holders and Market Makers affiliated with such LMMs, currently receive an incremental credit for orders that provide displayed liquidity to the Book in any Tape B Securities that trade on the Exchange.[7] The current incremental credits and volume thresholds are as follows:

- An additional credit of $0.0004 per share if an LMM is registered as the LMM in at least 300 Less Active ETP Securities
- An additional credit of $0.0003 per share if an LMM is registered as the LMM in at least 200 but less than 300 Less Active ETP Securities
- An additional credit of $0.0002 per share if an LMM is registered as the LMM in at least 100 but less than 200 Less Active ETP Securities

The number of Less Active ETP Securities for the billing month is based on the number of Less Active ETP Securities in which an LMM is registered as the LMM on the last business day of the previous month.

The Exchange proposes to amend the volume criteria for Less Active ETP Securities. As proposed, a Less Active ETP Security would be a Tape B Security that has a CADV in the previous month of less than 100,000 shares, or 0.0070% of Consolidated Tape B ADV, whichever is greater. The Exchange is proposing to expand the manner by which LMMs that are registered as the LMM in Tape B Securities, and the ETP Holders and Market Makers affiliated with such LMMs, would qualify for the incremental credit.

The Exchange is not proposing any change to the level of the incremental credits and volume thresholds noted above that are payable to LMMs and to ETP Holders and Market Makers affiliated with the LMM.

The Exchange is proposing to amend the current criteria for securities to qualify as Less Active ETP Securities by expanding it to the greater of a numerical threshold or a percentage threshold based upon the average daily traded volume of the relevant security, for several reasons. The percentage threshold will adjust each calendar month based on the U.S. average daily consolidated share volume in Tape B Securities for that month, while the numerical threshold remains unchanged from month to month, thereby providing a consistent floor against which to measure volume in a Tape B Security. The Exchange believes that the proposed approach will provide a straightforward way to float volume tiers, while maintaining a minimum threshold. The Exchange notes that the combined approach will allow tiers to move in sync with consolidated volume during months with high volumes while maintaining a numerical threshold. The Exchange believes that this will continue to provide an incentive for LMMs to act as an LMM for less active issues during months with higher market volumes when the 100,000 share

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[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] The Exchange originally filed to amend the Fee Schedule on December 2, 2016 (SR–NYSEArca–2016–162) and withdrew such filing on December 13, 2016.

[5] The term ''Lead Market Maker'' is defined in Rule 1.1(ccc) to mean a registered Market Maker that is the exclusive Designated Market Maker in listings for which the Exchange is the primary market.

[6] *See* Securities Exchange Act Release No. 76084 (October 6, 2015), 80 FR 61529 (October 13, 2015) (SR–NYSEArca–2015–87).

[7] The Exchange defines ''affiliate'' to ''mean any ETP Holder under 75% common ownership or control of that ETP Holder.'' *See* Fee Schedule, NYSE Arca Marketplace: General, Section II(c).

threshold would be harder to obtain. While the percentage threshold will result in lower maximum share volume requirement when consolidated volumes are lower, it will also result in higher maximum share volume requirement when consolidated volumes are higher. Such higher and lower consolidated volumes will have a similar impact on the maximum share requirements; however, the minimum share requirement will remain unchanged at 100,000 shares.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The proposed fee change is intended to encourage LMMs and ETP Holders and Market Makers affiliated with such LMMs to promote price discovery and market quality in Less Active ETP Securities for the benefit of all market participants.

The Exchange believes the proposed amendment to the volume criteria for Less Active ETP Securities is equitable and not unfairly discriminatory because it would continue to apply to all LMMs and ETP Holders and Market Makers affiliated with such LMM on an equal basis. The Exchange further believes that the proposed rule change is not unfairly discriminatory because it is consistent with the market quality and competitiveness benefits associated with the proposed fee program.

The Exchange further believes that the proposed amendment to the criteria to qualify for the incremental credits is reasonable, equitable and not unfairly discriminatory as it will result in more LMMs and ETP Holders and Market Makers affiliated with such LMMs to qualify for the increased credits and therefore reduce their overall transaction costs on the Exchange.

Further, the Exchange believes that the proposal is reasonable and would create an added incentive for these market participants to execute additional orders on the Exchange and thereby qualify for the incremental credits. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because providing incentives for orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

Volume-based rebates such as the ones currently in place on the Exchange have been widely adopted in the cash equities markets and are equitable because they are open to all LMMs and ETP Holders and Market Makers affiliated with such LMMs on an equal basis and provides additional benefits that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[10] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would encourage increased participation by LMMs in the trading of ETP securities generally and Less Active ETP Securities, in particular. The proposed change would also encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers affiliated with LMMs.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and credits to remain competitive with other exchanges. For the reasons described above, the Exchange believes that this proposal promotes a competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2016–165 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2016–165. 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

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–165 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30943 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79598; File No. SR–NSCC–2016–005]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Approval of Proposed Rule Change To Accelerate Its Trade Guaranty, Add New Clearing Fund Components, Enhance Its Intraday Risk Management, Provide for Loss Allocation of ''Off-the-Market Transactions,'' and Make Other Changes

December 19, 2016.

National Securities Clearing Corporation (''NSCC'') filed on October 25, 2016 with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2016–005 (''Proposed Rule Change'') pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder.[2] The Proposed Rule Change was published for comment in the **Federal Register** on November 10, 2016.[3] The Commission did not receive any comments on the Proposed Rule Change. For the reasons discussed below, the Commission is granting approval of the Proposed Rule Change

I. Description of the Proposed Rule Change

The Proposed Rule Change, as described by NSCC, is a proposal to modify NSCC's Rules & Procedures (''Rules'')[4] to: (i) Accelerate NSCC's trade guaranty from midnight of one day after trade date (''T+1'') to the point of trade comparison and validation for bilateral submissions or to the point of trade validation for locked-in submissions; (ii) add three new components to NSCC's Clearing Fund formula, in the form of a a Margin Requirement Differential (''MRD''), a Coverage Component, and an Intraday Backtesting Charge); (iii) enhance NSCC's current intraday mark-to-market margin process; (iv) introduce a new loss allocation provision for any trades that fall within the proposed definition of ''Off-the-Market Transactions;'' and (v) make other related and technical changes, such as eliminating the current Specified Activity charge[5] from the Clearing Fund formula, no longer permitting NSCC to delay processing and reporting for certain index receipt transactions, clarifying the calculation of the Excess Capital Premium charge,[6] and removing certain references to ID Net Subscribers.[7] These proposed modifications are described in detail below.

(A) Accelerated Trade Guaranty

Pursuant to Addendum K of the Rules, NSCC currently guarantees the completion of trades that are cleared and settled through NSCC's Continuous Net Settlement, or ''CNS'' system[8] (''CNS trades''), and through its Balance Order Accounting Operation[9] (''Balance Order trades'') that have reached the later of midnight of T+1 or midnight of the day they are reported to NSCC members (''Members'').[10] NSCC proposes to shorten the time at which its trade guaranty applies to trades by amending its Rules to guarantee the completion of CNS trades and Balance Order trades upon comparison and validation for bilateral submissions to NSCC or upon validation for locked-in submissions to NSCC.[11]

NSCC has previously shortened the time at which its trade guaranty applied to trades in response to processing developments, risk management considerations, and to follow industry settlement cycles.[12] According to NSCC, the accelerated trade guaranty and related changes it now proposes would benefit the industry by mitigating counterparty risk and enhancing counterparties' ability to assess that risk by having NSCC become the central counterparty (''CCP'') to CNS trades and by applying the trade guaranty to Balance Order trades at an earlier point

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 79245 (November 4, 2016), 81 FR 79071 (November 10, 2016) (SR–NSCC–2016–005) (''Notice''). NSCC also filed the Proposed Rule Change as an advance notice with the Commission, pursuant to Section 806(e)(1) of the Payment, Clearing, and Settlement Supervision Act of 2010 and Rule 19b–4(n)(1) under the Act, seeking approval of changes to its Rules necessary to implement the Proposed Rule Change. 12 U.S.C. 5465(e) and 17 CFR 240.19b–4(n)(1), respectively. The advance notice was published in the **Federal Register** on November 30, 2016. Securities Exchange Act Release No. 79391 (November 23, 2016), 81 FR 86348 (November 30, 2016) (SR–NSCC–2016–803). The Commission did not receive any comments on the advance notice.

[4] *Available at http://dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[5] The Specified Activity charge is a current component of the Clearing Fund formula that mitigates the risk of NSCC's trade guaranty attaching prior to NSCC collecting margin on the transactions, where there is a shortened settlement cycle for the transaction. Notice, *supra* note 3.

[6] The Excess Capital Premium is a charge imposed on a Member when the Member's Required Deposit exceeds its excess net capital, as described in Procedure XV of the Rules. Notice, *supra* note 3.

[7] The ID Net service allows subscribers to the service to net all eligible affirmed institutional transactions at the Depository Trust Company against their CNS transactions at NSCC. *See* Securities Exchange Act Release No. 57901 (June 2, 2008), 73 FR 32373 (June 6, 2008) (SR–NSCC–2007–14). NSCC's ID Net service is defined further in Rule 65. Rules, *supra* note 4.

[8] CNS and its operation are described in Rule 11 and Procedure VII. Rules, *supra* note 4.

[9] The Balance Order Accounting Operation is described in Rule 5 and Procedure V. Rules, *supra* note 4. NSCC does not become a counterparty to Balance Order trades, but it does provide a trade guaranty to the receive and deliver parties that remains effective through close of business on the originally scheduled settlement date.

[10] Today, shortened process trades, such as same-day and next-day settling trades, are already guaranteed upon comparison or trade recording processing.

[11] Validation refers to the process whereby NSCC validates a locked-in trade, or compares and validates a bilateral trade, to confirm such trade has sufficient and correct information for clearance and settlement processing. For purposes of this description in the proposed rule change, the process of comparing and validating bilateral submissions and the process for validating locked-in submissions are collectively referred to as ''trade validation.'' Notice, *supra* note 3.

[12] *See* Securities Exchange Act Release Nos. 44648 (August 2, 2001), 66 FR 42245 (August 10, 2001) (SR–NSCC–2001–11); 35442 (March 3, 1995), 60 FR 13197 (March 10, 1995) (SR–NSCC–95–02); 35807 (June 5, 1995), 60 FR 31177 (June 13, 1995) (SR–NSCC–95–03); and 27192 (August 29, 1989), 54 FR 37010 (approving SR–NSCC–87–04, SR–MCC–87–03, and SR–SCCP–87–03 until December 31, 1990).

in the settlement cycle. The transfer of counterparty credit risk from Members to NSCC at an earlier point in the settlement cycle would facilitate a shortened holding period of bilateral credit risk for Members by transferring the obligation onto NSCC.

To implement this proposed change, NSCC would amend Addendum K of the Rules [13] to provide that CNS trades and Balance Order trades would be guaranteed by NSCC at the time of trade validation.[14] NSCC also proposes to clarify in Addendum K [15] that the guaranty of obligations arising out of the exercise or assignment of options that are settled at NSCC is not governed by Addendum K [16] but by a separate arrangement between NSCC and The Options Clearing Corporation, as referred to in Procedure III of the Rules.[17]

(B) Proposed Enhancements to NSCC's Clearing Fund Formula

In conjunction with the proposed accelerated trade guaranty, NSCC would enhance its Clearing Fund formula to address the risks posed by the expanded trade guaranty. Specifically, NSCC proposes to amend Procedure XV (Clearing Fund Formula and Other Matters) of the Rules [18] to include three new components: The MRD, the Coverage Component, and the Intraday Backtesting Charge.

1. Margin Requirement Differential

The MRD component is designed by NSCC to help mitigate the risks posed to NSCC by day-over-day fluctuations in a Member's portfolio. It would do this by forecasting future changes in a Member's portfolio based on a historical look-back at each Member's portfolio over a given time period. A Member's portfolio may fluctuate significantly from one trading day to the next as the Member executes trades throughout the day. Currently, daily fluctuations in a Member's portfolio resulting from such trades do not pose any additional or different risk to NSCC because those trades are not guaranteed by NSCC until a margin in the form of a Required Deposit [19] reflecting such trades is collected by NSCC. However, under the accelerated trade guaranty proposal, NSCC's trade guaranty would attach to current-day trades immediately upon trade validation, before Required Deposits reflecting these trades have been collected (which NSCC refers to herein as the ''coverage gap'').[20] The MRD would increase Members' Required Deposits by an amount calculated to cover forecasted fluctuations in Members' portfolios, based upon historical activity.

The MRD would be calculated and charged on a daily basis, as a part of each Member's Required Deposit, and consists of two components: ''MRD VaR'' and ''MRD MTM.'' MRD VaR would look at historical day-over-day positive changes in the start of day (''SOD'') volatility component of a Member's Required Deposit [21] (the volatility component is referred to as the ''Volatility Charge'') over a 100-day look-back period and would be calculated to equal the exponentially weighted moving average (''EWMA'') of such changes to the Member's Volatility Charge during the look-back period. MRD MTM would look at historical day-over-day increases to the SOD mark-to-market component of a Member's Required Deposit [22] over a 100-day look-back period and would be calculated to equal the EWMA of such changes to the Member's SOD mark-to-market component during the look-back period. The MRD would be calculated to equal the sum of MRD VaR and MRD MTM times a multiplier calibrated based on backtesting results. NSCC has determined that a 100-day look-back period would provide a sufficient time series to reflect current market conditions.

By addressing the day-over-day changes to each Member's SOD Volatility Charge and SOD mark-to-market component, NSCC states that the MRD would help mitigate the risks posed to NSCC by un-margined day-over-day fluctuations to a Member's portfolio resulting from intraday trading activity that would be guaranteed during the coverage gap.

2. Coverage Component

The Coverage Component is designed by NSCC to mitigate the risks associated with a Member's Required Deposit being insufficient to cover projected liquidation losses to the Coverage Target by adjusting a Member's Required Deposit towards the Coverage Target. NSCC would face increased exposure to a Member's un-margined portfolio as a result of the proposed accelerated trade guaranty and would have an increased need to have each Member's Required Deposit meet the Coverage Target. The Coverage Component would supplement the MRD by preemptively increasing a Member's Required Deposit by an amount calculated to forecast potential deficiencies in the margin coverage of a Member's guaranteed portfolio. The preemptive nature of the Coverage Component differentiates it from NSCC's current Backtesting Charge [23] (to be renamed as the ''Regular Backtesting Charge'' pursuant to this proposal, as described below) and the Intraday Backtesting Charge, both of which are backwards looking increases to the Member's Required Deposit to above the Coverage Target.

The Coverage Component would be calculated and charged on a daily basis as a part of each Member's Required Deposit. To calculate the Coverage Component, NSCC would compare the simulated liquidation profit and loss of a Member's portfolio, using the actual positions in the Member's portfolio and the actual historical returns on the security positions in the portfolio, against the sum of each of the following components of the Clearing Fund formula: Volatility Charge, the MRD, Illiquid Charge, and Market Maker Domination Charge (collectively, ''Market Risk Components''). The results of that calculation would determine if there were any deficiencies between the amounts collected by these components and the simulated profit and loss of the Member's portfolio that would have been realized had it been liquidated during a 100-day look-back period.

[13] *Supra* note 4.

[14] The proposed accelerated trade guaranty would not apply to items not currently guaranteed today.

[15] *Supra* note 4.

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] NSCC collects Required Deposits from all Members as margin to protect NSCC against losses in the event of a Member's default. The objective of the Required Deposit is to mitigate potential losses to NSCC associated with liquidation of the Member's portfolio if NSCC ceases to act for a Member (*i.e.,* a ''default''). NSCC determines Members' Required Deposit amounts using a risk-based margin methodology that is intended to capture market price risk. The methodology uses historical market moves to project or forecast the potential gains or losses on the liquidation of a defaulting Member's portfolio, assuming that a portfolio would take three days to liquidate or hedge in normal market conditions. The projected liquidation gains or losses are used to determine the Member's Required Deposit, which is calculated to cover projected liquidation losses to be at or above a 99 percent confidence level (''Coverage Target''). Notice, *supra* note 3.

[20] The coverage gap is the period between the time that NSCC would guarantee a trade and the time that NSCC would collect additional margin to cover such trade.

[21] The Volatility Charge component of the Clearing Fund formula for CNS trades and Balance Order trades is described in Procedure XV, Sections I.(A)(1)(a) and I.(A)(2)(a), respectively.

[22] The SOD mark-to-market component of the Clearing Fund formula for CNS trades consists of Regular Mark-to-Market and ID Net Mark-to-Market, which are described in Procedure XV, Sections I(A)(1)(b) and I(A)(1)(c), respectively. The SOD mark-to-market component of the Clearing Fund formula for Balance Order trades is described in Procedure XV, Section I(A)(2)(b).

[23] Rules, Procedure XV, Section I(B)(3), *supra* note 4.

NSCC would then determine a daily ''peak deficiency'' amount for each Member equal to the maximum deficiency over a rolling 10 business day period for the preceding 100 days. The Coverage Component would be calculated to equal the EWMA of the peak deficiencies over the 100-day look-back period.

3. Intraday Backtesting Charge

NSCC currently employs daily backtesting to determine the adequacy of each Member's Required Deposit. NSCC compares the Required Deposit [24] for each Member with the simulated liquidation profit and loss using the actual positions in the Member's portfolio and the actual historical returns on the security positions in the portfolio. NSCC investigates the cause of any backtesting deficiencies. As a part of this investigation, NSCC pays particular attention to Members with backtesting deficiencies that bring the results for that Member below the Coverage Target to determine if there is an identifiable cause of repeat backtesting deficiencies. NSCC also evaluates whether multiple Members experience backtesting deficiencies for the same underlying reason. Upon implementation of the accelerated trade guaranty, NSCC would employ a similar backtesting process on an intraday basis to determine the adequacy of each Member's Required Deposit. However, instead of backtesting a Member's Required Deposit against the Member's SOD portfolio, NSCC would use portfolios from two intraday time slices.[25]

NSCC's objective with the Intraday Backtesting Charge is to increase Required Deposits for Members that are likely to experience intraday backtesting deficiencies on the basis described above by an amount sufficient to maintain such Member's intraday backtesting coverage above the Coverage Target. Members that maintain consistent end of day positions but have a high level of intraday trading activity pose risk to NSCC if they were to default intraday.

Because the intraday trading activity and size of the intraday backtesting deficiencies vary among impacted Members, NSCC would assess an Intraday Backtesting Charge that is specific to each impacted Member. To do so, NSCC would examine each impacted Member's historical intraday backtesting deficiencies observed over the prior 12-month period to identify the five largest intraday backtesting deficiencies that have occurred during that time. The presumptive Intraday Backtesting Charge amount would equal that Member's fifth largest historical intraday backtesting deficiency, subject to adjustment as further described below. NSCC believes that applying an additional margin charge equal to the fifth largest historical intraday backtesting deficiency to a Member's Required Deposit would have brought the Member's historically observed intraday backtesting coverage above the Coverage Target.[26]

Although the fifth largest historical backtesting deficiency for a Member would be used as the Intraday Backtesting Charge in most cases, NSCC would retain discretion to adjust the charge amount based on other circumstances that might be relevant for assessing whether an impacted Member is likely to experience future backtesting deficiencies and the estimated size of such deficiencies. According to NSCC, examples of relevant circumstances that could be considered by NSCC in calculating the final, applicable Intraday Backtesting Charge amount include material differences among the Member's five largest intraday backtesting deficiencies observed over the prior 12-month period, variability in the net settlement activity after the collection of the Member's Required Deposit, and observed market price volatility in excess of the Member's historical Volatility Charge. Based on NSCC's assessment of the impact of these circumstances on the likelihood, and estimated size, of future intraday backtesting deficiencies for a Member, NSCC could, in its discretion, adjust the Intraday Backtesting Charge for such Member in an amount that NSCC determines to be more appropriate for maintaining such Member's intraday backtesting results above the Coverage Target.

In order to differentiate the Backtesting Charge assessed on the start of the day portfolio from the Backtesting Charge assessed on an intraday basis, NSCC would amend the Rules by adding a defined term ''Regular Backtesting Charge'' to Procedure XV, Section I.(B)(3).[27]

If NSCC determines that an Intraday Backtesting Charge should apply to a Member who was not assessed an Intraday Backtesting Charge during the immediately preceding month or that the Intraday Backtesting Charge applied to a Member during the previous month should be increased, NSCC would notify the Member on or around the 25th calendar day of the month prior to the assessment of the Intraday Backtesting Charge or prior to the increase to the Intraday Backtesting Charge, as applicable, if not earlier.

NSCC would impose the Intraday Backtesting Charge as an additional charge applied to each impacted Member's Required Deposit on a daily basis for a one-month period and would review each applied Intraday Backtesting Charge each month. However, the Intraday Backtesting Charge would only be applicable to those Members whose overall 12-month trailing intraday backtesting coverage falls below the Coverage Target. If an impacted Member's trailing 12-month intraday backtesting coverage exceeds the Coverage Target (without taking into account historically imposed Intraday Backtesting Charges), the Intraday Backtesting Charge would be removed.

(C) Enhanced Intraday Mark-to-Market Margining

NSCC proposes to enhance its current intraday margining to further mitigate the intraday coverage gap risk that may be introduced to NSCC as a result of the proposed accelerated trade guaranty. As part of its Clearing Fund formula, NSCC currently collects a SOD mark-to-market margin, which is designed to mitigate the risk arising out of the value change between the contract/settlement value of a Member's open positions and the current market value. A Member's SOD mark-to-market margin is calculated and collected daily as part of a Member's daily Required Deposit based on the Member's prior end-of-day positions. The SOD mark-to-market component of the daily Required Deposit is calculated to cover a Member's exposure due to market moves and/or trading and settlement activity by bringing the portfolio of open positions up to the current market value.

Because the SOD mark-to-market component is calculated only once daily using the prior end-of-day positions and prices, it does not cover a Member's exposure arising out of any intraday changes to position and market value in a Member's portfolio. For such

[24] For backtesting comparisons, NSCC uses the Required Deposit amount without regard to the actual collateral posted by the Member.

[25] Intraday time slices are subject to change based upon market conditions and would include the positions from SOD plus any additional positions up to that time.

[26] Intraday backtesting would include 500 observations per year (twice per day over 250 observation days). Each occurrence of a backtesting deficiency would reduce a Member's overall backtesting coverage by 0.2 percent (1 exception/500 observations). Accordingly, an Intraday Backtesting Charge equal to the fifth largest backtesting deficiency would have brought backtesting coverage up to 99.2 percent.

[27] *Supra* note 4.

exposure, the Volatility Charge already collected from each Member as part of the Member's daily Required Deposit is calculated to cover projected changes in the contract/settlement value of a Member's portfolio, which should be sufficient to cover intraday changes to a Member's portfolio, and thus NSCC's risk of loss as a result of that Member's intraday activities. However, in certain instances, a Member could have intraday mark-to-market changes that are significant enough that NSCC is exposed to an increased risk of loss that would not be covered by the Member's Volatility Charge. To monitor and account for these instances, NSCC measures each Member's intraday mark-to-market exposure against the Volatility Charge twice daily and collects an intraday mark-to-market amount from any Member whose intraday mark-to-market exposure meets or exceeds 100 percent of the Member's Volatility Charge, although NSCC may lower that threshold and measure exposure more often during volatile market conditions. NSCC believes that such Members pose an increased risk of loss to NSCC because the coverage provided by the Volatility Charge, which is designed to cover estimated losses to a portfolio over a specified time period, would be exhausted by an intraday mark-to-market exposure so large that the Member's Required Deposit would potentially be unable to absorb further intraday losses to the Member's portfolio.

To further mitigate the risk posed to NSCC by the proposed accelerated trade guaranty, NSCC is proposing to enhance its collection of intraday mark-to-market margin by imposing the intraday mark-to-market margin amount at a lower threshold. With this proposal, instead of collecting intraday mark-to-market margin if a Member's intraday mark-to-market exposure meets or exceeds 100 percent of the Member's Volatility Charge, NSCC would make an intraday margin call if a Member's intraday mark-to-market exposure meets or exceeds 80 percent of the Member's Volatility Charge (while still retaining the ability to reduce the threshold during volatile market conditions). This proposed change would serve to collect more intraday margin earlier and more proactively preserve the coverage provided by a Member's Volatility Charge and Required Deposit.

Finally, to ensure that Members are aware that NSCC regularly monitors and considers intraday mark-to-market as part of its regular Clearing Fund formula and understand the circumstances and criteria for the assessment of an intraday mark-to-market call, NSCC proposes to amend Procedure XV to include a comprehensive description of the enhanced intraday mark-to-market margin charge and the proposed new criteria NSCC would use to assess it.

(D) Loss Allocation Provision for Off-the-Market Transactions

NSCC proposes to introduce a new loss allocation provision for any trades that fall within the proposed definition of ''Off-the-Market Transactions.'' This loss allocation provision would be designed to limit NSCC's exposure to certain trades that have a price that differs significantly from the prevailing market price for the underlying security at the time the trade is executed. It would apply in the event that NSCC ceases to act for a Member that engaged in Off-the-Market Transactions and only to the extent that NSCC incurs a net loss in the liquidation of such Transactions.[28]

NSCC would define ''Off-the-Market Transaction'' as a single transaction (or a series of transactions settled within the same trade cycle) that is (i) greater than $1 million in gross proceeds, and (ii) at trade price that differs significantly (*i.e.,* either higher or lower) from the most recently observed market price, at the time the trade was submitted to NSCC, by a percentage amount determined by NSCC based upon market conditions and factors that impact trading behavior of the underlying security, including volatility, liquidity and other characteristics of such security.

In addition to defining Off-the-Market Transactions, the proposed change would establish the loss allocation for when they occur. Specifically, any net losses to NSCC resulting from the liquidation of a guaranteed, Off-the-Market Transaction of a defaulted Member would be allocated directly and entirely to the surviving counterparty to that transaction, or on whose behalf the Off-the-Market Transaction was submitted to NSCC. Losses would be allocated to counterparties in proportion to their specific Off-the-Market Transaction gain and would be allocated only to the extent of NSCC's loss; however, no allocation would be made if the defaulted Member has satisfied all requisite intraday mark-to-market margin assessed by NSCC with respect to the Off-the-Market Transaction.[29]

According to NSCC, this proposed change would allow NSCC to mitigate the risk of loss associated with guaranteeing these Off-the-Market Transactions. NSCC has recognized that applying the accelerated trade guaranty to transactions whose price significantly differs from the most recently observed market price could inappropriately increase the loss that NSCC may incur if a Member that has engaged in Off-the-Market Transactions defaults and its open, guaranteed positions are liquidated. Members not involved in Off-the-Market Transactions, or not involved in Off-the-Market Transactions that result in losses to NSCC, would not be included in this process. This exclusion would apply only to losses that are attributable to Off-the-Market Transactions and would not exclude Members from other obligations that may result from any loss or liabilities incurred by NSCC from a Member default.

To implement this proposed change, NSCC would amend Rule 4 [30] (Clearing Fund) to provide that, if a loss or liability of NSCC is determined by NSCC to arise in connection with the liquidation of any Off-the-Market Transactions, such loss or liability would be allocated directly to the surviving counterparty to the Off-the-Market Transaction that submitted the transaction to NSCC for clearing. NSCC also would amend Rule 1 [31] (Definitions and Descriptions) to include a definition of Off-the-Market Transactions.

(E) Other Related and Technical Changes

1. Removing the Specified Activity Charge

Currently, NSCC collects a Specified Activity charge, which is designed to cover the risk posed to NSCC by transactions that settle on a T+2, T+1, or T timeframe.[32] Because such transactions may be guaranteed by NSCC prior to the collection of margin, they pose an increased risk to NSCC (a similar risk that posed to NSCC by the proposed accelerated trade guaranty). The Specified Activity charge currently mitigates this risk by increasing the Required Deposit for a Member in relation to the number of Specified Activity trades submitted to NSCC by the Member over a 100-day look-back period. However, according to NSCC,

[28] A net loss on liquidation of the Off-the-Market Transaction means that the loss on liquidation of the Member's portfolio exceeds the collected Required Deposit of the Member and such loss is attributed to the Off-the-Market Transaction.

[29] A Member's Off-the-Market Transaction that has been marked to market is, by definition, no longer an Off-the-Market Transaction when the mark-to-market component of the Member's Required Deposit is satisfied.

[30] *Supra* note 4.

[31] *Id.*

[32] Examples of these trades can include next day settling trades, same day settling trades, cash trades, and sellers' options.

the addition of the proposed MRD and Coverage Components to the Clearing Fund formula would mitigate the risks posed by trades guaranteed by NSCC prior to the collection of margin on those trades, thereby obviating the need to collect a separate Specified Activity charge. Accordingly, because it would be duplicative of the MRD and Coverage Components that are being added to the Clearing Fund Formula, NSCC proposes to eliminate the Specified Activity charge.

2. Eliminating Delay in Processing and Reporting of Next Day Settling Index Receipts

Next day settling index receipts may be guaranteed prior to the collection of margin reflecting such trades and thus carry a risk similar to the risk posed by Specified Activity trades described above. More specifically, because these trades are settled on the day after they are received and validated by NSCC, NSCC currently attaches its guaranty to them at the time of validation, prior to the collection of a Required Deposit that reflects such trades. Unlike the risk from Specified Activity trades, which is mitigated by the Specified Activity charge, the risk for next day settling index receipts is currently mitigated by permitting NSCC to delay the processing and reporting of these trades if a Member's Required Deposit is not paid on time. However, as with the risk associated with Specified Activity, under the proposed change, this risk would generally be mitigated by the addition of the MRD and Coverage Component. Therefore, NSCC proposes to amend Procedure II of the Rules [33] (Trade Comparison and Recording Service) to remove the language that permits NSCC to delay the processing and reporting of next day settling index receipts until the applicable margin on these transactions is paid.

3. Clarifying That the MRD and Coverage Component Should not Be Included in the Calculation of a Member's Excess Capital Premium Charge

The Excess Capital Premium charge [34] is designed to address significant, temporary increases in a Member's Required Deposit based upon any one day of activity. It is not designed to provide additional Required Deposits over an extended period of time. Currently, the Excess Capital Premium charge for a Member is calculated based upon the Member's Required Deposit and the Member's excess net capital. The Premium is the amount by which a Member's Required Deposit exceeds its excess regulatory capital multiplied by the Member's ratio of Required Deposit to excess regulatory capital, expressed as a percent. Because they would be new components of a Member's Required Deposit under the current proposal, the MRD and Coverage Component would necessarily be included in the calculation of a Member's Excess Capital Premium. However, the MRD and Coverage Component each utilize a historical look-back period, which accounts for the risk of such activity well after the relevant trades have settled. Risks related to such trades would be reflected in increased amounts assessed for these components over the subsequent time periods. If these components are included in the calculation of the Excess Capital Premium, especially during periods following an increase in activity, the increased MRD and Coverage Component could lead to more frequent Excess Capital Premium charges over an extended period of time. According to NSCC, this is not the intended purpose of the Excess Capital Premium and could place an unnecessary burden on Members. Accordingly, NSCC proposes to exclude these charges from the calculation of the Excess Capital Premium.

4. Removing Reference to ID Net Subscribers

NSCC also proposes to change Procedure XV [35] to clarify how the ''Regular Mark-to-Market'' component of the Required Deposit for CNS transactions is calculated. The Mark-to-Market component of a Member's Required Deposit is designed to protect NSCC from risk of loss based on changes to the value of a Member's portfolio and therefore may result in a debit to a Member (*i.e.,* NSCC would collect more Required Deposit), but cannot result in a credit from NSCC to a Member. Accordingly, if a Member's mark-to-market calculation for a CNS or Balance Order trade results in a credit to the Member, NSCC's policy is to adjust the calculation to zero, thereby avoiding a credit from NSCC to the Member. When NSCC implemented the ID Net service,[36] it added a provision to Procedure XV [37] that explicitly stated this policy with respect to CNS transactions of subscribers to the ID Net service. According to NSCC, this change inadvertently created an implication that the calculation of Regular Mark-to-Market credit for Members who were not ID Net Subscribers would not be set to zero. NSCC proposes to revise the applicable provision of Procedure XV to remove the reference to ID Net Subscribers.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act [38] directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission believes the Proposed Rule Change is consistent with Section 17A(b)(3)(F) of the Act and Rules 17Ad–22(b)(1) and (b)(2) under the Act,[39] as described in detail below.

A. Consistency With Section 17A of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody and control of NSCC or for which it is responsible, and to protect investors and the public interest.[40] First, the Commission believes that the Proposed Rule Change is consistent with promoting prompt and accurate clearance and settlement. As described above, NSCC proposes to accelerate its trade guaranty for CNS trades and Balance Order trades from midnight of T+1 to the point of trade validation. This earlier guaranty would promote prompt and accurate clearance and settlement for Members because the counterparty credit risk that Members currently hold until NSCC's guaranty applies at midnight of T+1 would shift to NSCC almost immediately upon NSCC's receipt of the trade on T. Because NSCC risk manages its guaranteed transactions, NSCC is able to better ensure that trades settle if a counterparty defaults.

The above-described proposed changes to NSCC's margin methodology (*i.e.,* the addition of the MRD, Coverage Component, and Intraday Backtesting Charge), along with the proposed reduction of NSCC's intraday mark-to-

[33] *Supra* note 4.

[34] As stated above, the Excess Capital Premium is a charge imposed on a Member when the Member's Required Deposit exceeds its excess net capital, as described in Procedure XV of the Rules. Rules, *supra* note 4.

[35] *Id.*

[36] *Supra* note 6.

[37] *Supra* note 4.

[38] 15 U.S.C. 78s(b)(2)(C).

[39] 15 U.S.C. 78q–1(b)(3)(F); 17 CFR 240.17Ad–22(b)(1); 17 CFR 240.17Ad–22(b)(2).

[40] 15 U.S.C. 78q–1(b)(3)(F).

margin threshold, also would promote prompt and accurate clearance and settlement at NSCC because they would improve NSCC's ability to collect margin. Likewise, the proposed loss allocation provision for off-the-market transactions would promote prompt and accurate clearance and settlement at NSCC by helping to protect NSCC from losses due to transactions of a defaulted Member that were made at prices significantly different from the prevailing market price at the time of the trade. Collectively, these proposed changes would enable NSCC to manage better the additional risk that would result from the proposed accelerated guaranty, ensuring that NSCC could continue prompt clearance and settlement in a stress environment.

Second, the Commission believes that the Proposed Rule Change, as described above, are consistent with safeguarding funds within NSCC's control. NSCC's proposal to add the three new components to its margin methodology (*i.e.*, the MRD, Coverage Component, and Intraday Backtesting Charge) would enable NSCC to collect more margin, thereby safeguarding existing margin funds within NSCC's control with respect to the potential default of a Member. By collecting more margin, NSCC would be in a better position to manage the counterparty credit risk presented by Members, particularly the additional counterparty credit risk from the proposed accelerated trade guaranty. Similarly, the proposal to lower the threshold for collection of intraday mark-to-margin by collecting intraday mark-to-market margin when NSCC's exposure to a Member meets or exceeds 80 percent of that Member's Volatility Charge, rather than 100 percent, would enhance NSCC's intraday mark-to-market margin practice by allowing NSCC to collect more intraday margin stemming from intraday price fluctuations more often. As such, the proposed threshold reduction would also promote safeguarding funds within NSCC's control. With respect to the proposed change to introduce a new loss allocation provision for certain off-the-market transactions, it too would promote safeguarding funds within NSCC's control, as it would help protect NSCC from transactions of a defaulted Member that were made at prices that differed significantly from the prevailing market price at the time the trade is executed and resulted in a loss to NSCC in connection with NSCC's liquidation of the transaction.

Third, the Commission believes that the Proposed Rule Change is consistent with protecting investors and the public interest. As described above, by providing a trade guaranty at an earlier point in the settlement cycle, counterparty credit risk also would transfer from Members, which are not CCPs, to NSCC, which is a third-party CCP that risk-manages its guaranteed transactions, at an earlier point in the settlement cycle. Because NSCC risk manages its guaranteed transactions, NSCC is able to better ensure that trades settle if a counterparty defaults. Thus, the proposed accelerated process would help reduce protect investors and the public interest by mitigating Members' exposure to a counterparty default earlier in the settlement cycle and by providing an earlier assurance that transactions will settle despite a Member default.

At the same time, the three proposed additions to NSCC's margin methodology, the proposed reduction of NSCC's intraday mark-to-margin threshold, and the proposed loss allocation provision for off-the-market transactions, as described above, would also help mitigate the systemic risks that NSCC presents as a CCP because they would improve NSCC's margining abilities and help protect NSCC against potential losses from a Member default. Accordingly, the proposed changes would therefore protect investors and the public interest by promoting the stability of the broader financial system.

B. Consistency With Rule 17Ad–22(b)(1)

Rule 17Ad–22(b)(1) under the Act requires a CCP, such as NSCC, to, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . limit its exposures to potential losses from defaults by its participants under normal market conditions . . . '' As described above, because the proposed accelerated trade guaranty would transfer counterparty credit risk to NSCC at an earlier point in the settlement cycle, NSCC proposes to enhance its margin methodology by adding three new margin components and by lowering the threshold for the intraday mark-to-market margin collection. It also proposes to establish a loss allocation provision for off-the-market transactions. These proposed changes are designed to limit NSCC's exposure to potential losses from the default of a Member by enabling NSCC to collect more margin, better manage when it collects margin, and protect itself from certain losses of a defaulted Member. Therefore, the Commission believes that the Proposed Rule Change would be consistent with Rule 17Ad–22(b)(1).

C. Consistency With Rule 17Ad–22(b)(2)

Rule 17Ad–22(b)(2) under the Act requires a CCP, such as NSCC, to, among other things, ''establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . [u]se margin requirements to limit its credit exposures to participants under normal market conditions and use risk-based models and parameters to set margin requirements . . . '' Again, the proposal would add three new components to NSCC's margin methodology (*i.e.*, the MRD, Coverage Component, and Intraday Backtesting Charge), which use risk based models and parameters to calculate charges, and would lower the threshold at which NSCC would make an intraday mark-to-market margin call. As such, the proposal would help NSCC better account for and cover its credit exposure to Members. In addition, by establishing the proposed margin components and the new intraday mark-to-market margin collection threshold, the proposal is consistent with using risk-based models and parameters to set margin requirements. Therefore, the Commission believes that the Proposed Rule Change would be consistent with Rule 17Ad–22(b)(2).

III. Conclusion

On the basis of the foregoing, the Commission finds that the Proposed Rule Change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[41] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that proposed rule change SR–NSCC–2016–005 be, and hereby is, *approved* as of the date of this order or the date of a notice by the Commission authorizing NSCC to implement NSCC's advance notice proposal that is consistent with this proposed rule change (SR–NSCC–2016–803), whichever is later.[42]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[43]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30944 Filed 12–22–16; 8:45 am]

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[41] 15 U.S.C. 78q–1.

[42] In approving the proposed rule change, the Commission considered the proposals' impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[43] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79600; File No. SR–BatsBZX–2016–91]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a Participant Fee Applicable to Options Members of Its Equity Options Platform

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members [5] and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c) to adopt a Participant Fee applicable to Options Members [6] of its equity options platform (''BZX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] The term ''Options Member'' is defined as ''a firm, or organization that is registered with the Exchange pursuant to Chapter XVII of these Rules for purposes of participating in options trading on BZX Options as an 'Options Order Entry Firm' or 'Options Market Maker.' '' *See* Exchange Rule 16.1(a)(38).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for BZX Options to adopt a Participant Fee applicable to Options Members. The Exchange believes the Participant Fee with help recoup costs related to the administration of Options Members. As proposed, Options Members would pay a Participant Fee of $500 per month where they have an ADV [7] of less than 5,000 contracts traded or $1,000 per month where they have an ADV equal to or greater than 5,000 contract traded. New Options Members would not be charged a Participant Fee for their first three (3) month of membership on BZX Options. The Exchange proposes to implement the Participant Fee on January 3, 2017.[8]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[9] in general, and furthers the objectives of Section 6(b)(4),[10] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market data because national market system regulation ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [11] Likewise, in *NetCoalition* v. *NYSE Arca, Inc.*[12] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[13] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [14]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [15] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes the adoption of a Participant Fee for Options Members is equitable and reasonable because the Exchange is seeking to recoup costs related to membership administration. Depending on the Options Member's ADV, the proposed fee is either less than or equal to that charged by the Nasdaq Stock Market LLC (''Nasdaq'').[16] The Exchange also believes it is equitable and not unfairly discriminatory to charge a lower Participant Fee to those Options Members with an ADV less than 5,000

[7] As defined in the BZX Options fee schedule.

[8] The Exchange notes that the date of the fee schedule was amended to January 3, 2017 in SR–BatsBZX–2016–90 (December 14, 2016).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

[11] Securities Exchange Act Release No. 51808 at 37499 (June 9 [sic], 2005) (''Regulation NMS Adopting Release'').

[12] *NetCoalition* v. *NYSE Arca, Inc.,* 615 F.3d 525 (D.C. Cir. 2010).

[13] See *NetCoalition,* at 534.

[14] *Id.* at 537.

[15] *Id.* at 539 (quoting ArcaBook Order, 73 FR at 74782–74783).

[16] *See* Nasdaq Options Rules Chapter XV, Section 10, Participant Fee—Options (charging a Participant Fee of $1,000 to all Nasdaq options participants, regardless of volume). *See also* Securities Exchange Act Release Nos. 68502 (December 20, 2012), 77 FR 76572 (December 28, 2012) (SR–Nasdaq–2012–139); *and* 76760 (December 23, 2015), 80 FR 81562 (December 30, 2015) (SR–Nasdaq–2015–154).

contracts traded.[17] The lower fee, coupled with not charging new Options Members the Participant Fee during their first three (3) months of membership, is designed to encourage membership and to allow firms to grow their business on BZX Options. Therefore, the Exchange believes the proposed tiered Participant Fee if equitable, reasonable, and not unfairly discriminatory because it is designed to recoup costs related to membership administration while not serving as a deterrent to firms seeking to become new members of BZX Options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed Participant Fee will not impose an undue burden on competition because the Exchange will uniformly assess the participant fee on all Member based on their ADV of contracts traded. The Exchange does not believe that the proposed changes represent a significant departure from pricing offered by the Exchange's competitors.[18] Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value or if they view the proposed fee as excessive. Further, excessive fees for participation would serve to impair an exchange's ability to compete for order flow and members rather than burdening competition.

[17] The fee is also less than similar fees charged by other exchanges, some of which also charged different rates based on the type of member or that member's participation on that exchange. *See e.g.,* The Chicago Board Options Exchange, Incorporated's Fees Schedule (charging per month a Market Maker Trading Permit is $5,500, an SPX Tier appointment is $3,000, a VIX Tier Appointment is $2,000, and an electronic Access Permit is $1,600); the International Securities Exchange LLC's Schedule of Fees (charging per month an Electronic Access Member is assessed $500.00 for membership and a market maker is assessed from $2,000 to $4,000 per membership depending on the type of market maker); C2 Options Exchange, Incorporated's Fees Schedule (charging per month, a market-maker is assessed a $5,000 permit fee, an Electronic Access Permit is assessed a $1,000 permit fee); *and* NYSE Arca, Inc.'s Fee Schedule (charging per month, a Clearing Firm is assessed a $1,000 per month fee for the first Options Trading Permit (''OTP'') and $250 thereafter, and a market maker is assessed a permit based on the maximum number of OTPs held by an OTP Firm or OTP Holder during a calendar month ranging from $1,000 to $6,000 a month).

[18] *Id.*

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [19] and paragraph (f) of Rule 19b–4 thereunder.[20] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2016–91 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2016–91. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2016–91 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

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[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79589; File No. SR–CBOE–2016–086]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Debit/Credit Price Reasonability Checks for Complex Orders

December 19, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 9, 2016, Chicago Board Options Exchange, Incorporated (''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the debit/credit price reasonability check for complex orders. The text of the proposed rule change is provided below.

(additions are *italicized;* deletions are [bracketed])

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 6.53C. Complex Orders on the Hybrid System

(a)–(d) No change.

. . . *Interpretations and Policies:*

.01–.07 No change.

.08 Price Check Parameters: On a class-by-class basis, the Exchange may determine (and announce to the Trading Permit Holders via Regulatory Circular) which of the following price check parameters will apply to eligible complex orders. Paragraphs (b) and (e) will not be applicable to stock-option orders.

For purposes of this Interpretation and Policy .08:

Vertical Spread. A ''vertical'' spread is a two-legged complex order with one leg to buy a number of calls (puts) and one leg to sell the same number of calls (puts) with the same expiration date but different exercise prices.

Butterfly Spread. A ''butterfly'' spread is a three-legged complex order with two legs to buy (sell) the same number of calls (puts) and one leg to sell (buy) twice as many calls (puts), all with the same expiration date but different exercise prices, and the exercise price of the middle leg is between the exercise prices of the other legs. If the exercise price of the middle leg is halfway between the exercise prices of the other legs, it is a ''true'' butterfly; otherwise, it is a ''skewed'' butterfly.

Box Spread. A ''box'' spread is a four-legged complex order with one leg to buy calls and one leg to sell puts with one strike price, and one leg to sell calls and one leg to buy puts with another strike price, all of which have the same expiration date and are for the same number of contracts.

To the extent a price check parameter is applicable, the Exchange will not automatically execute an eligible complex order that is:

(a)–(b) No change.

(c) Debit/Credit Price Reasonability Checks:

(1) No change.

(2) The System defines a complex order as a debit or credit as follows:

(A)–(B) No change.

(C) an order for which all pairs and loners are debits (credits) is a debit (credit). For purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and [both]*the* legs have the same expiration date but different exercise prices or, for all options except European-style index options, [the same exercise price but]different expiration dates *and the exercise price for the call (put) with the farther expiration date is the same as or lower (higher) than the exercise price for the nearer expiration date.* A ''loner'' is any leg in an order that the System cannot pair with another leg in the order (including legs in orders for European-style index options that have the same exercise price but different expiration dates). The System treats the stock leg of a stock-option order as a loner.

(i) No change.

(ii) The System then, for options except European-style index options, pairs legs to the extent possible [with the same exercise prices]across expiration dates, pairing one [leg]*call (put)* with the [leg]*call (put)* that has the next nearest expiration date *and the same or next lower (higher) exercise price.*

(iii) A pair of calls is a credit (debit) if the exercise price of the buy (sell) leg is higher than the exercise price of the sell (buy) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the [pair has the same]exercise price *of the sell (buy) leg is the same as or lower than the exercise price of the buy (sell) leg*).

(iv) A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the [pair has the same]exercise price *of the sell (buy) leg is the same as or higher than the exercise price of the buy (sell) leg*).

(v) No change.

The System does not apply the check in subparagraph (1) to an order for which the System cannot define whether it is a debit or credit.

(3)–(6) No change.

(d)–(g) No change.

.09–.12 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the debit/credit price reasonability check for complex orders in Rule 6.53C, Interpretation and Policy .08(c) to expand its applicability. Pursuant to the debit/credit price reasonability check, the System rejects back to the Trading Permit Holder any limit order for a debit strategy with a net credit price or any limit order for a credit strategy with a net debit price, and cancels any market order (or any remaining size after partial execution of the order) for a credit strategy that would be executed at a net debit price. The System defines a complex order as a debit (credit) if all pairs and loners are debits (credits).[3] For purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and both legs have the same expiration date but different exercise prices or, for all options except European-style index options, the same exercise price but different expiration dates. A ''loner'' is any leg in an order that the System cannot pair with another leg in the order (including legs in orders for European-style index options that have the same exercise price but different expiration dates).[4]

(1) The System first pairs legs to the extent possible within each expiration

[3] Rule 6.53C, Interpretation and Policy .08(c)(2)(C). The System also determines certain call and put butterfly spreads as debits and credits. *See* Rule 6.53C, Interpretation and Policy .08(c)(2)(A) and (B).

[4] The System treats the stock leg of a stock-option order as a loner.

date, pairing one leg with the leg that has the next highest exercise price.

(2) The System then, for options except European-style index options, pairs legs to the extent possible with the same exercise prices across expiration dates, pairing one leg with the leg that has the next nearest expiration date.

(3) A pair of calls is a credit (debit) if the exercise price of the buy (sell) leg is higher than the exercise price of the sell (buy) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).

(4) A pair of puts is a credit (debit) if the exercise price of the sell (buy) leg is higher than the exercise price of the buy (sell) leg (if the pair has the same expiration date) or if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the pair has the same exercise price).

(5) A loner to buy is a debit, and a loner to sell is a credit.

The System does not apply the check in subparagraph (1) to an order for which the System cannot define whether it is a debit or credit.

As discussed in the rule filing proposing the current check, the System determines whether an order is a debit or credit based on general options volatility and pricing principles, which the Exchange understands are used by market participants in their option pricing models.[5] With respect to options with the same underlying:

- If two calls have the same expiration date, the price of the call with the lower exercise price is more than the price of the call with the higher exercise price;
- if two puts have the same expiration date, the price of the put with the higher exercise price is more than the price of the put with the lower exercise price; and
- if two calls (puts) have the same exercise price, the price of the call (put) with the nearer expiration is less than the price of the call (put) with the farther expiration.

In other words, a call (put) with a lower (higher) exercise price is more expensive than a call (put) with a higher (lower) exercise price, because the ability to buy stock at a lower price is more valuable than the ability to buy stock at a higher price, and the ability to sell stock at a higher price is more valuable than the ability to sell stock at a lower price. A call (put) with a farther expiration is more expensive than the price of a call (put) with a nearer expiration, because locking in a price further into the future involves more risk for the buyer and seller and thus is more valuable, making an option (call or put) with a farther expiration more expensive than an option with a nearer expiration.

Under the current check, the System only pairs calls (puts) if they have the same expiration date but different exercise prices or the same exercise price but different expiration dates. With respect to pairs with different expiration dates but the same exercise price,[6] a pair of calls is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg)[sic], and a pair of puts is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg)[sic]. However, based on the principles described above, if the sell (buy) leg of a pair of calls has a farther expiration date (and thus is more expensive) than the expiration date of the buy (sell) leg as well as a lower exercise price (and thus is more expensive) than the exercise price of the sell (buy) leg, then the pair is a credit (debit) (as is the case if the exercise prices of each call were the same under the current rule). Similarly, if the sell (buy) leg of a pair of puts has a farther expiration date (and thus is more expensive) than the expiration date of the buy (sell) leg as well as a higher exercise price (and thus is more expensive) than the exercise price of the buy (sell) leg, then the pair of puts is a credit (as is the case if the exercise prices of each put were the same under the current rule).

Therefore, the proposed rule change expands this check to pair calls (puts) with different expiration dates if the exercise price for the call (put) with the farther expiration date is lower (higher) than the exercise price for the nearer expiration date in addition to those with different expiration dates and the same exercise price. Specifically, the proposed rule change amends subparagraph (c)(2)(C) to state, for purposes of this check, a ''pair'' is a pair of legs in an order for which both legs are calls or both legs are puts, one leg is a buy and one leg is a sell, and the legs have different expiration dates and the exercise price for the call (put) with the farther expiration date is the same as or lower (higher) than the exercise price for the nearer expiration date. The proposed rule change also amends subparagraphs (c)(2)(C)(ii) through (iv) to incorporate these additional pairs of calls (puts). When pairing legs across expiration dates, the System will pair one call (put) with the call (put) that has the next nearest expiration date and the same or next lower (higher) exercise price. Based on the pricing principles described above, a pair of calls is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the exercise price of the sell (buy) leg is the same as or lower than the exercise price of the buy (sell) leg). A pair of puts is a credit (debit) strategy if the expiration date of the sell (buy) leg is farther than the expiration date of the buy (sell) leg (if the exercise price of the sell (buy) leg is the same as or higher than the exercise price of the buy (sell) leg).[7] Entering a calendar spread with a credit (debit) strategy at a debit (credit) price (or that would execute at a debit (credit) price), which price is inconsistent with the strategy, may result in executions at prices that are extreme and potentially erroneous.

Below are examples demonstrating how the System determines whether a complex order with two legs, which have different expiration dates and exercise prices, is a debit or credit, and whether the System will reject the order pursuant to the debit/credit price reasonability check.[8]

Example #1—Limit Call Spread

A Trading Permit Holder enters a spread to buy 10 Sept 30 XYZ calls and sell 10 Oct 20 XYZ calls at a net debit price of -$10.00. The System defines this order as a credit, because the buy leg is for the call with the nearer expiration date and higher exercise price (and is thus the less expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a credit strategy that contains a net debit price.

Example #2—Limit Put Spread

A Trading Permit Holder enters a spread to buy 20 Oct 30 XYZ puts and sell 20 Sept 20 XYZ puts at a net credit price of $9.00. The System defines this

[5] Securities Exchange Act Release No. 34–76960 (January 21, 2016), 81 FR 4728 (January 27, 2016) (SR–CBOE–2015–107) (Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2 Thereto, Relating to Price Protection Mechanisms for Quotes and Orders).

[6] A complex order consisting of a buy leg and a sell leg with different expiration dates are commonly referred to in the industry as ''calendar spreads.''

[7] The proposed rule change makes no changes to this check with respect to pairs of orders with the same expiration date but different exercise prices. Therefore, the rule filing omits references to the portions of the current rule related to those pairs to focus on the changes made to pairs with different expiration dates.

[8] The same principles would apply to complex orders with more than two legs, which include two legs that can be paired in this way.

order as a debit, because the buy leg is for the put with the farther expiration date and the higher exercise price (and thus the more expensive leg). The System rejects the order back to the Trading Permit Holder because it is a limit order for a debit strategy that contains a net credit price.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[9] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [10] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [11] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change expands the applicability of the current debit/credit price reasonability check to additional complex orders for which the Exchange can determine whether the order is a debit or credit. By expanding the orders to which these checks apply, the Exchange can further assist with the maintenance of a fair and orderly market by mitigating the potential risks associated with additional complex orders trading at prices that are inconsistent with their strategies (which may result in executions at prices that are extreme and potentially erroneous), which ultimately protects investors. This proposed expansion of the debit/credit price reasonability check promotes just and equitable principles of trade, as it is based on the same general option and volatility pricing principles the System currently uses to pair calls and puts, which principles the Exchange understands are used by market participants in their option pricing models.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] *Id.*

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change will not impose any burden on intramarket competition, because the debit/credit price reasonability check will continue to apply to all incoming complex orders of all Trading Permit Holders in the same manner. The proposed rule change expands the applicability of the current check to additional complex orders for which the Exchange can determine whether the order is a debit or credit, which will help further prevent potentially erroneous executions and benefits all market participants. The proposed rule change does not impose any burden on intercompany competition, as it is intended to prevent potentially erroneously priced orders from entering CBOE's system and executing on CBOE's market. The Exchange believes the proposed rule change would ultimately provide all market participants with additional protection from anomalous or erroneous executions.

The individual firm benefits of enhanced risk protections flow downstream to counterparties both at the Exchange and at other options exchanges, which increases systemic protections as well. The Exchange believes enhancing risk protections will allow Trading Permit Holders to enter orders and quotes with further reduced fear of inadvertent exposure to excessive risk, which will benefit investors through increased liquidity for the execution of their orders. Without adequate risk management tools, such as the one proposed to be enhanced in this filing, Trading Permit Holders could reduce the amount of order flow and liquidity they provide. Such actions may undermine the quality of the markets available to customers and other market participants. Accordingly, the proposed rule change is designed to encourage Trading Permit Holders to submit additional order flow and liquidity to the Exchange, which may ultimately promote competition. In addition, providing Trading Permit Holders with more tools for managing risk will facilitate transactions in securities because, as noted above, Trading Permit Holders will have more confidence protections are in place that reduce the risks from potential system errors and market events.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6) thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml);* or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2016–086 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.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

All submissions should refer to File Number SR–CBOE–2016–086. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2016–086 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30937 Filed 12–22–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79594; File No. SR–NYSEArca–2016–164]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE Arca Rule 3.2 and NYSE Arca Equities Rules 1.1, 3.2, 10.3, 10.8, 10.13, and 14

December 19, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on December 8, 2016, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Rule 3.2 and NYSE Arca Equities Rules 1.1, 3.2, 10.3, 10.8, 10.13, and 14 to delete outdated references. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the following rules to delete outdated references to the ''NYSE Arca Board of Governors'' in NYSE Arca Rule 3.2 and NYSE Arca Equities Rules 1.1, 3.2, 10.3, 10.8, 10.13, and 14.

In 2016, the Exchange amended, among other rules, Rule 10.8 in order to establish a Committee for Review (''CFR'') as a sub-committee of the Regulatory Oversight Committee (''ROC'').[4] When the Exchange's CFR was created, NYSE Arca Equities Rules 10.3 (Ex Parte Communications), 10.12 (Minor Rule Plan) and 10.13 (Hearing and Review of Decisions) were amended to replace outdated references to the ''NYSE Arca Board of Governors'' with the ''NYSE Arca Board of Directors.''[5] However, outdated references to the ''NYSE Arca Board of Governors'' in NYSE Arca Rule 3.2 and NYSE Arca Equities Rules 1.1, 3.2, 10.3, 10.8, 10.13, and 14 were inadvertently omitted. The Exchange accordingly proposes to replace references to ''Governors'' with ''Directors'' in these rules as follows:

- NYSE Arca Rule 3.2 (Options Committees) governs the organization, structure and membership of NYSE Arca Options committees. NYSE Arca Rule 3.2(b) sets forth the eligibility requirements for three [sic] specific Options Committees, including the Nominating Committee which is governed by Rule 3.2(b)(2). The Exchange proposes one replacement of ''Governors'' with ''Directors'' in subsection (C)(i) of Rule 3.2(b)(2).
- NYSE Arca Equities Rule 1.1(n) defines ETP Holder and describes ETP Holder's limited voting rights to, among other things, nominate directors to the Board of Directors of NYSE Arca. The Exchange proposes to replace ''Governor'' and ''Governors'' with ''Director'' and ''Directors,'' respectively, in NYSE Arca Equities Rule 1.1(n).
- NYSE Arca Equities Rule 3.2 (Equity Committees) governs the organization, structure and membership of NYSE Arca Equities committees. NYSE Arca Equities Rule 3.2(b) sets forth the eligibility requirements for three [sic] specific Options Committees [sic], including the Nominating Committee which is governed by Rule 3.2(b)(2). The Exchange proposes one replacement of ''Governors'' with ''Directors'' in subsection (C)(ii) of Rule 3.2(b)(2). The Exchange also proposes a non-substantive change to delete ''the'' before ''NYSE Arca, Inc.'' in the last section of subsection (C)(ii).
- Subsection (a) of NYSE Arca Equities Rule 10.3 (Ex Parte Communications) governs certain prohibited communications. The Exchange proposes to replace ''Governors'' with ''Directors'' in NYSE Arca Equities Rule 10.3(a)(2)(e) and in NYSE Arca Equities Rule 10.3(a)(3)(d).
- NYSE Arca Equities Rule 10.8 (Review) governs review of review [sic] of disciplinary decisions. The Exchange proposes three replacements of ''Governors'' with ''Directors'' in subsection (c) of NYSE Arca Equities

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 77898 (May 24, 2016), 81 FR 34404 (May 31, 2016) (SR–NYSEArca–2016–11). Specifically, the Exchange amended NYSE Arca Equities Rule 10.8(a) and (b) to replace references to the NYSE Arca Equities Board Appeals Committee with references to the ''Committee for Review'' or ''CFR'' and to replace references to the ''Appeals Panel'' with the ''CFR Appeals Panel.'' *See id.,* 81 FR at 34406. NYSE Arca Equities Rule 10.8(a) and (b) did not contain references to the ''NYSE Arca Board of Governors.''

[5] *See id.,* 81 FR at 34406.

Rule 10.8, and two replacements of ''Governors'' with ''Directors'' in subsection (d).

• NYSE Arca Equities Rule 10.13 (Hearings and Review of Decisions) sets forth procedures for persons aggrieved by certain Exchange actions to seek review of those actions. The Exchange proposes three replacements of ''Governors'' with ''Directors'' in subsection (k) of NYSE Arca Equities Rule 10.13.

• Finally, the Exchange proposes one replacement of ''Governors'' with ''Directors'' in NYSE Arca Equities Rule 14.1 (NYSE Arca, Inc.), which sets forth the plan of delegation of functions by NYSE Arca to NYSE Arca Equities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [6] in general, and with Section 6(b)(5) [7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, help to protect investors and the public interest. Specifically, the Exchange believes that replacing outdated references to ''Governors'' with ''Directors'' in the phrase ''NYSE Arca Board of Governors'' and one reference to a ''Governor'' with ''Director'' in the NYSE Arca and NYSE Arca Equities Rules removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather to delete obsolete references, thereby increasing transparency, reducing confusion, and making the Exchange's rules easier to understand and navigate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act [10] normally does not become operative for 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that the proposed rule change would delete obsolete references, which would reduce confusion and add clarity to its rulebook. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[12]

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2016–164 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–NYSEArca–2016–164. 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

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2016–164 and should be submitted on or before January 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2016–30940 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 6a–4, Form 1–N, SEC File No. 270–496, OMB Control No. 3235–0554.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information provided for in Rule 6a–4 and Form 1–N, as discussed below. The Code of Federal Regulation citation to this collection of information is 17 CFR 240.6a–4 and 17 CFR 249.10 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (the ''Act'').

Section 6 of the Act[1] sets out a framework for the registration and regulation of national securities exchanges. Under the Commodity Futures Modernization Act of 2000, a futures market may trade security futures products by registering as a national securities exchange. Rule 6a–4[2] sets forth these registration procedures and directs futures markets to submit a notice registration on Form 1–N.[3] Form 1–N calls for information regarding how the futures market operates, its rules and procedures, corporate governance, its criteria for membership, its subsidiaries and affiliates, and the security futures products it intends to trade. Rule 6a–4 also requires entities that have submitted an initial Form 1–N to file: (1) Amendments to Form 1–N in the event of material changes to the information provided in the initial Form 1–N; (2) periodic updates of certain information provided in the initial Form 1–N; (3) certain information that is provided to the futures market's members; and (4) a monthly report summarizing the futures market's trading of security futures products. The information required to be filed with the Commission pursuant to Rule 6a–4 is designed to enable the Commission to carry out its statutorily mandated oversight functions and to ensure that registered and exempt exchanges continue to be in compliance with the Act.

The respondents to the collection of information are futures markets.

The Commission estimates that the total annual burden for all respondents to provide ad hoc amendments[4] to keep the Form 1–N accurate and up to date as required under Rule 6a–4 would be 60 hours (15 hours/respondent per year × 4 respondents[5]) and $400 of miscellaneous clerical expenses. The Commission estimates that the total annual burden for all respondents to provide annual and three-year amendments[6] under Rule 6a–4 would be 88 hours (22 hours/respondent per year × 4 respondents) and $576 ($144 per year × 4 respondents[7]). The Commission estimates that the total annual burden for the filing of the supplemental information[8] and the monthly reports required under Rule 6a–4 would be 24 hours (6 hours/respondent per year × 4 respondents[9]) and $240 of miscellaneous clerical expenses. Thus, the Commission estimates the total annual burden for complying with Rule 6a–4 is 172 hours and $1216 in miscellaneous clerical expenses.

Compliance with Rule 6a–4 is mandatory. Information received in response to Rule 6a–4 shall not be kept confidential; the information collected is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following Web site, *www.reginfo.gov*. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov*. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 13, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–30916 Filed 12–22–16; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice 9814]

Culturally Significant Objects Imported for Exhibition Determinations: ''The Mysterious Landscapes of Hercules Segers'' 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), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257 of April 15, 2003), I hereby determine that the objects to be included in the exhibition ''The Mysterious Landscapes of Hercules Segers,'' 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 February 7, 2017, until on or

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78f.

[2] 17 CFR 240.6a–4.

[3] 17 CFR 249.10.

[4] 17 CFR 240.6a–4(b)(1).

[5] The Commission estimates that four exchanges will file amendments with the Commission in order to keep their Form 1–N current.

[6] 17 CFR 240.6a–4(b)(3) and (4).

[7] The Commission notes that while there are currently five Security Futures Product Exchanges, one of those exchanges, NQLX, is dormant.

[8] 17 CFR 240.6a–4(c)

[9] *See supra* footnote 7.

about May 21, 2017, 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.

Mark Taplin,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2016–30950 Filed 12–22–16; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 290 (Sub-No. 391X)]

Norfolk Southern Railway Company—Discontinuance of Service Exemption—in Rockingham and Shenandoah Counties, VA

Norfolk Southern Railway Company (NSR) filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over an approximately 15.5-mile rail line (the Line) extending from milepost B–84.0 at Mt. Jackson, Va. to milepost B–99.5 at Broadway, Va. in Rockingham and Shenandoah Counties, Va. The Line traverses U.S. Postal Service Zip Codes 22815, 22842, 22844, 22847, and 22853.

NSR has certified that (1) no local traffic has moved over the Line for at least two years; (2) no overhead traffic has moved over the Line for at least two years; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on January 22, 2017, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2) [1] must be filed by December 30, 2016.[2] Petitions to reopen must be filed by January 12, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to NSR's representative: Crystal M. Zorbaugh, Baker & Miller PLLC, 2401 Pennsylvania Avenue NW., Suite 300, Washington, DC 20037.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at *WWW.STB.GOV.*

Decided: December 20, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S Contee,

Clearance Clerk.

[FR Doc. 2016–31041 Filed 12–22–16; 8:45 am]

BILLING CODE 4915–01–P

SUSQUEHANNA RIVER BASIN COMMISSION

Actions Taken at December 8, 2016, Meeting

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice.

SUMMARY: As part of its regular business meeting held on December 8, 2016, in Annapolis, Maryland, the Commission took the following actions: (1) Approved the applications of certain water resources projects; (2) accepted settlements in lieu of penalties from Panda Hummel Station LLC, Panda Liberty LLC, Panda Patriot LLC, and Montage Mountain Resorts, LP; and (3) took additional actions, as set forth in the **SUPPLEMENTARY INFORMATION** below.

DATES: The business meeting was held on December 8, 2016. Comments on the proposed consumptive use mitigation policy may be submitted to the Commission on or before January 30, 2017.

ADDRESSES: Comments may be mailed to: Jason E. Oyler, Esq., General Counsel, Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110–1788, or submitted electronically at *http://mdw.srbc.net/ProposedRulemakingSeptember2016/.*

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436; email: *joyler@srbc.net.* Regular mail inquiries may be sent to the above address. See also Commission Web site at *www.srbc.net.*

SUPPLEMENTARY INFORMATION: In addition to the actions taken on projects identified in the summary above and the listings below, the following items were also presented or acted upon at the business meeting: (1) Adoption of a resolution urging President-elect Trump and the United States Congress to provide full funding for the Groundwater and Streamflow Information Program, thereby supporting the Susquehanna Flood Forecast & Warning System; (2) approval/ratification of a contract and two agreements; (3) approval to extend the comment deadline for the Consumptive Use Mitigation Policy to January 30, 2017; (4) a report on delegated settlements with the following project sponsors, pursuant to SRBC Resolution 2014–15: Lewistown Borough Municipal Authority, in the amount of $5,250; Columbia Water Company, in the amount of $7,500; Eagle Lake Community Association, in the amount of $7,500; and Fox Hills Country Club, in the amount of $5,000; and (5) approval to extend the term of an emergency certificate with Hazleton City Authority to December 8, 2017.

Compliance Matters

The Commission approved settlements in lieu of civil penalties for the following projects:

1. Panda Hummel Station LLC, Hummel Station, Shamokin Dam Borough and Monroe Township, Snyder County, Pa.—$22,750.

[1] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2016 Update,* EP 542 (Sub-No. 24) (STB served Aug. 2, 2016).

[2] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

2. Panda Liberty LLC, Liberty Station, Asylum Township, Bradford County, Pa.—$30,000.

3. Panda Patriot LLC, Clinton Township, Lycoming County, Pa.—$44,250.

4. Montage Mountain Resorts, LP, City of Scranton, Lackawanna County, Pa.—$72,000.

Project Applications Approved

The Commission approved the following project applications:

1. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Bowman Creek), Eaton Township, Wyoming County, Pa. Renewal of surface water withdrawal of up to 0.290 mgd (peak day) (Docket No. 20121201).

2. Project Sponsor and Facility: Cabot Oil & Gas Corporation (Susquehanna River), Susquehanna Depot Borough, Susquehanna County, Pa. Renewal with modification of surface water withdrawal of up to 1.500 mgd (peak day) (Docket No. 20120903).

3. Project Sponsor and Facility: Chester Water Authority, East and West Nottingham Townships, Chester County, Pa. Interconnection with the Town of Rising Sun of up to 1.800 mgd (peak day).

4. Project Sponsor and Facility: Conyngham Borough Authority, Sugarloaf Township, Luzerne County, Pa. Groundwater withdrawal of up to 0.120 mgd (30-day average) from Well 6.

5. Project Sponsor: Exelon Generation Company, LLC. Project Facility: Muddy Run Pumped Storage Project, Drumore and Martic Townships, Lancaster County, Pa. Authorization for continued operation under Section 801.12 of an existing hydroelectric facility.

6. Project Sponsor: Future Power PA, LLC. Project Facility: Good Spring NGCC, Porter Township, Schuylkill County, Pa. Consumptive water use of up to 0.063 mgd (peak day).

7. Project Sponsor: Future Power PA, LLC. Project Facility: Good Spring NGCC, Porter Township, Schuylkill County, Pa. Groundwater withdrawal of up to 0.252 mgd (30-day average) from Well RW–1.

8. Project Sponsor: Future Power PA, LLC. Project Facility: Good Spring NGCC, Porter Township, Schuylkill County, Pa. Groundwater withdrawal of up to 0.252 mgd (30-day average) from Well RW–2.

9. Project Sponsor and Facility: Gilberton Power Company, West Mahanoy Township, Schuylkill County, Pa. Renewal of consumptive water use of up to 1.510 mgd (peak day) (Docket No. 19851202).

10. Project Sponsor and Facility: Gilberton Power Company, West Mahanoy Township, Schuylkill County, Pa. Groundwater withdrawal of up to 1.870 mgd (30-day average) from the Gilberton Mine Pool.

11. Project Sponsor and Facility: Keystone Clearwater Solutions, LLC (Moshannon Creek), Snow Shoe Township, Centre County, Pa. Renewal of surface water withdrawal of up to 0.999 mgd (peak day) (Docket No. 20120910).

12. Project Sponsor: Lycoming County Water and Sewer Authority. Project Facility: Halls Station System, Muncy Township, Lycoming County, Pa. Groundwater withdrawal of up to 0.158 mgd (30-day average) from Well PW–1.

13. Project Sponsor and Facility: Moxie Freedom LLC, Salem Township, Luzerne County, Pa. Minor modification to add a new source (Production Well 2) to existing consumptive use approval (no increase requested in consumptive use quantity) (Docket No. 20150907).

14. Project Sponsor and Facility: Moxie Freedom LLC, Salem Township, Luzerne County, Pa. Groundwater withdrawal of up to 0.062 mgd (30-day average) from Production Well 2.

15. Project Sponsor and Facility: Town of Nichols, Tioga County, N.Y. Groundwater withdrawal of up to 0.250 mgd (30-day average) from Well PW–1.

16. Project Sponsor and Facility: Town of Nichols, Tioga County, N.Y. Groundwater withdrawal of up to 0.250 mgd (30-day average) from Well PW–2.

17. Project Sponsor and Facility: Town of Rising Sun, Rising Sun District, Cecil County, Md. Interconnection with the Chester Water Authority of up to 1.800 mgd (peak day).

18. Project Sponsor and Facility: Sunoco Pipeline, L.P. (Conodoguinet Creek), North Middleton Township, Cumberland County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

19. Project Sponsor and Facility: Sunoco Pipeline, L.P. (Frankstown Branch Juniata River), Frankstown Township, Blair County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

20. Project Sponsor and Facility: Sunoco Pipeline, L.P. (Susquehanna River), Highspire Borough and Lower Swatara Township, Dauphin County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

21. Project Sponsor and Facility: Sunoco Pipeline, L.P. (Swatara Creek), Londonderry Township, Dauphin County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

22. Project Sponsor and Facility: Sunoco Pipeline, L.P. (Tuscarora Creek), Lack Township, Juniata County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

23. Project Sponsor and Facility: SWEPI LP (Cowanesque River), Deerfield Township, Tioga County, Pa. Surface water withdrawal of up to 2.000 mgd (peak day).

24. Project Sponsor and Facility: Transcontinental Gas Pipe Line Company, LLC. Project: Atlantic Sunrise (Fishing Creek), Hemlock Township, Columbia County, Pa. Surface water withdrawal of up to 2.880 mgd (peak day).

25. Project Sponsor and Facility: Transcontinental Gas Pipe Line Company, LLC. Project: Atlantic Sunrise (Fishing Creek), Hemlock Township, Columbia County, Pa. Consumptive water use of up to 0.100 mgd (peak day).

Project Applications Approved Involving a Diversion

The Commission approved the following project applications involving a diversion:

1. Project Sponsor and Facility: Gilberton Power Company, West Mahanoy Township, Schuylkill County, Pa. Into-basin diversion from the Delaware River Basin of up to 0.099 mgd (peak day) from Wells AN–P03 and AN–P04.

2. Project Sponsor and Facility: JKLM Energy, LLC, Roulette Township, Potter County, Pa. Into-basin diversion from the Ohio River Basin of up to 1.100 mgd (peak day) from the Goodwin and Son's Sand and Gravel Quarry.

Authority: Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: December 20, 2016.

Stephanie L. Richardson,

Secretary to the Commission.

[FR Doc. 2016–30963 Filed 12–22–16; 8:45 am]

BILLING CODE 7040–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination of Trade Surplus in Certain Sugar and Syrup Goods and Sugar-Containing Products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia, and Panama

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: In accordance with relevant provisions of the Harmonized Tariff Schedule of the United States (HTS), the Office of the United States Trade Representative (USTR) is providing

notice of its determination of the trade surplus in certain sugar and syrup goods and sugar-containing products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia and Panama. As described below, the level of a country's trade surplus in these goods relates to the quantity of sugar and syrup goods and sugar-containing products for which the United States grants preferential tariff treatment under (i) the United States-Chile Free Trade Agreement (Chile FTA); (ii) the United States-Morocco Free Trade Agreement (Morocco FTA); (iii) the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR); (iv) the United States-Peru Trade Promotion Agreement (Peru TPA); (v) the United States-Colombia Trade Promotion Agreement (Colombia TPA), and (vi) the United States-Panama Trade Promotion Agreement (Panama TPA).

DATES: Effective January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Ronald Baumgarten, Director of Agricultural Affairs, Office of Agricultural Affairs, Office of the United States Trade Representative, 600 17th Street NW., Washington, DC 20508; telephone: (202) 395–9582; facsimile: (202) 395–4579.

SUPPLEMENTARY INFORMATION:

Chile

Pursuant to section 201 of the United States-Chile Free Trade Agreement Implementation Act (Pub. L. 108–77; 19 U.S.C. 3805 note), Presidential Proclamation No. 7746 of December 30, 2003 (68 FR 75789) implemented the Chile FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Chile FTA.

Note 12(a) to subchapter XI of HTS chapter 99 requires USTR annually to publish in the **Federal Register** a determination of the amount of Chile's trade surplus, by volume, with all sources for goods in Harmonized System (HS) subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.20, 1702.30, 1702.40, 1702.60, 1702.90, 1806.10, 2101.12, 2101.20, and 2106.90, except that Chile's imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Chile FTA are not included in the calculation of Chile's trade surplus. (HS subheading 1701.11 was reclassified as 1701.13 and 1701.14 by Proclamation 8771 of December 29, 2011, 77 FR 413.)

Note 12(b) to subchapter XI of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Chile entered under subheading 9911.17.05 in any calendar year (CY) (beginning in CY 2015) shall be the quantity of goods equal to the amount of Chile's trade surplus in subdivision (a) of the note.

During CY 2015, the most recent year for which data is available, Chile's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 559,466 metric tons according to data published by its customs authority, the Servicio Nacional de Aduana. Based on this data, USTR determines that Chile's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) to subchapter XI of HTS chapter 99, goods of Chile are not eligible to enter the United States duty-free under subheading 9911.17.05 in CY 2017.

Morrocco

Pursuant to section 201 of the United States-Morocco Free Trade Agreement Implementation Act (Pub. L. 108–302; 19 U.S.C. 3805 note), Presidential Proclamation No. 7971 of December 22, 2005 (70 FR 76651) implemented the Morocco FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Morocco FTA.

Note 12(a) to subchapter XII of HTS chapter 99 requires USTR annually to publish in the **Federal Register** a determination of the amount of Morocco's trade surplus, by volume, with all sources for goods in HS subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.40, and 1702.60, except that Morocco's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Morocco FTA are not included in the calculation of Morocco's trade surplus. (HS subheading 1701.11 was reclassified as 1701.13 and 1701.14 by Proclamation 8771 of December 29, 2011, 77 FR 413.)

Note 12(b) to subchapter XII of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.05 in an amount equal to the lesser of Morocco's trade surplus or the specific quantity set out in that note for that calendar year.

Note 12(c) to subchapter XII of HTS chapter 99 provides preferential tariff treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.10 through 9912.17.85 in an amount equal to the amount by which Morocco's trade surplus exceeds the specific quantity set out in that note for that calendar year.

During CY 2015, the most recent year for which data is available, Morocco's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 732,097 metric tons according to data published by its customs authority, the Office des Changes. Based on this data, USTR determines that Morocco's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) and U.S. Note 12(c) to subchapter XII of HTS chapter 99, goods of Morocco are not eligible to enter the United States duty-free under subheading 9912.17.05 or at preferential tariff rates under subheading 9912.17.10 through 9912.17.85 in CY 2017.

CAFTA–DR

Pursuant to section 201 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53; 19 U.S.C. 4031), Presidential Proclamation No. 7987 of February 28, 2006 (71 FR 10827), Presidential Proclamation No. 7991 of March 24, 2006 (71 FR 16009), Presidential Proclamation No. 7996 of March 31, 2006 (71 FR 16971), Presidential Proclamation No. 8034 of June 30, 2006 (71 FR 38509), Presidential Proclamation No. 8111 of February 28, 2007 (72 FR 10025), Presidential Proclamation No. 8331 of December 23, 2008 (73 FR 79585), and Presidential Proclamation No. 8536 of June 12, 2010 (75 FR 34311) implemented the CAFTA–DR on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the CAFTA–DR.

Note 25(b)(i) to subchapter XXII of HTS chapter 98 requires USTR annually to publish in the **Federal Register** a determination of the amount of each CAFTA–DR country's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that each CAFTA–DR country's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 and its imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the CAFTA–DR are not included in the calculation of that country's trade surplus.

U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of each CAFTA–DR country entered under

subheading 9822.05.20 in an amount equal to the lesser of that country's trade surplus or the specific quantity set out in that note for that country and that calendar year.

Costa Rica

During CY 2015, the most recent year for which data is available, Costa Rica's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 98,076 metric tons according to data published by the Costa Rican Customs Department, Ministry of Finance. Based on this data, USTR determines that Costa Rica's trade surplus is 98,076 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Costa Rica for CY 2017 is 13,420 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Costa Rica that may be entered duty-free under subheading 9822.05.20 in CY 2017 is 13,420 metric tons (*i.e.,* the amount that is the lesser of Costa Rica's trade surplus and the specific quantity set out in that note for Costa Rica for CY 2017).

Dominican Republic

During CY 2015, the most recent year for which data is available, the Dominican Republic's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 137,407 metric tons according to data published by the National Direction of Customs (DGA). Based on this data, USTR determines that the Dominican Republic's trade surplus is negative. Therefore, in accordance with U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98, goods of the Dominican Republic are not eligible to enter the United States duty-free under subheading 9822.05.20 in CY 2017.

El Salvador

During CY 2015, the most recent year for which data is available, El Salvador's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 387,092 metric tons according to data published by the Salvadoran Sugar Council and the Central Bank of El Salvador. Based on this data, USTR determines that El Salvador's trade surplus is 387,092 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for El Salvador for CY 2017 is 34,000 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of El Salvador that may be entered duty-free under subheading 9822.05.20 in CY 2017 is 34,000 metric tons (*i.e.,* the amount that is the lesser of El Salvador's trade surplus and the specific quantity set out in that note for El Salvador for CY 2017).

Guatemala

During CY 2015, the most recent year for which data is available, Guatemala's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 1,908,501 metric tons according to data published by the Asociación de Azucareros de Guatemala (ASAZGUA). Based on this data, USTR determines that Guatemala's trade surplus is 1,908,501 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Guatemala for CY 2017 is 47,000 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Guatemala that may be entered duty-free under subheading 9822.05.20 in CY 2017 is 47,000 metric tons (*i.e.,* the amount that is the lesser of Guatemala's trade surplus and the specific quantity set out in that note for Guatemala for CY 2017).

Honduras

During CY 2015, the most recent year for which data is available, Honduras' exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 106,414 metric tons according to data published by the Central Bank of Honduras. Based on this data, USTR determines that Honduras' trade surplus is 106,414 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Honduras for CY 2017 is 9,760 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Honduras that may be entered duty-free under subheading 9822.05.20 in CY 2017 is 9,760 metric tons (*i.e.,* the amount that is the lesser of Honduras' trade surplus and the specific quantity set out in that note for Honduras for CY 2017).

Nicaragua

During CY 2015, the most recent year for which data is available, Nicaragua's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 313,336 metric tons according to data published by the Direccion General de Servicios Aduaneros (DGA) Nicaragua. Based on this data, USTR determines that Nicaragua's trade surplus is 313,336 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Nicaragua for CY 2017 is 26,840 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Nicaragua that may be entered duty-free under subheading 9822.05.20 in CY 2017 is 26,840 metric tons (*i.e.,* the amount that is the lesser of Nicaragua's trade surplus and the specific quantity set out in that note for Nicaragua for CY 2017).

Peru

Pursuant to section 201 of the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110–138; 19 U.S.C. 3805 note), Presidential Proclamation No. 8341 of January 16, 2009 (74 FR 4105) implemented the Peru TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Peru TPA.

Note 28(c) to subchapter XXII of HTS chapter 98 requires USTR annually to publish in the **Federal Register** a determination of the amount of Peru's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that Peru's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that are originating goods under the Peru TPA and Peru's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 are not included in the calculation of Peru's trade surplus.

Note 28(d) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Peru entered under subheading 9822.06.10 in an amount equal to the lesser of Peru's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2015, the most recent year for which data is available, Peru's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 333,139 metric tons according to data published by the Superintendencia Nacional de Administracion Tributaria (SUNAT). Based on this data, USTR determines that Peru's trade surplus is negative. Therefore, in accordance with U.S. Note 28(d) to subchapter XXII of HTS chapter 98, goods of Peru are not eligible to enter the United States duty-free under subheading 9822.06.10 in CY 2017.

Colombia

Pursuant to section 201 of the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L.

112–42; 19 U.S.C. 3805 note), Presidential Proclamation No. 8818 of May 14, 2012 (77 FR 29519) implemented the Colombia TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Colombia TPA.

Note 32(b) to subchapter XXII of HTS chapter 98 requires USTR annually to publish in the **Federal Register** a determination of the amount of Colombia's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Colombia's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Colombia TPA and Colombia's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Colombia's trade surplus.

Note 32(c)(i) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Colombia entered under subheading 9822.08.01 in an amount equal to the lesser of Colombia's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2015, the most recent year for which data is available, Colombia's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 660,255 metric tons according to data published by Global Trade Atlas. Based on this data, USTR determines that Colombia's trade surplus is 660,255 metric tons. The specific quantity set out in U.S. Note 32(c)(i) to subchapter XXII of HTS chapter 98 for Colombia for CY 2017 is 53,750 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Colombia that may be entered duty-free under subheading 9822.08.01 in CY 2017 is 53,750 metric tons (*i.e.,* the amount that is the lesser of Colombia's trade surplus and the specific quantity set out in that note for Colombia for CY 2017).

Panama

Pursuant to section 201 of the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112–43; 19 U.S.C. 3805 note), Presidential Proclamation No. 8894 of October 29, 2012 (77 FR 66505) implemented the Panama TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Panama TPA.

Note 35(a) to subchapter XXII of HTS chapter 98 requires USTR annually to publish in the **Federal Register** a determination of the amount of Panama's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Panama's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Panama TPA and Panama's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Panama's trade surplus.

Note 35(c) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Panama entered under subheading 9822.09.17 in an amount equal to the lesser of Panama's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2015, the most recent year for which data is available, Panama's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 517 metric tons according to data published by the National Institute of Statistics and Census, Office of the General Comptroller of Panama. Based on this data, USTR determines that Panama's trade surplus is negative. Therefore, in accordance with U.S. Note 35(c) to subchapter XXII of HTS chapter 98, goods of Panama are not eligible to enter the United States duty-free under subheading 9822.09.17 in CY 2017.

Michael Froman,

United States Trade Representative, Office of the U.S. Trade Representative.

[FR Doc. 2016–30926 Filed 12–22–16; 8:45 am]

BILLING CODE 3290–F7–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Twenty Fifth RTCA SC–222 AMS(R)S Systems New Air-Ground Data Link Technologies Related to SATCOM

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

ACTION: Twenty Fifth RTCA SC–222 AMS(R)S Systems New Air-Ground Data Link Technologies related to SATCOM.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Twenty Fifth RTCA SC–222 AMS(R)S Systems New Air-Ground Data Link Technologies related to SATCOM.

DATES: The meeting will be held January 23, 2017 09:00 a.m.–05:00 p.m. and January 24, 09:00 a.m.–12:00 p.m.

ADDRESSES: The meeting will be held virtually. Please contact Karan Hofman at *khofmann@rtca.org* or 202–330–0680 to register for the meeting and to receive information on attending.

FOR FURTHER INFORMATION CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Twenty Fifth RTCA SC–222 AMS(R)S Systems New Air-Ground Data Link Technologies related to SATCOM. The agenda will include the following:

Monday, January 23, 2017—9:00 a.m.–5:00 p.m. and Tuesday, January 24, 2017—09:00 a.m.–12:00 p.m. (if needed)

All times are Eastern Standard Time (UTC–5)

1. Welcome, Introductions, Administrative Remarks
2. Agenda Overview
3. Review/Approve prior Plenary Meeting Summary—(action item status)
4. Brief Status of Related Efforts (as necessary)
5. Additional Pre-publication Modifications to DO–262C MOPS (HONEYWELL)
6. Information related to the work of SC–228 regarding use of L-Band SATCOM in UAS application
7. Iridium NEXT/CERTUS Technical Details (IRIDIUM)
8. Potential Work/Impact related to new ATCt Proposal (LIGADO)
9. Other business related to AMS(R)S
10. Establish Agenda, Date and Place
11. Review of Action Items
12. Adjourn—Plenary meeting

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 20, 2016.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2016–31020 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0116]

Announcement of Household Goods Consumer Protection Working Group Members and First Public Meeting

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice.

SUMMARY: FMCSA announces the appointment of 15 members to the Household Goods (HHG) Consumer Protection Working Group (HHG Working Group). This group will meet for the first time on January 4–5, 2017. Congress mandated the establishment of the HHG Working Group in the Fixing America's Surface Transportation (FAST) Act. The group is charged with providing recommendations on how to better educate and protect HHG moving customers (consumers) during interstate HHG moves.

DATES: The first HHG Working Group meeting will be held on January 4, 2017 from 9:00 a.m. to 5:00 p.m. and January 5, 2017 from 9:00 a.m. to 12:00 p.m. at the USDOT Headquarters, 1200 New Jersey Avenue SE., Washington, DC 20590. Members of the Working Group and the public should arrive at 8:30 a.m. to facilitate clearance through DOT security. Copies of the agenda will be made available at *https://www.fmcsa.dot.gov/fastact/household-goods-consumer-protection-working-group.*

FOR FURTHER INFORMATION CONTACT: Kenneth Rodgers, Chief, Commercial Enforcement and Investigations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Phone (202) 366–0073; Email *Kenneth.Rodgers@dot.gov.*

SUPPLEMENTARY INFORMATION:

FAST Act

Section 5503 of the FAST Act (Pub. L. 114–94) (December 4, 2015) requires the HHG Working Group to provide recommendations to the Secretary of Transportation, through the FMCSA Administrator. The Working Group will operate in accordance with the Federal Advisory Committee Act (FACA). 5 U.S.C. App. 2.

As required by Section 5503 of the FAST Act, the Working Group will make recommendations in three areas relating to ''how to best convey to consumers relevant information with respect to the Federal laws concerning the interstate transportation of household goods by motor carrier.'' Those areas are:

1. How to condense the FMCSA ''Ready to Move ?'' tips published in April 2006 (FMCSA–ESA–03–005) into a more consumer friendly format;

2. How best to use state-of-the-art education techniques and technologies (including how to optimize use of the Internet as an educational tool); and

3. How to reduce and simplify the paperwork required of motor carriers and shippers in interstate transportation.

Section 5503 mandates that the Secretary of Transportation appoint a Working Group that is comprised of (i) individuals with expertise in consumer affairs; (ii) educators with expertise in how people learn most effectively; and (iii) representatives of the FMCSA regulated interstate HHG moving industry.

On April 20, 2016, FMCSA solicited applications and nominations of interested persons to serve on the HHG Working Group. Applications and nominations were due on or before May 20, 2016 [81 FR 23354].

The Working Group will terminate one year after the date its recommendations are submitted to the Secretary of Transportation.

Member Information

On October 7, 2016, the Secretary appointed consumer affairs experts Jennifer M. Gartlan (Federal Maritime Commission), Gabriel Meyer (Surface Transportation Board), and Kelsey M. Owen (Better Business Bureau). Representing educators with expertise in how people learn most effectively will be Margaret McQueen (FMCSA National Training Center). Representatives of the FMCSA regulated interstate HHG moving industry are Francisco Acuna (Household Goods Compliance Solutions, Inc.), Thomas A. Balzar (Ohio Trucking Association), Andrew Friedman (PACK RAT LLC), Heather Paraino (MoveRescue), Jonathan Todd (Benesch Friedlander Coplan & Aronoff LLP), Charles L. White (International Association of Movers), Chad W. Hall (All My Sons Moving and Storage), Dan Veoni (American Moving and Storage Association), Thomas J. Carney, (Carney McNicholas), John Esparza (Texas Trucking Association), and Richard Corona (Enterprise Database Corporation).

Meeting Information

Meetings will be open to the general public, except as provided under FACA. Notice of each meeting will be published in the **Federal Register** at least 15 calendar days prior to the date of the meeting.

For the January 4–5, 2017, meeting, oral comments from the public will be heard from 3:00 p.m.to 4:00 p.m. on January 4, 2017. Should all public comments be exhausted prior to the end of the specified oral comment period, the comment period will close.

Issued on: December 15, 2016.

T.F. Scott Darling, III,

Administrator.

[FR Doc. 2016–30987 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Controlled Substances and Alcohol Testing Responsibilities of Commercial Driver Staffing Agencies and Motor Carriers That Use Them

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of Enforcement Guidance.

SUMMARY: This notice addresses commercial driver staffing agencies that employ commercial drivers who are supplied to motor carriers to operate commercial motor vehicles (CMV). If these CMVs require a commercial driver's license (CDL), the drivers are subject to the U.S. Department of Transportation (DOT) controlled substances (drug) and alcohol testing regulations. Under the Federal Motor Carrier Safety Regulations (FMCSR), a driver staffing agency may qualify as an employer.

DATES: This enforcement guidance is effective immediately.

FOR FURTHER INFORMATION CONTACT: Mr. Juan Moya, Office of Enforcement and Compliance, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Telephone Number: (202) 366–4844; Email Address: *fmcsadrugandalcohol@dot.gov.* Office hours are from 8:00 a.m. to 5:00 p.m.,

E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: The term ''employer,'' as defined in 49 CFR 382.107, encompasses driver staffing agencies that employ persons who operate CMVs and are subject to CDL requirements. The term ''Employer,'' as defined in 49 CFR 382.107, encompasses a person or entity employing one or more employees who are subject to DOT agency regulations requiring compliance with the DOT drug and alcohol program requirements in parts 40 and 382, Service agents,[1] however, are not employers for the purposes of these regulations.

Commercial driver staffing agencies supply the motor carrier industry with intermittent, casual, or occasional drivers to help meet industry business demands. The staffing agency directly employs the driver, and pays the driver's wages and employment taxes. Therefore, FMCSA has jurisdiction over these companies as employers of persons under Part 382 of the Federal Motor Carrier Safety Regulations (FMCSRs). As employers, driver staffing agencies are required to make records available for inspection upon request by a special agent or authorized representative of the FMCSA.

Section 382.103(a) further clarifies that the drug and alcohol regulations apply to persons and to employers of such persons who operate a CMV in commerce and are subject to the CDL requirements under 49 CFR part 383. Accordingly, staffing agencies, if they choose, may be responsible for ensuring compliance with all of the DOT drug and alcohol testing program requirements for their commercial drivers subject to parts 382 and 383 of the FMCSRs and 49 CFR part 40. These requirements include, but are not limited to, drug and alcohol testing, driver education, record retention, providing agency access to records, and requesting drug and alcohol information from a driver's previous employers. If a driver staffing agency chooses not to establish its own DOT drug and alcohol testing program when it provides a CDL driver to a motor carrier, the motor carrier is solely responsible for complying with part 382 prior to allowing the driver to perform a safety-sensitive function.

This guidance addresses the use of ''casual, intermittent, and occasional'' drivers, who may be leased from a driver staffing agency. FMCSA recognizes that motor carriers needing a CDL driver on short notice may not have the time or ability to conduct pre-employment testing or to place the short-term driver into the motor carrier's random testing pool. Accordingly, FMCSA guidance provides for adoption of the DOT drug and alcohol testing program of another part 382 employer for purposes of regulatory compliance of the ''borrowed'' or leased driver. Section 382.301(c)(2), which addresses ''Pre-employment Testing,'' recognizes the situations where a motor carrier use, but does not employ, a driver more than once a year to operate a CMV. The regulation provides that employers, who use such drivers who must verify the driver's participation in a DOT drug and alcohol testing program every six months and maintain records of such verification pursuant to the record retention requirements in section 382.401 Regulatory guidance to section 382.301 explains that this provision was intended to apply to drivers who are ''temporarily leased'' or loaned to a motor carrier ''for one or more trips generally for a time period less than 30 days.'' See 49 CFR 382.301(c)(2) and (62 FR 16385) ''Guidance Question 1'').

Accordingly, FMCSA interprets a casual, intermittent, or occasional driver as one who works for another employer for any period of less than 30 consecutive days. If a leased driver operates or is expected to operate for a motor carrier employer for more than 30 consecutive days, the driver should be included in that motor carrier employer's random testing pool and that motor carrier employer should assume full responsibility for the driver under its own DOT drug and alcohol testing program. A driver staffing agency may remove the driver from its random testing pool or allow the driver to remain in its testing pool based on its reasonable expectation on whether the driver will or will not return to its employment as a temporary leased driver.

A motor carrier that leases one or more CDL drivers from a driver staffing agency is responsible for ensuring that each leased driver is participating in a compliant DOT drug and alcohol testing program. The motor carrier remains responsible at all times for ensuring compliance with all of the rules, including random testing, for all drivers which they use, regardless of any utilization of third parties to administer parts of the program. Therefore, to use another's program, an employer must make the other program, by contract, consortium agreement, or other arrangement, the employer's own program. This would entail, among other things, being held responsible for the other program's compliance, having records forwarded to the employer's principal place of business on 2 day-notice, and being notified of and acting upon positive test results. For purposes of the leased driver, the motor carrier must adopt the staffing agency's drug and alcohol testing program as its own program. Accordingly, the motor carrier remains responsible for any non-compliance by the driver staffing agency. This arrangement is consistent with FMCSA guidance on employer use of another employer's DOT drug and alcohol testing program for casual, intermittent, or occasional drivers. See (62 FR 16387 dated April 4, 1997. It is intended for short-term leased drivers.

If the staffing agency has not conducted the required testing, the motor carrier must treat the leased driver as a new employee and conduct all required part 382 drug and alcohol testing and program requirements before utilizing the driver to conduct a safety-sensitive function. These requirements include conducting the required background inquiries, providing a copy of the drug and alcohol policy and educational materials, conducting a pre-employment drug test, placing the driver in a random testing pool, and all other recordkeeping, testing, and programmatic requirements in parts 382 and 390.

By adopting the driver staffing agency's drug and alcohol testing program as its own, the motor carrier assumes responsibility for the driver staffing agency's regulatory compliance with respect to the leased driver. Accordingly, motor carriers should ensure that the driver staffing agency has a fully compliant program under DOT regulations and is able to provide within 48 hours the required driver qualification records.

Pursuant to 49 CFR 382.507, employers that violate the requirements of 49 CFR part 382 or part 40 may be subject to the civil and/or criminal penalty provisions of 49 U.S.C. 521(b).

Issued on: December 15, 2016.

T.F. Scott Darling, III,

Administrator.

[FR Doc. 2016–30991 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–EX–P

[1] Service agent. Any person or entity, other than an employee of the employer, who provides services specified under this part to employers and/or employees in connection with DOT drug and alcohol testing requirements. This includes, but is not limited to, collectors, BATs and STTs, laboratories, MROs, substance abuse professionals, and C/TPAs. To act as service agents, persons and organizations must meet the qualifications set forth in applicable sections of this part. Service agents are not employers for purposes of this part.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.

DATES: Written comments should be received on or before February 21, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to LaNita Van Dyke at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or the Internet at *Lanita.VanDyke@irs.gov*.

SUPPLEMENTARY INFORMATION: *Title:* United States Estate (and Generation-Skipping Transfer) Tax Return.

OMB Number: 1545–0015.

Form Number: 706.

Abstract: Form 706 is used by executors to report and compute the Federal estate tax imposed by Internal Revenue Code section 2001 and the Federal generation-skipping transfer (GST) tax imposed by Code section 2601. The IRS uses the information on the form to enforce the estate and GST tax provisions of the Code and to verify that the taxes have been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households and business or other for-profit organizations.

Estimated Number of Responses: 1,082,700.

Estimated Total Annual Burden Hours: 2,048,710.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 12, 2016.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2016–30902 Filed 12–22–16; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 20, 2016.

The Department of the Treasury will submit the following information collection request(s) 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 January 23, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collection(s), 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 8142, 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) 622–0934, or viewing the entire information collection request at *www.reginfo.gov.*

Alcohol and Tobacco Tax and Trade Bureau (TTB)

OMB Control Number: 1513–0086.

Type of Review: Revision of a currently approved collection.

Title: Marks on Equipment and Structures (TTB REC 5130/3) and Marks and Labels on Containers of Beer (TTB REC 5130/4).

Abstract: Under the authority of chapter 51 of the Internal Revenue Code of 1986, as amended (26 U.S.C. chapter 51), the TTB regulations require marks, signs, and suitable measuring devices on brewery equipment and structures in order to identify the use and capacity of brewery equipment and structures, tank contents, and to identify taxpaid and nontaxpaid beer. To identify products for purposes of administering the IRC's excise tax provisions, the TTB regulations also require marks, brands, and labels on kegs, cans, bottles, and cases of beer. These marks, brands, and labels identify the name or trade name of the brewer, the place of production of the beer, the contents of the container, and the nature of the product (beer, ale, etc.).

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 1.

Bob Faber,

Acting Treasury PRA Clearance Officer.

[FR Doc. 2016–31033 Filed 12–22–16; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 20, 2016.

The Department of the Treasury will submit the following information collection request(s) 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 January 23, 2017 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimates, or any other aspect of the information collection(s), 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 8142, 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) 622–0934, or viewing the entire information collection request at *www.reginfo.gov.*

Departmental Offices (DO)

OMB Control Number: 1505–0222.

Type of Review: Revision of a currently approved collection.

Title: Troubled Asset Relief Program (TARP)—Capital Purchase Program (CPP) Participants Use of Funds Survey.

Abstract: Authorized under the Emergency Economic Stabilization Act (EESA) of 2008 (Pub. L. 110–343), the Department of the Treasury has implemented several aspects of the Troubled Asset Relief Program (TARP). The TARP includes several components including a voluntary Capital Purchase Program (CPP) under which the Department has purchased qualifying capital in U.S. banking organizations. The CPP is an important part of the Department's efforts to restore confidence in our financial system and ensure that credit continues to be available to consumers and businesses. As an essential part of restoring confidence, the Treasury has committed to determining the effectiveness of the CPP. Additionally, American taxpayers are particularly interested in knowing how banks have used the money that Treasury has invested through the CPP. Consequently, the Treasury is seeking responses from banking institutions that have received CPP funds regarding: How the CPP investment has affected the banks' operations, how these institutions have used CPP funds, and how their usage of CPP funds has changed over time.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 960.

Bob Faber,

Acting Treasury PRA Clearance Officer.

[FR Doc. 2016–31043 Filed 12–22–16; 8:45 am]

BILLING CODE 4810–25–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

December 20, 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 January 23, 2017 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 8142, 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) 622–0934, or viewing the entire information collection request at *www.reginfo.gov*.

Fiscal Service (FS)

OMB Control Number: 1530–XXXX.

Type of Review: New collection (Request for a new OMB Control Number).

Title: TreasuryDirect Customer Feedback.

Abstract: This is a generic clearance to conduct various surveys, focus groups, and interviews among current and prospective TreasuryDirect customers. The aforementioned collections will assess the effectiveness and efficiency of existing products and services; obtain knowledge about the potential public audiences attracted to new products when introduced; and to measure awareness and appeal of efforts to reach audiences and customers.

Affected Public: Individuals or Households.

Estimated Total Annual Burden Hours: 1,250.

Bob Faber,

Acting Treasury PRA Clearance Officer.

[FR Doc. 2016–31030 Filed 12–22–16; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

United States Mint

Pricing for the 2017 Lions Clubs International Centennial Silver Dollars

AGENCY: United States Mint, Department of the Treasury.

ACTION: Notice.

SUMMARY: The United States Mint is announcing pricing for the 2017 Lions Clubs International Centennial Silver Dollars as follows:

Coin	Introductory price	Regular price
Silver Proof	$47.95	$52.95
Silver Uncirculated	46.95	51.95

FOR FURTHER INFORMATION CONTACT: Ann Bailey, Products Manager for Numismatic and Bullion; United States Mint; 801 9th Street NW., Washington, DC 20220; or call 202–354–7500.

Authority: Public Law 112–181.

Dated: December 19, 2016.

David Croft,

Associate Director for Manufacturing, United States Mint.

[FR Doc. 2016–30956 Filed 12–22–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0376]

Agency Information Collection Activity Under OMB Review: (Agent Orange Registry Code Sheet; VA Form 10–9009)

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment.

The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 23, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov,* or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0376'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0376.''

SUPPLEMENTARY INFORMATION:

Titles: Agent Orange Registry Code Sheet, VA Form 10–9009.

OMB Control Number: 2900–0376.

Type of Review: Reinstatement and Extension of a previously approved collection.

Abstract: VA employees obtain demographic data from existing records. The examining physician, Environmental Health (EH) Coordinator (formerly identified as the Agent Orange coordinator)/or other designated personnel obtain the remainder of the information during the Agent Orange registry physical examination process. The information obtained from the Veteran is entered directly onto an electronic VA Agent Orange Form 10–9009, Agent Orange Registry Worksheet (formerly identified as an Agent Orange Registry Code Sheet), via a secured Web site *http://vaww.registries.aac.va.gov* by VA personnel and transmitted directly to the Environmental Agents Service (EAS) Agent Orange Registry database located at the Austin Information Technology Center (AITC), Austin, TX. Edits are automatically accomplished at the time of entry. The EAS Registries Web site allows you to edit pretty much all the information that has been entered. Some VA facilities will enter the information into the EAS Registries Web site while the Veteran is sitting in front of them. Other facilities will have the Veteran and the examiner complete the Agent Orange Worksheet on paper form, and then later enter the worksheet data into the EAS Registries Web site. VHA Handbook 1302.01, dated 9/5/06 states: ''AOR worksheets and dated follow-up letters must be scanned, or made electronic, and attached to an appropriately titled CPRS progress note.''

The registry provides a mechanism to catalogue prominent symptoms, reproductive health, and diagnoses and to communicate with Agent Orange Veterans. VA keeps Veterans informed on research findings or new compensation policies through periodic newsletters. The voluntary, self-selected nature of this registry makes it valuable for health surveillance; however, it is not designed or intended to be a research tool and therefore, the results cannot be generalized to represent all Agent Orange Veterans. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 6, 2016, Vol. 81, pages 69571–69572.

Affected Public: Individuals or households.

Estimated Annual Burden: VA Form 10–9009—6,667 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: Annually.

Estimated Annual Responses: 20,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

VA Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2016–30962 Filed 12–22–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0782]

Revision to a Previously Approved Information Collection (Veterans Benefits Administration (VBA) Voice of the Veteran (VOV) Customer Satisfaction Continuous Measurement Survey)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 23, 2017.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW., Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0782'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0782.''

SUPPLEMENTARY INFORMATION:

Title: Voice of the Veteran (VOV) Customer Satisfaction Continuous Measurement Survey.

OMB Control Number: 2900–0782.

Type of Review: Revision of a currently approved collection.

Abstract: In 2008, VBA recognized a need to develop and design an integrated, comprehensive Voice of the Veteran (VOV) Continuous Measurement (CM) program for its lines of business: Compensation Service (CS), Pension Service (PS), Education (EDU) Service, Loan Guaranty (LGY) Service and Vocational Rehabilitation and Employment (VR&E) Service. The VOV CM program provides insight regarding Veterans and beneficiaries interactions with the benefits and services provided by VBA. The VOV CM provides VBA leadership with actionable Veteran feedback on how VBA is performing. These insights help identify opportunities for improvement and measure the impact of improvement initiatives.

VBA conducted a benchmark study in Fiscal Year 2013 (October 2012 through January 2013) in order to validate the survey instruments, identify Key Performance Indicators, and establish performance benchmarks. Findings and recommendations were presented to VBA Leadership and stakeholders within each line of business in April 2013.

Based on interviews conducted, VBA has separated the Veterans experience with VBA into two categories:

1. *Access* to a Benefit. This measures the enrollment experience transaction with the beneficiary or Veteran.

2. *Servicing* of a Benefit. This measures the ongoing relationship experiences with the beneficiary or Veteran.

Each business line desired to understand the components of the overall customer experience. Each VBA business line wanted to engage their Veteran population with relevant questions regarding their experience. The following outlines how that is approached with each of the lines of business.

The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at Vol. 81, No. 187 on September 27, 2016, at pages 66328–66329.

Affected Public: Individuals or households.

Compensation and Pension Programs

During 2014 J.D. Power fielded three survey instruments for the Compensation and Pension programs. Discussions with stakeholders from both programs indicated that one survey instrument could be used for both Compensation and Pension *Enrollment* category claimants. In FY2015, Compensation and Pension identified the need to separate the *Enrollment* survey to better serve the business needs of each program.

The *Compensation Enrollment* survey pool for the VOV Continuous Measurement Study includes individuals who have received a decision on a compensation benefit claim within 30 days prior to the fielding period. This includes those who were found eligible on a new or subsequent claim and those who have been denied and lack a current appeal of the decision. The *Pension Enrollment* survey pool includes individuals who have received a decision on a pension benefit claim within the past 30 days. The *Compensation Servicing* survey pool includes individuals who received a decision and are receiving benefit payments. The *Pension Servicing* survey pool includes individuals who established and completed a claim in the previous fiscal year.

Education Program

J.D. Power fielded two survey instruments for Education Service. The *Education Enrollment* survey pool includes individuals who received a decision on their education benefit application within 90 days (*i.e.,* the original end-product was cleared within the past 90 days) prior to the fielding period. The *Education Servicing* survey pool includes beneficiaries who are currently receiving benefits. The definition of those receiving benefits varies based on the educational program. Chapter 33 beneficiaries who have received at least 2 payments for ''tuition'' in the past 9 months are included in the survey pool. Chapter 30, Chapter 1606, and Chapter 1607 beneficiaries who have received 5 monthly payments during the past 9 months are included.

Loan Guaranty and Specially Adapted Housing Programs

J.D. Power fielded two survey instruments for Loan Guaranty Service. The survey pool for the tracking study for the *LGY Enrollment* questionnaire includes individuals from a 30 day period who closed on a VA home loan in the 90 days prior to the fielding period. The sample is stratified as follows: (1) Those who closed on purchase loans, (2) those who received loans for interest rate reductions, and (3) those who obtained cash out or other refinancing. The survey pool for the tracking study for the *SAH Servicing* questionnaire includes individuals who are eligible for a specially adapted housing grant and in the past 12 months have: (1) Received an approval on their grant and are currently somewhere in post-approval, (2) have had all their funds dispersed and final accounting is not yet complete, and (3) have had all of their funds dispersed and final accounting is complete.

Vocational Rehabilitation and Employment Program

J.D. Power fielded three survey instruments for Vocational Rehabilitation & Employment Service (VR&E). The *VR&E Enrollment* survey pool includes individuals who applied within the last 12 months, entered Evaluation and Planning and (1) entered any of the following case statuses: Extended Evaluation, Independent Living (IL), Rehabilitation to Employment (RTE), or Job Ready Status (JRS) (excludes re-applicants), or (2) were found not entitled. The *VR&E Servicing* survey pool includes individuals who in the last 30 days were in a plan of services for more than 60 days, all rehabilitated participants, and MRGs. Participants who interrupted their plan are excluded. The VR&E Non-Participant survey explores why eligible individuals chose not to pursue the benefit entitlement. The *VR&E Non-Participant* questionnaire survey pool includes individuals who dropped out of the program prior to completing a rehabilitation plan. The sample is stratified as follows: (1) Applicants who never attended the initial meeting with a counselor, (2) applicants who were entitled to the program but did not pursue a plan of service, and (3) applicants who started, but did not complete a rehabilitation plan (*i.e.,* negative closures).

The complete survey methodology is available as a supplemental document to this information collection: Voice of the Veteran Methodology FY17.

The FY15 Non Response Bias Reports are also attached. The FY16 reporting and Non Response Bias Reports will be made available upon completion.

Estimated Annual Burden: 32,701 hours per year for the life of the collection.

Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once Annually (Respondents will not be surveyed more than once in a given year.

Estimated Number of Respondents: 130,800

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department of Veterans Affairs, Program Specialist (005R1B), Office of Privacy and Records Management, Office of Information Technology.

[FR Doc. 2016–30961 Filed 12–22–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Notice that Certain VA Homeless Providers Grants Will Be Terminated

AGENCY: VA Homeless Providers Grant and Per Diem (GPD) Program, Veterans Health Administration (VHA), Department of Veterans Affairs (VA).

ACTION: Notice that certain VA homeless providers grants will be terminated.

SUMMARY: VA is announcing that all per diem funding for grants awarded during fiscal year (FY) 1994 through FY 2016 under VA's Homeless Providers GPD will be terminated, in accordance with the grant award agreements. This does not apply to special need grants and Transition in Place (TIP) grants.

Prior to September 30, 2017, VA will offer the opportunity to compete for new grants through a Notice of Funding Availability (NOFA) to grantees whose transitional housing and service center grants will be terminated. This will allow the Department and grantees to refocus programs and resources to better serve the homeless Veteran population.

DATES: December 19, 2016.

ADDRESSES: VA Homeless Providers Grant and Per Diem Field Office, 10770 North 46th Street Suite C–200, Tampa, Florida 33617

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery L. Quarles, Director, VA Homeless Providers Grant and Per Diem

Program, Department of Veterans Affairs, 10770 North 46th Street Suite C–200, Tampa, Florida 33617; (toll-free) (877) 332–0334.

SUPPLEMENTARY INFORMATION: This Notice announces that VA will terminate per diem payments to grantees for grants that were awarded under VA's Homeless Providers GPD Program from FY 1994 through FY 2016 in accordance with the grant award agreements (See End Date Adjustments). This does not apply to special need and TIP grants, as these grants were awarded with expiration dates. Additionally, VA will offer an opportunity to apply for new grants to these transitional housing and service center grantees under a new NOFA.

Rationale: Funding for the per diem component of the VA Homeless Providers Program is authorized by 38 U.S.C. 2013(7). Each FY the program's funding may be replenished up to a level authorized and appropriated by Congress. VHA must decide the level of funding to actually dedicate to this program from the available appropriated resources up to the 38 U.S.C. 2013(7) authorized amount. In the past, as funding was available, in order to facilitate a continued needed resource without possible interruption and encourage new applicants to serve homeless Veterans, VHA chose to authorize per diem for those operational grantees that met the requirements of 38 CFR 61.80 as verified by an annual inspection. Other benefits to VA and the community included defrayed costs and stability of housing resources by not subjecting the grantees to the GPD application process each fiscal year.

Many current grants were written when the homeless Veteran experience was far different than it is now (almost 20 years ago in some cases). These grants focused on services, length of stays, and end goals different from the current strategies in place to combat Veteran homelessness. Despite VA having allowed changes of scope to the grants, these changes were not able to keep pace with the rapidly changing homeless Veteran experience. VA now has at its disposal additional homeless programs that were not in existence previously and is working in conjunction with other Federal agencies to address homelessness among Veterans. While VA believes GPD will continue to have a significant presence in the cadre of homeless programs, the allocation of these grants needs to be updated to reflect the documented current need as well as to increase the flexibility to adapt to future needs.

Benefits of Termination: Through this termination and new application process, VA will be able to align awards and resources with the specific VA homeless goals, and Office of Management and Budget (OMB) requirements in 2 CFR part 200. This also provides the opportunity for current grantees to align their services, treatment approach, and housing stock, while taking into account currently available resources and needs within their communities. By making the awards performance-based, VA will increase accountability and flexibility for both VA and grantees to adapt to changing environments.

Effects of Termination: All grantees must submit a close-out Federal Financial Report (SF425) within 90 calendar days after the end date of the period of performance, pursuant to 2 CFR 200.343. Any per diem over payments discovered will be recovered per VA financial policy.

OMB has, pursuant to its authority under 2 CFR 200.102, approved VA's request to grant a class exception to the real property provisions of 2 CFR 200.311(c) to recipients that would be subject to those requirements based on the planned restructuring of the VA Homeless Providers GPD Program.

The exception is limited to current capital grantees that choose to reapply under the separate FY 2017 NOFA and are unsuccessful, and those current capital grantees that are successful, but do not receive subsequent option year funding. These grantees will not be subject to the requirements of 38 CFR 61.67 or the real property disposition requirements of 2 CFR 200.311(c).

Current capital grantees that choose not to reapply in response to this NOFA, or who apply and do not meet the threshold requirements for scoring as outlined in the NOFA and regulation, will be subject to the recapture requirements of 38 CFR 61.67 and, if applicable, the real property disposition requirements of 2 CFR 200.311(c).

Proposed Termination Dates for Grantees: If an existing grantee does not apply for a GPD grant under the new NOFA, VA would like to terminate the applicable grant agreement on September 30, 2017. If an existing grantee does apply and is successful, VA would like to terminate the applicable grant agreement on September 30, 2017. If your agency applies and is not selected, in the interest of transitioning Veterans remaining in those non-selected programs, VA would like to terminate the grant payments no later than December 31, 2017.

Authority: 38 U.S.C. 2011, 2012, 2013, 2061, and in regulation at 2 CFR 200.311(c), 2 CFR 200.343, 38 CFR part 61.

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on December 19, 2016, for publication.

Dated: December 19, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2016–30958 Filed 12–22–16; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Funding Availability: Homeless Providers Grant and Per Diem Program

AGENCY: Department of Veterans Affairs (VA), Veterans Health Administration (VHA), VA Homeless Providers Grant and Per Diem (GPD) Program.

ACTION: Notice of Funding Availability (NOFA).

SUMMARY: VA is announcing the availability of per diem funds to currently operational GPD grantees which have their current transitional housing grants under VA's Homeless Providers GPD Program whose grants are scheduled to be terminated as discussed in an accompanying **Federal Register** notice. VA expects to fund 24 existing service centers and 12,000 beds with this NOFA for applicants who will operate service centers or use one or a combination of the following housing models: Bridge Housing, Low Demand, Respite Care, Clinical Treatment, and Service-Intensive Transitional Housing.

DATES: An original signed and dated application for assistance (plus two completed collated copies) for VA's Homeless Providers GPD Program and associated documents must be received by the GPD Program Office by 4:00 p.m. Eastern Standard Time on Tuesday, April 4, 2017 (see application requirements below).

ADDRESSES: Grant applications must be submitted to the following address: VA Homeless Providers GPD Program Office, 10770 N. 46th Street, Suite C–200, Tampa, Florida 33617.

FOR FURTHER INFORMATION CONTACT: Mr. Jeffery L. Quarles, Director, VA Homeless Providers GPD Program, Department of Veterans Affairs, 10770 N. 46th Street, Suite C–200, Tampa, FL 33617; (toll-free) 1–(877) 332–0334.

SUPPLEMENTARY INFORMATION:

Funding Opportunity Description

This NOFA announces the availability of per diem funding to currently operational GPD grantees that will have their current grants terminated as discussed in an accompanying **Federal Register** notice.

Under this NOFA, VA is only offering per diem for supportive transitional housing and service centers to applicants willing to use a model listed below. Applicants must apply for funding using one or more of these models, and a separate application is required for each model. Further, only currently operational VA GPD-funded service centers may apply under the service center model. Applicants agree to meet the applicable requirements of 38 CFR part 61. In addition, all applications using the service center and housing models need to have low barriers to access service as well as policies and procedures to work with Veterans who relapse. As such, admission criteria are strongly encouraged to not have any required sobriety period, income requirement, or employment requirement.

Housing Models/Service Center Descriptions

Bridge Housing

Targeted Population—Homeless Veterans that have been offered and accepted a permanent housing intervention (*e.g.,* Supportive Services for Veterans Families (SSVF), Department of Housing and Urban Development-VA Supportive Housing (HUD–VASH), Housing Coalition/ Continuum of Care (CoC)), but are not able to immediately enter the permanent housing.

Model Overview—Bridge housing is intended to be a short-term stay in transitional housing for Veterans with pre-identified permanent housing destinations.

Characteristics & Standards—Goals in the Individual Service Plan should be short-term with the focus on the move to permanent housing, rather than the completion of treatment goals.

Veterans are expected to receive case management and support, which should be coordinated with the HUD–VASH, SSVF, or other available community based programs. Grantees will assist Veterans with accessing services as needed/requested by the Veteran and must make available to participants a menu of available services.

Length of Stay (LOS) will be individually determined based on need, but in general, is not expected to exceed 90 days.

Admission Criteria—Veterans must have been offered and accepted a permanent housing intervention prior to admission or within the first 14 days of admission.

Required Minimum Performance Metrics/Targets—Discharge to permanent housing is 70 percent. Negative Exits target is less than 23 percent. Negative exits are defined as those exits from a GPD program for a violation of program rules, failure to comply with program requirements, or leaving the program without consulting staff.

Low Demand

Targeted Population—Chronically homeless Veterans who suffer from mental-health or substance-use problems, or who struggle with maintaining sobriety; and Veterans with multiple treatment failures that may have never received treatment services, or may have been unsuccessful in traditional housing programs. These Veterans may have not yet fully committed to sobriety and treatment.

Model Overview—Low-Demand housing is a program design using a low-demand/harm-reduction model to better accommodate chronically homeless Veterans, and Veterans who were unsuccessful in traditional treatment settings. Programming does not require sobriety or compliance with mental health treatment as a condition of admission or continued stay. Overall, demands are kept to a minimum; however, services are available as needed. The goal is to establish permanent housing in the community, while providing for the safety of staff and residents.

Characteristics & Standards—Project is small in size (typically, 20 beds or less);

Services must include case-management, substance-use, and mental-health treatment; and referrals for benefits are made available as Veterans engage;

Must provide the participant an orientation that sets the expectations of performance for the participant;

Must have 24/7, on-site staffing at the same location as the location of the program participant. (Use of resident managers is not allowed);

Must have a method to monitor participant and guests comings and goings;

Must have a system in place for the management of the introduction of contraband;

Must be willing to retain Veterans who commit minor infractions of rules and who cannot and/or will not stop drinking and/or using legal or illegal substances;

Must be committed to keeping the veterans housed and staying continuously engaged with each veteran and provide services as needed;

Must have procedures to ensure safety of staff and residents; and

The grantee agency must participate in bi-monthly calls and an annual fidelity assessment process as established by VA.

Required Minimum Performance Metrics/Targets—Discharge to permanent housing is 50 percent and negative exits less than 23 percent. Negative exits are defined as those exits from a GPD program for a violation of program rules, failure to comply with program requirements, or leaving the program without consulting staff.

Hospital to Housing (Respite Care)

Targeted Population—Homeless Veterans identified and evaluated in emergency departments and inpatient care settings for suitability for direct transfer to a designated GPD Program for transitional housing and supportive care.

Model Overview—Respite care is a medical model to address the housing and recuperative care needs of homeless Veterans who have been hospitalized.

Characteristics & Standards—Housing sites are expected to be in close proximity to the referring medical center, so that ongoing clinical care, including specialty care, can continue to be provided;

Have a post-discharge care plan as pre-requisite to program placement that addresses ongoing physical, mental health, substance use disorder, and social work needs as well as care-management plans to transition the Veteran to permanent housing upon clinical stabilization;

The VA Homeless Patient Aligned Care Team (H–PACT), or other appropriate care unit, will facilitate and coordinate the ongoing care needs upon transition;

A Memorandum of Understanding must be in place with the local medical center that details participation in the Hospital-to-Home (H2H) program. Included in this should be a detailing of acceptance criteria for Veterans being referred from local facility emergency departments and inpatient wards, a detailing of how follow-up care with the medical center is organized, and a

commitment to engaging enrolled veterans in permanent housing as part of program objectives;

Registration of the program with the national H–PACT program office and full participation in program elements, including Veteran tracking, quality improvement, and community of practice elements; and

Active participation, communication, and client tracking with the national H–PACT/H2H program office.

Admission Criteria—Individual must be functional, be able to perform independent Activities of Daily Living (ADL); not require acute detox, has no apparent psychosis; and has a post-discharge plan coordinating care with the medical center (*e.g.,* H–PACT Team, Mental Health, Substance Abuse, etc.).

Required Minimum Performance Metrics/Targets—Discharge to permanent housing is 65 percent and negative exits less than 23 percent. Negative exits are defined as those exits from a GPD program for a violation of program rules, failure to comply with program requirements, or leaving the program without consulting staff.

Clinical Treatment

Targeted Population—Homeless Veterans with a specific diagnosis related to a substance-use disorder and/or mental-health diagnosis; Veteran actively chooses to engage in clinical services.

Model Overview—Clinically focused treatment provided in conjunction with services effective in helping homeless Veterans secure permanent housing and increase income through benefits and/or employment.

Characteristics & Standards—Although the programming and services have a strong clinical focus, permanent housing and increased income are a required outcome of the program. Treatment programs must incorporate strategies to increase income and housing attainment services;

Individualized assessment, services, and treatment plan which are tailored to achieve optimal results in a time efficient manner and are consistent with sound clinical practice;

Program stays are to be individualized based upon the individual service plan for the veteran (not program driven);

Staff are to be licensed and/or credentialed for the substance-use disorder (SUD)/mental health (MH) services provided; and

Veterans are offered a variety of treatment service modalities (*e.g.,* individual and group counseling/therapy, family support groups/family therapy, and psychoeducation).

Required Minimum Performance Metrics/Targets—Discharge to permanent housing is 65 percent; employment of individuals at discharge is 50 percent; and negative exits less than 23 percent. Negative exits are defined as those exits from a GPD program for a violation of program rules, failure to comply with program requirements, or leaving the program without consulting staff.

Service-Intensive Transitional Housing

Targeted Population—Homeless Veterans who choose a supportive transitional housing environment providing services prior to entering permanent housing.

Model Overview—Provides transitional housing and a milieu of services that facilitate individual stabilization and movement to permanent housing as rapidly as clinically appropriate.

Characteristics & Standards—Scope of services should incorporate tactics to increase the Veteran's income through employment and/or benefits and obtaining permanent housing. Services provided and strategies used by the applicant will vary based on the individualized needs of the Veteran and resources available in the community. Applicant specifies the staffing levels and range of services to be provided.

Required Minimum Performance Metrics/Targets—Discharge to permanent housing is 65 percent; employment of individuals at discharge is 50 percent; and negative exits are less than 23 percent.

Service Centers

Targeted Population—Homeless Veterans who are seeking assistance with obtaining housing, employment, medical care, or benefits.

Model Overview—Provides services and information to engage and aid homeless Veterans obtain housing and services.

Characteristics & Standards—Scope of services should incorporate tactics to engage and aid the Veteran. Services provided and strategies used by the applicant will vary based on the individualized needs of the Veteran and resources available in the community. Applicant specifies the staffing levels and range of services to be provided.

Eligibility Information: In order to be eligible, an applicant must be a current operational VA GPD Transitional Housing or Service Center grant recipient (that is the grantee of record) as of the publication date of this NOFA whose grant is scheduled to be terminated as discussed in an accompanying **Federal Register** notice with the following exception: for those GPD grants previously funded as collaborative projects that consist of multiple eligible entities funded under one project number, VA will treat under this NOFA each eligible entity as a separate potential applicant, and each may apply for its portion of the previously funded collaborative project to include; but not limited to: The site, number of beds, and services to be provided.

Transition in Place (TIP) and Special Need grants do not need to respond to this NOFA as their awards have established time limits and will be addressed under separate NOFAs.

Authority: Funding applied for under this NOFA is authorized by 38 U.S.C. 2011, 2012.

Award Information

Overview: This NOFA announces the availability of per diem funds to currently operational GPD grantees that will have their current transitional housing grants under VA's Homeless Providers GPD Program terminated as discussed in an accompanying **Federal Register** notice. VA expects to fund approximately 24 service centers and 12,000 beds with this NOFA. (*See* additional budget information in this NOFA for calculation of bed days of care.)

Cost Sharing or Matching: None.

Funding Period: Funding awarded under this NOFA will be for a period of 1year, beginning on October 1, 2017, and ending on September 30, 2018, with options for VA to offer two additional renewal periods dependent upon: fund availability, the recipient meeting the performance goals established in the grant agreement, statutory and regulatory requirements, and the results of the VA inspection.

Payment: Per diem will be paid in a method that is in accordance with VA and other Federal fiscal requirements. The per diem payment calculation may be found at 38 CFR 61.33. Awardees will be subject to requirements of this NOFA, GPD regulations, 2 CFR 200, and other Federal grant requirements. A full copy of the regulations governing the GPD Program is available at the GPD Web site at: *http://www.va.gov/HOMELESS/GPD.asp.*

Funding Priorities: VA will prioritize for funding one application for each of the following models: Bridge Housing, Low Demand, Clinical Treatment and Respite Care (Hospital to Home) at each VA Medical Center (VAMC) that has a working relationship with a GPD project. The highest scoring application for each of the four selected models, at each VAMC that are legally fundable will be conditionally selected for

funding first. VA will then continue to conditionally select applications from the remaining applications in their ranked order until funding is no longer available or the number of beds has been reached, whichever comes first.

Application Review Information

A. *Criteria for Grants:* Rating criteria may be found at 38 CFR 61.13 & 61.32.

B. *Review and Selection Process:* Review and selection process may be found at 38 CFR 61.14.

Allocation of Funds: Funding will be awarded under this NOFA depending on funding availability and subject to program authorization. Funding will be for a period beginning on October 1, 2017, and ending on September 30, 2018, with an option for VA to offer two additional renewal periods.

Funding Actions: Conditionally selected applicants will be asked to submit additional information under 38 CFR 61.15, 61.32(c). Applicants will then be notified of the deadline to submit such information. If an applicant is unable to meet any conditions for the grant award within the specified time frame VA may non-select the applicant and uses the funding for another applicant. Should an applicant submitting multiple applications not have all of its applications funded, VA may negotiate bed numbers with the applicant at this time for those applications that were conditionally selected and incorporate that number into the grant agreement. Upon signature of the grant agreement by the Secretary or designated representative, final selection will be completed and the grant funds will be obligated for the funding period.

Grant Award Period: Applicants that are finally selected may expect the award to begin on October 1, 2017, and end on September 30, 2018, with two options to renew as stated in the funding period above. VA will make an initial award for the first year of operation. The application is submitted with a one-year budget. Continuation funding is not guaranteed. Factors to be considered in awarding continuation grants will include satisfactory performance, demonstrated capacity to manage the grant, compliance with grant requirements, agency priorities, and the availability of appropriated funds. VA reserves the right to adjust the amount of a grant or elect not to continue funding for subsequent years.

Funding Restrictions: No part of an award under this NOFA may be used to facilitate capital improvements or to purchase vans or real property. Questions regarding acceptability should be directed to VA's National GPD Program Office at the number listed in contact information. Applicants may not receive funding to replace funds provided by any Federal, state or local Government agency or program to assist homeless persons.

Applicants whose grants included capital grants must continue to use the same project site unless they receive prior written approval from the National GPD Program Office; this includes applicants who received a 2013 rehabilitation grant. Applicants will be limited in their request for beds to the number of combined beds authorized under your current relationship with a specific medical center under the GPD program. If applying for multiple models your agency may not request the total number of beds in each model application (See Examples 1–2).

Example 1: If your agency had two grant awards paid by the same medical center, and each had 15 beds, the total bed limit would be 30. If applying for multiple models, the 30 beds would have to be split between the different models and not exceed 30.

Example 2: If your agency had three grant awards, two paid by the same medical center, and one by a different medical center with each having 15 beds the total bed limit would be 30 beds for the medical center that paid the two awards, and the bed limit for the remaining medical center would be 15. If applying for multiple models, the total beds allowed for each medical center would have to be split.

Additional multiple models guidance may be found at Examples 3–6 under the Content and Form of Application section of this NOFA.

Flexibility of Beds: For those applicants that are successfully funded for multiple models under this NOFA, VA will allow without a change of scope, a flex of beds between the applicant's models at the same VAMC. This flex will be up to five (5) beds or 15 percent of the total awarded bed limit per medical center, whichever is greater. Successful applicants who seek a greater number of flex beds than what is allowed above must receive prior written approval from the National GPD Program Office.

Cost Sharing or Matching: None.

Application and Submission Information

Address to Obtain Grant Application: Download the standard forms directly from VA's Grant and Per Diem Program Web page at: *http://www.va.gov/homeless/GPD.asp.* The additional documents that must also be included with the application are listed below in the Content and Form of Application section of this NOFA. Questions should be referred to the GPD Program Office at (toll-free) 1 (877) 332–0334.

Content and Form of Application: The Department is seeking to refocus programs and resources to better serve the homeless veteran population. Therefore, applicants should note that a separate application for each housing model or service center will be required. Each will be scored separately.

Applicants may, when completing the application, combine or remove current project(s) resources to create a single project. There are some restrictions. Applicants whose grants included capital grants must continue to use the same project site unless they receive prior written approval from the National GPD Program Office; this includes applicants who received a 2013 rehabilitation grant. Applicants whose grants were per diem only may use a different site; however, the site/facility must be in the same catchment area and must provide a comparable or better living situation.

Applicants should review their relationships with VAMCs and group their projects by medical center. Review to see if you would like to remove or combine projects within that medical center. Next, complete the application(s) for the housing model(s) or service center for which you want to apply (*See* Examples 3–6).

Example 3: Applicant A has a service-intensive capital grant and a service-intensive per diem only grant facilitated by the same medical center. Per the NOFA, Applicant A cannot move the capital grant site, but may move the per diem only site. Applicant A could combine these projects at the capital grant site and submit one service-intensive application for the total number of beds.

Example 4: Applicant B provides both respite care and service-intensive housing at the same site and per diem is facilitated by the same medical center with a total of 30 beds between the two projects. Applicant B would submit two applications one for the respite care model and one for the service-intensive model designating specific number of beds and services for each not to exceed a total of 30 for the two models combined.

Example 5: Applicant C has a service-intensive capital grant and a service-intensive per diem only grant facilitated by different medical centers. Applicant C cannot combine these projects. Applicant C must submit one service-intensive application for each of the sites that fall in the different medical center catchment areas.

Example 6: Applicant D has a service-intensive grant and would now like to provide a service center. Applicant D cannot apply for the service center funding as Applicant D did not have operational service center funding under GPD.

If your agency is unclear on what application, or the number of applications, to submit, contact the GPD National Program Office for clarification prior to submission of any application to ensure it is submitting the correct format.

Applicants should ensure that they include all required documents in their application and carefully follow the format described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected at threshold. Applicants should ensure that the items listed in the ''Application Requirements'' section of this NOFA are addressed in their application. Applicants should ensure the application is compiled in the order as outlined below and sections labeled accordingly.

Applicants are to complete the application in a normal business format on not more than fifty (50) single-spaced, typed, single sided pages, in Arial 12 font, and number the pages sequentially. The narrative must also be labeled with the same titles and order of this NOFA. Note: The Standard Forms will not count toward the page maximum. Applicants should simply binder clip the application; do not staple, spiral bind, or fasten the application. Do not include brochures or other information not requested.

The application consists of two parts. The first part will consist of Standard Forms and the second part of the application will be provided by applicants and consist of a supporting documentation and project narratives and tables/spreadsheets in a standard business format.

Applicants should ensure that they include all required documents in their application and carefully follow the format and provide the information requested and described below. Submission of an incorrect, incomplete, or incorrectly formatted application package will result in the application being rejected at the beginning of the process.

Application Documentation Required

1. *Standard Forms:*

First Submission: SF 424 Application for Federal Assistance.

Note: Second Submission: Conditional Selectees will be provided the following at a later date: SF 424A Budget Information, SF 424B Assurances and the GPD Per Diem Rate Request Worksheet and Instructions.

2. *Eligibility to Receive VA Assistance:*

Nonprofit Organizations must provide documentation of accounting system certification and evidence of private nonprofit status. This must be accomplished by the following:

(a) Providing certification on letterhead stationery from a Certified Public Accountant or Public Accountant that the organization has a functioning accounting system that is operated in accordance with generally accepted accounting principles, or that the organization has designated a qualified entity to maintain a functioning accounting system. If such an entity is used, then their name and address must be included in the certification letter; and

(b) Providing evidence of their status as a nonprofit organization by submitting a copy of their IRS ruling providing tax-exempt status under the IRS Code of 1986, as amended

3. *Reasonable Assurances:*

Copy on your agency's letterhead, the following statements (a–e) and then sign the letter.

(a) The applicant certifies that the following are true; the existing grant project of the applicant is being, and will continue to be, used principally to furnish Veterans the level of care for which VA awarded the applicant the original grant under the VA's Homeless Providers GPD Program; that not more than 25 percent of participants at any one time will be non-Veterans; and that such services will meet the requirements of 38 CFR part 61;

(b) The applicant will keep records and submit reports as VA may reasonably require, within the time frames required; and give VA, upon demand, access to the records upon which such information is based;

(c) The applicant agrees to comply with the applicable requirements of 38 CFR part 61 and other applicable laws and has demonstrated the capacity to do so;

(d) The applicant does not have an outstanding obligation to VA that is in arrears, and does not have an overdue or unsatisfactory response to an audit; and

(e) The applicant is not in default, by failing to meet requirements for any previous assistance from VA.

4. Documentation of being actively registered in the System for Award Management (SAM): Provide a printed copy of your agency's active registration in SAM to include the DUNS number which corresponds to the information provided on the Application for Federal assistance (SF424) and current CAGE code. Additionally, provide the complete legal business address that corresponds to the address registered with SAM to include the USPS five-digit zip code plus the four digit extension code.

5. State/Local Government Applicants: Applicants who are state or local governments must provide a copy of any comments or recommendations by approved State and (area wide) clearinghouses pursuant to Executive Order 12372.

6. Project Summary: On your agency's letterhead provide the following:

(a) The name of the VA facility providing the current per diem payment.

(b) Describe the number of beds your agency is requesting per diem for and the housing model to be provided at the VA facility identified in question 6(a).

Number of Beds: ___

Number of Visits (annually) if service center: ___

Housing Model: (*i.e.* Bridge Housing, Low Demand, Hospital to Home, Clinical Treatment, Service-Intensive Transitional Housing and Service Center).

(c) Is your agency submitting additional applications to provide other housing models at the facility referenced in question 6(a). (yes/no)

If yes, identify the model and the number of beds/visits to be provided under that model.

(d) Housing and services provided under this application will be located at:

Address: _____

City: _____

State: _____

Zip Code + 4 digit extension: _____

County the site is located in: _____

Additional Counties served by the project: _____

Congressional District: _____

(e) Under this application and model; describe how the facility participant living space will be configured? Include the square footage of the room or bay, the number of beds in that square footage, and if the beds will be bunked (*i.e.* Single Room Occupancy, 100 square feet, no bunk beds; Open Bay, 900 square feet, 12 beds, 4 sets of bunk beds; Apartment(s), 1500 square feet, 1,2, or 3 bedroom(s) no bunk beds).

(f) Describe any additional populations or types of housing being served/provided at this location? (*i.e.* children, women, permanent housing, contract care). If none so state.

(g) We are combining the following previous GPD project(s) __ under this application and model.

(h) *Contact Information:* Where correspondence can be sent to the

Executive Director/President/CEO.
Please provide the following:
Agency Name:
Physical Address of Administrative Office: (no P.O. Boxes)
City:
State:
Zip + 4 digit extension:
County:
Congressional District:
Telephone number:
Alternate Mailing Address: (If you would prefer regular mail be sent to a P.O. Box).
City:
State:
Zip:

(i) Name and title of Executive Director/President/CEO; phone, fax and email address:

(j) Name and title of another management level employee and title, phone, fax and email address, who can sign commitments for the agency:

(k) A complete listing of your agency's officers of the Board of Directors and their address, phone, fax, and email addresses.

7. *Project Abstract:* On not more than one page provide a brief abstract of the project to include: The project design, supportive services committed to the project, types of assistance provided, and any special program provisions.

8. *Detailed Project Plan:* This is the portion of the application that describes your program. VA Reviewers will focus on how the project plan addresses the areas of outreach, project plan, model specific questions, ability, need, and coordination *in relation to your selected model.* Please note there are some questions that only apply to specific models (Bridge, Clinical Treatment, Low Demand, Respite), Applicants applying for these models must include responses to these questions in their application.

VA expects applicants awarded under this NOFA will meet the VA performance metrics for the selected model. With those metrics in mind please include in your agency's responses to the following sections your agency strategies to meet or exceed VA's national metric targets.

(a) Outreach—

1. Outreach—describe in detail the process of how your agency will identify and serve your homeless Veteran population(s) in the selected model by responding to the following questions:

2. Outreach—describe your agency outreach plan and frequency for *your selected Veteran population(s)* living in places not ordinarily meant for human habitation (*e.g.* streets, parks abandon buildings, automobiles) and emergency shelters.

3. Outreach—identify where your organization will target its outreach efforts to identify appropriate Veterans for this program.

4. Outreach—Describe you involvement in the CoC's Coordinated Assessment/Entry efforts as it relates to your outreach plan.

(b) Project Plan—VA wishes to provide the most appropriate housing based on the needs of the individual Veteran.

1. Project Plan—Specifically list the supportive services, frequency of occurrence and who will provide them and how they will help Veteran participants achieve residential stability, increase skill levels and or income, and how they will increase Veterans' self-determination (*i.e.,* case management, frequency of individual/groups, employment services). Use a table or spreadsheet for this section (See Example 7).

Example 7:

Supportive service	Frequency of offering (daily, weekly, etc.)	Job title & credential required for the individual providing services	This service supports the achievement of residential stability, increase skill and income, or self-determination
Case management	Weekly	Case Manager—LCSW	Residential stability.
Financial Management Group	Bi-Weekly	Life Skills Educator—BA/BS	Increased Skills and Income.

2. Project Plan—VA places emphasis on lowering barriers to admissions; describe the specific process and admission criteria for deciding which Veterans are appropriate for admission.

3. Project Plan—Address if you plan on serving a mixed gender population or individuals with children.

4. Project Plan—Provide a listing and explanation of any gender-specific services.

5. Project Plan—How will the safety security and privacy of participants be ensured?

6. Project Plan—How, when, and by whom will the progress of participants toward meeting their individual goals be monitored, evaluated and documented?

7. Project Plan—Provide your agency's Individual Service Plan (ISP) methodology and the core items to be addressed in the plan.

8. Project Plan—How permanent affordable housing will be identified in the ISP and made known to participants to plan for leaving the supportive housing?

9. Project Plan—Will your agency provide follow-up services? If yes, describe those services, how often they will occur, and the duration of the follow-up.

10. Project Plan—Describe how Veteran participants will have a voice and aid in operating and maintaining the housing (*i.e.,* volunteer time, paid positions, community governance meetings, peer support).

11. Project Plan—Describe your agency's responsibilities, as well as, any sponsors, contractors' responsibilities in operating and maintaining the housing (*i.e.,* sub-recipients).

12. Project Plan—Describe program policies regarding a clean and sober environment. Include in the description how participant relapse will be handled and how these policies will affect the admission and discharge criteria.

13. Project Plan—Provide and describe the type and implementation of the medication control system that will be used in this project (*e.g.,* Medication Management, Medication Monitoring, or individual storage). For reference, applicants may review these requirements on pages 16 and 17 of their current GPD grant projects last annual inspection (VA Form 10–0361c).

14. Project Plan—Describe program polices regarding participant agreements, include any leases and sub-leases if used.

15. Project Plan—Describe program polices regarding extracurricular fees.

16. Project Plan—If co-located with other models, populations, or with other non-grant and per diem projects; how will differences in program rules and policies be handled (*See* example 8)?

Example 8:

Your agency has permanent housing, bridge housing, and low demand housing. These all serve different populations and require different levels of policy to properly function. How will this be accomplished?

17. Project Plan—Describe how in your chosen model you will provide assistance to Veterans who seek increased income or benefits.

18. Project Plan—Address how your agency will facilitate the provision of

nutritional meals for the Veterans. Be sure to describe how Veterans with little or no income will be assisted.

19. Project Plan—VA places great emphasis on placing Veterans in the most appropriate housing situation as rapidly as possible. In this section, provide a timetable and the specific services to include follow-up that supports housing stabilization. Include evidence of coordination of transition services with which your agency expects to have for Veterans.

20. Project Plan—Describe the availability of or how you will facilitate transportation of the Veteran participants with and without income to appointments, employment, and supportive services.

(c) *Model Specific Questions:* Applicants should only respond to the following questions as they apply for the model selected in this application.

1. Bridge Housing Model—Describe how your bridge housing is coordinated with permanent housing resources as part of a Housing First plan for homeless Veterans

2. Clinical Treatment Model—Describe how you will ensure homeless Veterans will be offered available permanent housing resources prior to entering treatment resources.

3. Clinical Treatment Model—Describe how you will ensure permanent housing and employment/income improvements will occur and lead to successful outcomes.

4. Low Demand Model—How will your agency manage a safe environment if a Veteran returns to the project impaired?

5. Low Demand Model—Will your safe environment include a sober lounge or safe room?

6. Low Demand Model—What approaches will be used to keep the Veterans engaged in services?

7. Respite Care—Describe the medical evaluation process for identifying potential candidates for the program and the Staff involved in that process, the evaluation criteria, and the roles of each individual.

(d) Ability—This is where you describe your agency's experience in regard to your selected population.

1. Ability—Provide a table or spreadsheet of the staffing plan for this project. Do not include resumes.

Example 9:

Job title	Brief (1–2 sentence) description of responsibilities	Educational level	Hours per week allocated to GPD project	Amount of annual salary allocated to the GPD project ($)

2. Ability—Describe your agency's previous experience assessing and providing for the housing needs of homeless Veterans under your chosen model.

3. Ability—Describe your agency's previous experience assessing and providing supportive services to homeless Veterans under your chosen model.

4. Describe your agency's previous experience in assessing supportive service resources and entitlement benefits.

5. Describe your agency's previous experience with evaluating the progress of both individual participants and overall program effectiveness through using quality and performance data to make changes. Provide documentation of meeting past performance goals.

(e) Need—Describe through the use of a gap analysis the substantial unmet needs particularly among your targeted Veteran population and those needs of the general homeless population. How does this project meet a need for the community and fit with the community's strategy to end homeless in the community? Support your descriptions with empirical statistical documentation of need.

(f) Coordination—This portion of the application places emphasis on evidence of your agency's involvement in the homeless Veteran continuum.

1. Coordination—Provide documented evidence your agency is part of an ongoing community-wide planning process.

2. Coordination—How is your process designed to share information on available resources and reduce duplication among programs that serve homeless Veterans (*i.e.,* letter of support from your local continuum of care)?

3. Coordination—How is your agency part of an ongoing community-wide planning process which is designed to share information on available resources and reduce duplication among programs that serve homeless Veterans?

4. Coordination—How has your agency coordinated GPD services with other programs offered in the Continuum(s) of Care (CoC) they currently serve?

5. Coordination—Provide documented evidence your agency consulted directly with the closest VAMC Director regarding coordination of services for project participants; and provide your plan to assure access to health care, case management, and other care services.

(g) Additional Application Requirements—

1. Memorandum of Understanding (MOU) Respite Care Documentation—A MOU between the local medical center and the applicant must be provided demonstrating the local medical center's detailed participation in the Hospital-to-Housing program. Included in this should be detailing of acceptance criteria for Veterans being referred from local facility emergency departments and inpatient wards, a detailing of how follow-up care with the medical center is organized, and a commitment to engaging enrolled Veterans in permanent housing as part of the program.

2. Awardees will be required to support their request for payments with adequate fiscal documentation as to project income and expenses. Awardee agencies that have a negotiated Indirect Cost Agreement (IDC) must provide a copy of the IDC with this application if they wish to charge indirect costs to the grant. Without this document only the de minimis rate would be allowed for indirect costs. All other costs will be considered only if they are direct costs.

Submission Dates and Times: An original signed, dated, completed, and application (plus two completed collated copies) and all required associated documents must be received in the GPD Program Office, VA Homeless Providers GPD Program Office, 10770 N. 46th Street Suite C–200, Tampa, FL 33617; by 4:00 p.m. Eastern Standard Time on Tuesday, April 4, 2017.

In the interest of fairness to all competing applicants, this deadline is firm as to date and hour, and VA will treat any application that is received after the deadline as ineligible for consideration. Applicants should take this firm deadline into account and make early submission of their material to avoid any risk of loss of eligibility as a result of unanticipated delays or other delivery-related problems. For applications physically delivered (*e.g.,* in person, or via United States Postal Service, FedEx, United Parcel Service, or any other type of courier), the VA GPD Program Office staff will accept the application and date stamp it immediately at the time of arrival. This is the date and time that will determine

if the deadline is met for those types of delivery.

Applications must be received by the application deadline. Applications must arrive as a complete package to include VA collaborative partner materials (see application requirements). Materials arriving separately *will not* be included in the application package for consideration and may result in the application being rejected or not funded.

DO NOT fax or email the application as applications received via these means will be ineligible for consideration.

Award Notice: Although subject to change, the GPD Program Office expects to announce grant awards in May 2017. The initial announcement will be made via news release which will be posted on VA's National GPD Program Web site at *www.va.gov/homeless/gpd.asp.* Following the initial announcement, the GPD Office will mail notification letters to the grant recipients. Applicants who are not selected will be mailed a declination letter within two weeks of the initial announcement. All notifications will indicate the applicant's status in regard to the Office of Management and Budget class exception to the real property provisions of Title 2 of the Code of Federal Regulations section 200.311(c) to FY 2017 NOFA awardees and non-awardees.

For capital grantees that choose not to reapply in response to this 2017 NOFA or who apply and do not meet the threshold requirements for scoring as outlined in [the accompanying **Federal Register** Notice regarding the plan to terminate certain grant agreements] and regulation, VA will initiate the recapture requirements of 38 CFR 61.67, and if applicable, the real property disposition requirements of 2 CFR 200.311(c).

Administrative and National Policy: It is important to be aware that VA places great emphasis on responsibility and accountability. VA has procedures in place to monitor services provided to homeless Veterans and outcomes associated with the services provided in grant and per diem-funded programs. Applicants should be aware of the following:

All awardees that are selected in response to *this NOFA* must meet the requirements of the current edition of the Life Safety Code of the National Fire Protection Association as it relates to their specific facility. Applicants should note that all facilities are to be protected throughout by an approved automatic sprinkler system unless a facility is specifically exempted under the Life Safety Code. Applicants should consider this when submitting their grant applications, as no additional funds will be made available for capital improvements under this NOFA.

Each program receiving funding will have a liaison appointed from a nearby VA medical facility to provide oversight and monitor services provided to homeless Veterans in the program.

Monitoring will include, at a minimum, a quarterly review of each per diem program's progress toward meeting VA's performance metrics, helping Veterans attain housing stability, adequate income support, and self-sufficiency as identified in each per diem application. Monitoring will also include a review of the agency's income and expenses as they relate to this project to ensure payment is accurate.

Each funded program will participate in VA's national program monitoring and evaluation as these procedures will be used to determine successful accomplishment of housing, employment, and self-sufficiency outcomes for each per diem-funded program.

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. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on December 19, 2016, for publication.

Dated: December 19, 2016.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the SecretaryDepartment of Veterans Affairs.

[FR Doc. 2016–30957 Filed 12–22–16; 8:45 am]

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Book 2 of 2 Books

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Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2016

REGULATORY INFORMATION SERVICE CENTER

Introduction to the Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2016

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions.

SUMMARY: Publication of the Unified Agenda of Regulatory and Deregulatory Actions and the Regulatory Plan represent key components of the regulatory planning mechanism prescribed in Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735) and incorporated in Executive Order 13563, ''Improving Regulation and Regulatory Review'' issued on January 18, 2011 (76 FR 3821). The fall editions of the Unified Agenda include the agency regulatory plans required by E.O. 12866, which identify regulatory priorities and provide additional detail about the most important significant regulatory actions that agencies expect to take in the coming year.

In addition, the Regulatory Flexibility Act requires that agencies publish semiannual ''regulatory flexibility agendas'' describing regulatory actions they are developing that will have significant effects on small businesses and other small entities (5 U.S.C. 602).

The Unified Agenda of Regulatory and Deregulatory Actions (Unified Agenda), published in the fall and spring, helps agencies fulfill all of these requirements. All federal regulatory agencies have chosen to publish their regulatory agendas as part of this publication. The complete Unified Agenda and Regulatory Plan can be found online at *http://www.reginfo.gov* and a reduced print version can be found in the **Federal Register**. Information regarding obtaining printed copies can also be found on the *Reginfo.gov* Web site (or below, VI. How can users get copies of the Plan and the Agenda?).

The fall 2016 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

The complete fall 2016 Unified Agenda contains the Regulatory Plans of 30 Federal agencies and 60 Federal agency regulatory agendas.

ADDRESSES: Regulatory Information Service Center (MVE), General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory actions, please refer to the agency contact listed for each entry.

To provide comment on or to obtain further information about this publication, contact: John C. Thomas, Executive Director, Regulatory Information Service Center (MVE), U.S. General Services Administration, 1800 F Street NW., 2219F, Washington, DC 20405, (202) 482–7340. You may also send comments to us by email at: *risc@gsa.gov*.

SUPPLEMENTARY INFORMATION:

Table of Contents

INTRODUCTION TO THE REGULATORY PLAN AND THE UNIFIED AGENDA OF FEDERAL REGULATORY AND DEREGULATORY ACTIONS

I. What are the Regulatory Plan and the Unified Agenda?

The Regulatory Plan serves as a defining statement of the Administration's regulatory and deregulatory policies and priorities. The Plan is part of the fall edition of the Unified Agenda. Each participating agency's regulatory plan contains: (1) A narrative statement of the agency's regulatory and deregulatory priorities, and, for the most part, (2) a description of the most important significant regulatory and deregulatory actions that the agency reasonably expects to issue in proposed or final form during the upcoming fiscal year. This edition includes the regulatory plans of 30 agencies.

The Unified Agenda provides information about regulations that the

Government is considering or reviewing. The Unified Agenda has appeared in the **Federal Register** twice each year since 1983 and has been available online since 1995. The complete Unified Agenda is available to the public at *http://www.reginfo.gov*. The online Unified Agenda offers flexible search tools and access to the historic Unified Agenda database to 1995. The complete online edition of the Unified Agenda includes regulatory agendas from 62 Federal agencies. Agencies of the United States Congress are not included.

The fall 2016 Unified Agenda publication appearing in the **Federal Register** consists of The Regulatory Plan and agency regulatory flexibility agendas, in accordance with the publication requirements of the Regulatory Flexibility Act. Agency regulatory flexibility agendas contain only those Agenda entries for rules that are likely to have a significant economic impact on a substantial number of small entities and entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Printed entries display only the fields required by the Regulatory Flexibility Act. Complete agenda information for those entries appears, in a uniform format, in the online Unified Agenda at *http://www.reginfo.gov*.

The following agencies have no entries for inclusion in the printed regulatory flexibility agenda. An asterisk (*) indicates agencies that appear in The Regulatory Plan. The regulatory agendas of these agencies are available to the public at *http://reginfo.gov*.

Cabinet Departments

Department of State
Department of Veterans Affairs *

Other Executive Agencies

Agency for International Development
Commission on Civil Rights
Committee for Purchase From People Who Are Blind or Severely Disabled
Corporation for National and Community ServiceCourt Services and Offender Supervision Agency for the District of Columbia
Equal Employment Opportunity Commission *
National Archives and Records Administration *
National Endowment for the Arts
National Endowment for the Humanities
National Science Foundation
Office of Government Ethics
Office of Management and Budget
Office of Personnel Management *
Office of the United States Trade Representative
Peace Corps
Pension Benefit Guaranty Corporation *
Railroad Retirement Board
Social Security Administration *

Independent Agencies

Council of the Inspectors General on Integrity and Efficiency
Farm Credit Administration
Farm Credit System Insurance Corporation
Federal Deposit Insurance Corporation
Federal Energy Regulatory Commission
Federal Housing Finance Agency
Federal Maritime Commission
Federal Trade Commission *
Gulf Coast Ecosystem Restoration Council
National Credit Union Administration
National Indian Gaming Commission *
National Transportation Safety Board
Special Inspector General for Afghanistan Reconstruction
Surface Transportation Board

The Regulatory Information Service Center compiles the Unified Agenda for the Office of Information and Regulatory Affairs (OIRA), part of the Office of Management and Budget. OIRA is responsible for overseeing the Federal Government's regulatory, paperwork, and information resource management activities, including implementation of Executive Order 12866 (incorporated in Executive Order 13563). The Center also provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency officials, and the public.

The activities included in the Agenda are, in general, those that will have a regulatory action within the next 12 months. Agencies may choose to include activities that will have a longer timeframe than 12 months. Agency agendas also show actions or reviews completed or withdrawn since the last Unified Agenda. Executive Order 12866 does not require agencies to include regulations concerning military or foreign affairs functions or regulations related to agency organization, management, or personnel matters. Agencies prepared entries for this publication to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Regulatory Plan and Unified Agenda do not create a legal obligation on agencies to adhere to schedules in this publication or to confine their regulatory activities to those regulations that appear within it.

II. Why are the Regulatory Plan and the Unified Agenda published?

The Regulatory Plan and the Unified Agenda helps agencies comply with their obligations under the Regulatory Flexibility Act and various Executive orders and other statutes.

Regulatory Flexibility Act

The Regulatory Flexibility Act requires agencies to identify those rules that may have a significant economic impact on a substantial number of small entities (5 U.S.C. 602). Agencies meet that requirement by including the information in their submissions for the Unified Agenda. Agencies may also indicate those regulations that they are reviewing as part of their periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610). Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' signed August 13, 2002 (67 FR 53461), provides additional guidance on compliance with the Act.

Executive Order 12866

Executive Order 12866, ''Regulatory Planning and Review,'' signed September 30, 1993 (58 FR 51735), requires covered agencies to prepare an agenda of all regulations under development or review. The Order also requires that certain agencies prepare annually a regulatory plan of their ''most important significant regulatory actions,'' which appears as part of the fall Unified Agenda. Executive Order 13497, signed January 30, 2009 (74 FR 6113), revoked the amendments to Executive Order 12866 that were contained in Executive Order 13258 and Executive Order 13422.

Executive Order 13563

Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued on January 18, 2011, supplements and reaffirms the principles, structures, and definitions governing contemporary regulatory review that were established in Executive Order 12866, which includes the general principles of regulation and public participation, and orders integration and innovation in coordination across agencies; flexible approaches where relevant, feasible, and consistent with regulatory approaches; scientific integrity in any scientific or technological information and processes used to support the agencies' regulatory actions; and retrospective analysis of existing regulations.

Executive Order 13132

Executive Order 13132, ''Federalism,'' signed August 4, 1999 (64 FR 43255), directs agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have ''federalism implications'' as defined in the Order. Under the Order, an agency that is proposing a regulation with federalism implications, which either preempt State law or impose non-statutory unfunded substantial direct compliance costs on State and local governments, must consult with State and local officials early in the process of developing the regulation. In addition, the agency must provide to the Director of the Office of Management and Budget a federalism summary impact statement for such a regulation, which consists of a description of the extent of the agency's prior consultation with State and local officials, a summary of their concerns and the agency's position supporting the need to issue the regulation, and a statement of the extent to which those concerns have been met. As part of this effort, agencies include in their submissions for the Unified Agenda information on whether their regulatory actions may have an effect on the various levels of government and whether those actions have federalism implications.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, title II) requires agencies to prepare written assessments of the costs and benefits of significant regulatory actions ''that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more . . . in any 1 year. . . .'' The requirement does not apply to independent regulatory agencies, nor does it apply to certain subject areas excluded by section 4 of the Act. Affected agencies identify in the Unified Agenda those regulatory actions they believe are subject to title II of the Act.

Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' signed May 18, 2001 (66 FR 28355), directs agencies to provide, to the extent possible, information regarding the adverse effects that agency actions may have on the supply, distribution, and use of energy. Under the Order, the agency must prepare and submit a Statement of Energy Effects to the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, for ''those matters identified as significant energy actions.'' As part of this effort, agencies may optionally include in their submissions for the Unified Agenda information on whether they have prepared or plan to prepare a Statement of Energy Effects for their regulatory actions.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (Pub. L. 104–121, title II) established a procedure for congressional review of rules (5 U.S.C. 801 *et seq.*), which defers, unless exempted, the effective date of a ''major'' rule for at least 60 days from the publication of the final rule in the **Federal Register**. The Act specifies that a rule is ''major'' if it has resulted, or is likely to result, in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of OIRA will make the final determination as to whether a rule is major.

III. How are the Regulatory Plan and the Unified Agenda organized?

The Regulatory Plan appears in part II in a daily edition of the **Federal Register**. The Plan is a single document beginning with an introduction, followed by a table of contents, followed by each agency's section of the Plan. Following the Plan in the **Federal Register**, as separate parts, are the regulatory flexibility agendas for each agency whose agenda includes entries for rules which are likely to have a significant economic impact on a substantial number of small entities or rules that have been selected for periodic review under section 610 of the Regulatory Flexibility Act. Each printed agenda appears as a separate part. The sections of the Plan and the parts of the Unified Agenda are organized alphabetically in four groups: Cabinet departments; other executive agencies; the Federal Acquisition Regulation, a joint authority (Agenda only); and independent regulatory agencies. Agencies may in turn be divided into subagencies. Each printed agency agenda has a table of contents listing the agency's printed entries that follow. Each agency's part of the Agenda contains a preamble providing information specific to that agency. Each printed agency agenda has a table of contents listing the agency's printed entries that follow.

Each agency's section of the Plan contains a narrative statement of regulatory priorities and, for most agencies, a description of the agency's most important significant regulatory and deregulatory actions. Each agency's part of the Agenda contains a preamble providing information specific to that agency plus descriptions of the agency's regulatory and deregulatory actions.

The online, complete Unified Agenda contains the preambles of all participating agencies. Unlike the printed edition, the online Agenda has no fixed ordering. In the online Agenda, users can select the particular agencies' agendas they want to see. Users have broad flexibility to specify the characteristics of the entries of interest to them by choosing the desired responses to individual data fields. To see a listing of all of an agency's entries, a user can select the agency without specifying any particular characteristics of entries.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. *Prerule Stage*—actions agencies will undertake to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking (NPRM) and may include Advance Notices of Proposed Rulemaking (ANPRMs) and reviews of existing regulations.

2. *Proposed Rule Stage*—actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process or for which the closing date of the NPRM Comment Period is the next step.

3. *Final Rule Stage*—actions for which agencies plan to publish a final rule or an interim final rule or to take other final action as the next step.

4. *Long-Term Actions*—items under development but for which the agency does not expect to have a regulatory action within the 12 months after publication of this edition of the Unified Agenda. Some of the entries in this section may contain abbreviated information.

5. *Completed Actions*—actions or reviews the agency has completed or withdrawn since publishing its last agenda. This section also includes items the agency began and completed between issues of the Agenda.

Long-Term Actions are rulemakings reported during the publication cycle that are outside of the required 12-month reporting period for which the Agenda was intended. Completed Actions in the publication cycle are rulemakings that are ending their lifecycle either by Withdrawal or completion of the rulemaking process. Therefore, the Long-Term and Completed RINs do not represent the ongoing, forward-looking nature

intended for reporting developing rulemakings in the Agenda pursuant to Executive Order 12866, section 4(b) and 4(c). To further differentiate these two stages of rulemaking in the Unified Agenda from active rulemakings, Long-Term and Completed Actions are reported separately from active rulemakings, which can be any of the first three stages of rulemaking listed above. A separate search function is provided on *http://reginfo.gov* to search for Completed and Long-Term Actions apart from each other and active RINs.

A bullet (•) preceding the title of an entry indicates that the entry is appearing in the Unified Agenda for the first time.

In the printed edition, all entries are numbered sequentially from the beginning to the end of the publication. The sequence number preceding the title of each entry identifies the location of the entry in this edition. The sequence number is used as the reference in the printed table of contents. Sequence numbers are not used in the online Unified Agenda because the unique Regulation Identifier Number (RIN) is able to provide this cross-reference capability.

Editions of the Unified Agenda prior to fall 2007 contained several indexes, which identified entries with various characteristics. These included regulatory actions for which agencies believe that the Regulatory Flexibility Act may require a Regulatory Flexibility Analysis, actions selected for periodic review under section 610(c) of the Regulatory Flexibility Act, and actions that may have federalism implications as defined in Executive Order 13132 or other effects on levels of government. These indexes are no longer compiled, because users of the online Unified Agenda have the flexibility to search for entries with any combination of desired characteristics. The online edition retains the Unified Agenda's subject index based on the **Federal Register** Thesaurus of Indexing Terms. In addition, online users have the option of searching Agenda text fields for words or phrases.

IV. What information appears for each entry?

All entries in the online Unified Agenda contain uniform data elements including, at a minimum, the following information:

Title of the Regulation—a brief description of the subject of the regulation. In the printed edition, the notation ''Section 610 Review'' following the title indicates that the agency has selected the rule for its periodic review of existing rules under the Regulatory Flexibility Act (5 U.S.C. 610(c)). Some agencies have indicated completions of section 610 reviews or rulemaking actions resulting from completed section 610 reviews. In the online edition, these notations appear in a separate field.

Priority—an indication of the significance of the regulation. Agencies assign each entry to one of the following five categories of significance.

(1) Economically Significant

As defined in Executive Order 12866, a rulemaking action that will have an annual effect on the economy of $100 million or more or will adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. The definition of an ''economically significant'' rule is similar but not identical to the definition of a ''major'' rule under 5 U.S.C. 801 (Pub. L. 104–121). (See below.)

(2) Other Significant

A rulemaking that is not Economically Significant but is considered Significant by the agency. This category includes rules that the agency anticipates will be reviewed under Executive Order 12866 or rules that are a priority of the agency head. These rules may or may not be included in the agency's regulatory plan.

(3) Substantive, Nonsignificant

A rulemaking that has substantive impacts, but is neither Significant, nor Routine and Frequent, nor Informational/Administrative/Other.

(4) Routine and Frequent

A rulemaking that is a specific case of a multiple recurring application of a regulatory program in the Code of Federal Regulations and that does not alter the body of the regulation.

(5) Informational/Administrative/Other

A rulemaking that is primarily informational or pertains to agency matters not central to accomplishing the agency's regulatory mandate but that the agency places in the Unified Agenda to inform the public of the activity.

Major—whether the rule is ''major'' under 5 U.S.C. 801 (Pub. L. 104–121) because it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act. The Act provides that the Administrator of the Office of Information and Regulatory Affairs will make the final determination as to whether a rule is major.

Unfunded Mandates—whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year, agencies, other than independent regulatory agencies, shall prepare a written statement containing an assessment of the anticipated costs and benefits of the Federal mandate.

Legal Authority—the section(s) of the United States Code (U.S.C.) or Public Law (Pub. L.) or the Executive order (E.O.) that authorize(s) the regulatory action. Agencies may provide popular name references to laws in addition to these citations.

CFR Citation—the section(s) of the Code of Federal Regulations that will be affected by the action.

Legal Deadline—whether the action is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to an NPRM, a Final Action, or some other action.

Abstract—a brief description of the problem the regulation will address; the need for a Federal solution; to the extent available, alternatives that the agency is considering to address the problem; and potential costs and benefits of the action.

Timetable—the dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 12/00/14 means the agency is predicting the month and year the action will take place but not the day it will occur. In some instances, agencies may indicate what the next action will be, but the date of that action is ''To Be Determined.'' ''Next Action Undetermined'' indicates the agency does not know what action it will take next.

Regulatory Flexibility Analysis Required—whether an analysis is required by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rulemaking action is likely to have a significant economic impact on a substantial number of small entities as defined by the Act.

Small Entities Affected—the types of small entities (businesses, governmental jurisdictions, or organizations) on which the rulemaking action is likely to have an impact as defined by the Regulatory Flexibility Act. Some agencies have chosen to indicate likely effects on small entities even though they believe

that a Regulatory Flexibility Analysis will not be required.

Government Levels Affected—whether the action is expected to affect levels of government and, if so, whether the governments are State, local, tribal, or Federal.

International Impacts—whether the regulation is expected to have international trade and investment effects, or otherwise may be of interest to the Nation's international trading partners.

Federalism—whether the action has ''federalism implications'' as defined in Executive Order 13132. This term refers to actions ''that have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Independent regulatory agencies are not required to supply this information.

Included in the Regulatory Plan—whether the rulemaking was included in the agency's current regulatory plan published in fall 2015.

Agency Contact—the name and phone number of at least one person in the agency who is knowledgeable about the rulemaking action. The agency may also provide the title, address, fax number, email address, and TDD for each agency contact.

Some agencies have provided the following optional information:

RIN Information URL—the Internet address of a site that provides more information about the entry.

Public Comment URL—the Internet address of a site that will accept public comments on the entry. Alternatively, timely public comments may be submitted at the Governmentwide e-rulemaking site, *http://www.regulations.gov*.

Additional Information—any information an agency wishes to include that does not have a specific corresponding data element.

Compliance Cost to the Public—the estimated gross compliance cost of the action.

Affected Sectors—the industrial sectors that the action may most affect, either directly or indirectly. Affected sectors are identified by North American Industry Classification System (NAICS) codes.

Energy Effects—an indication of whether the agency has prepared or plans to prepare a Statement of Energy Effects for the action, as required by Executive Order 13211 ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' signed May 18, 2001 (66 FR 28355).

Related RINs—one or more past or current RIN(s) associated with activity related to this action, such as merged RINs, split RINs, new activity for previously completed RINs, or duplicate RINs.

Statement of Need—a description of the need for the regulatory action.

Summary of the Legal Basis—a description of the legal basis for the action, including whether any aspect of the action is required by statute or court order.

Alternatives—a description of the alternatives the agency has considered or will consider as required by section 4(c)(1)(B) of Executive Order 12866.

Anticipated Costs and Benefits—a description of preliminary estimates of the anticipated costs and benefits of the action.

Risks—a description of the magnitude of the risk the action addresses, the amount by which the agency expects the action to reduce this risk, and the relation of the risk and this risk reduction effort to other risks and risk reduction efforts within the agency's jurisdiction.

V. Abbreviations

The following abbreviations appear throughout this publication:

ANPRM—An Advance Notice of Proposed Rulemaking is a preliminary notice, published in the **Federal Register**, announcing that an agency is considering a regulatory action. An agency may issue an ANPRM before it develops a detailed proposed rule. An ANPRM describes the general area that may be subject to regulation and usually asks for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a notice of proposed rulemaking.

CFR—The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the **Federal Register** by the agencies of the Federal Government. The Code is divided into 50 titles, each title covering a broad area subject to Federal regulation. The CFR is keyed to and kept up to date by the daily issues of the **Federal Register**.

EO—An Executive order is a directive from the President to Executive agencies, issued under constitutional or statutory authority. Executive orders are published in the **Federal Register** and in title 3 of the Code of Federal Regulations.

FR—The **Federal Register** is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents issued by Federal agencies.

FY—The Federal fiscal year runs from October 1 to September 30.

- *NPRM*—A Notice of Proposed Rulemaking is the document an agency issues and publishes in the **Federal Register** that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act (5 U.S.C. 553), an NPRM must include, at a minimum: A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL (or Pub. L.)— A public law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, unlike a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the 2-year life of each Congress; for example, PL 112–4 is the fourth public law of the 112th Congress.

RFA—A Regulatory Flexibility Analysis is a description and analysis of the impact of a rule on small entities, including small businesses, small governmental jurisdictions, and certain small not-for-profit organizations. The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires each agency to prepare an initial RFA for public comment when it is required to publish an NPRM and to make available a final RFA when the final rule is published, unless the agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities.

RIN—The Regulation Identifier Number is assigned by the Regulatory Information Service Center to identify each regulatory action listed in the Regulatory Plan and the Unified Agenda, as directed by Executive Order 12866 (section 4(b)). Additionally, OMB has asked agencies to include RINs in the headings of their Rule and Proposed Rule documents when publishing them in the **Federal Register**, to make it easier for the public and agency officials to track the publication history of regulatory actions throughout their development.

Seq. No.—The sequence number identifies the location of an entry in the printed edition of the Regulatory Plan and the Unified Agenda. Note that a specific regulatory action will have the same RIN throughout its development but will generally have different

sequence numbers if it appears in different printed editions of the Unified Agenda. Sequence numbers are not used in the online Unified Agenda.

U.S.C.—The United States Code is a consolidation and codification of all general and permanent laws of the United States. The U.S.C. is divided into 50 titles, each title covering a broad area of Federal law.

VI. How can users get copies of the Plan and the Agenda?

Copies of the **Federal Register** issue containing the printed edition of The Regulatory Plan and the Unified Agenda (agency regulatory flexibility agendas) are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250–7954. Telephone: (202) 512–1800 or 1–866–512–1800 (toll-free).

Copies of individual agency materials may be available directly from the agency or may be found on the agency's Web site. Please contact the particular agency for further information.

All editions of The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions since fall 1995 are available in electronic form at *http://reginfo.gov*, along with flexible search tools.

The Government Printing Office's GPO FDsys Web site contains copies of the Agendas and Regulatory Plans that have been printed in the **Federal Register**. These documents are available at *http://www.fdsys.gov*.

Dated: November 17, 2016.

John C. Thomas,

Executive Director.

INTRODUCTION TO THE 2016 REGULATORY PLAN

Executive Order 12866, issued in 1993, requires the production of a Unified Regulatory Agenda and Regulatory Plan. Executive Order 13563, issued in 2011, reaffirms the requirements of Executive Order 12866.

Consistent with these Executive Orders, the Office of Information and Regulatory Affairs (OIRA) is providing the 2016 Unified Regulatory Agenda (Agenda) and the Regulatory Plan (Plan) for public review. The Agenda and Plan are preliminary statements of regulatory and deregulatory policies and priorities under consideration. The Plan provides a list of important regulatory actions that agencies are considering for issuance in proposed or final form during the 2017 fiscal year. In contrast, the Agenda is a more inclusive list that includes numerous ministerial actions and routine rulemakings, as well as long-term initiatives that agencies do not plan to complete in the coming year but on which they are actively working. Changed circumstances, public comment, or applicable legal authorities could affect an agency's decision about whether to go forward with a listed regulatory action.

A central purpose of the Agenda is to involve the public, including State, local, and tribal officials, in Federal regulatory planning. The public examination of the Agenda and Plan will facilitate public participation in a regulatory system that, in the words of Executive Order 13563, protects ''public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' We emphasize that rules listed on the Agenda must still undergo significant development and review before agencies can issue them. No regulatory action can become effective until it has gone through the legally required processes, which normally include public notice and comment. Any proposed or final action must also satisfy the requirements of relevant statutes, Executive Orders, and Presidential Memoranda.

Among other information, the Agenda provides an initial classification of whether a rulemaking is ''significant'' or ''economically significant'' under the terms of Executive Orders 12866 and 13563. The Agenda might list a rule as ''economically significant'' within the meaning of Executive Order 12866 (generally, having an annual effect on the economy of $100 million or more) because it imposes costs, confers large benefits, affects significant budget resources, or removes costly burdens.

Executive Orders 13563 and 13610: Regulatory Development, and the Retrospective Review of Regulation

Executive Order 13563 reaffirmed the principles, structures, and definitions in Executive Order 12866, which has long governed regulatory review. Executive Order 13563 explicitly points to the need for predictability and certainty in the regulatory system, as well as for use of the least burdensome means to achieving regulatory ends. These Executive Orders include the requirement that, to the extent permitted by law, agencies should not proceed with rulemaking in the absence of a reasoned determination that the benefits justify the costs. They also establish public participation, integration and innovation, flexible approaches, scientific integrity, and retrospective review as areas of emphasis in regulation. In particular, Executive Order 13563 explicitly draws attention to the need to measure and improve ''the actual results of regulatory requirements''—a clear reference to the importance of the retrospective review of regulations.

Executive Order 13563 addresses new regulations that are under development, as well as retrospective review of existing regulations that are already in place. With respect to agencies' review of existing regulations, the Executive Order calls for careful reassessment based on empirical analysis. The prospective analysis required by Executive Order 13563 may depend on a degree of prediction and speculation about a rule's likely impacts, and the actual costs and benefits of a regulation may be lower or higher than what was anticipated when the rule was originally developed.

Executive Order 13610, *Identifying and Reducing Regulatory Burdens,* issued in 2012, institutionalizes the retrospective—or ''lookback''—mechanism set out in Executive Order 13563 by requiring agencies to report to the Office of Management and Budget and to the public twice each year (January and July) on the status of their retrospective review efforts. In these reports, agencies are to ''describe progress, anticipated accomplishments, and proposed timelines for relevant actions.''

Executive Orders 13563 and 13610 recognize that circumstances may change in a way that requires agencies to reconsider regulatory requirements. The retrospective review process allows agencies to reevaluate existing rules and to streamline, modify, or eliminate those regulations that do not make sense in their current form. The agencies' lookback efforts so far during this Administration have yielded approximately $37 billion in savings for the American public over the next five years. Reflecting that focus, the current Agenda lists numerous actions that retroactively review existing regulatory programs. Since President Obama issued Executive Order 13610, this Administration has worked to institutionalize retrospective review in the federal agencies. In July 2016, agencies submitted to OIRA the latest updates of their retrospective review plans, which are publicly available at: *https://www.whitehouse.gov/omb/oira/regulation-reform*. Federal agencies will again update their retrospective review plans in January 2017. OIRA has asked agencies to continue to emphasize retrospective reviews in their latest Regulatory Plans.

As agencies advance the regulations detailed in this 2016 Regulatory Plan, OIRA will continue its efforts to ensure that our regulatory system emphasizes, public participation, scientific evidence, innovation, flexible regulatory approaches, and careful consideration of costs and benefits. These considerations are meant to produce a regulatory system that is driven by the best available knowledge and evidence, attentive to real-world impacts, and is suited to the evolving circumstances of the 21st Century.

DEPARTMENT OF AGRICULTURE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
1	National Organic Program—Organic Aquaculture Standards	0581–AD34	Proposed Rule Stage.
2	NOP; Organic Livestock and Poultry Practices;	0581–AD44	Final Rule Stage.
3	Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms.	0579–AE15	Proposed Rule Stage.

DEPARTMENT OF AGRICULTURE—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
4	Horse Protection; Licensing of Designated Qualified Persons and Other Amendments.	0579–AE19	Final Rule Stage.
5	Tournament Systems and Poultry Growing Arrangements	0580–AB26	Proposed Rule Stage.
6	Unfair Practices and Unreasonable Preference	0580–AB27	Proposed Rule Stage.
7	Clarification of Scope	0580–AB25	Final Rule Stage.
8	Eligibility, Certification, and Employment and Training Provisions	0584–AD87	Final Rule Stage.
9	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010.	0584–AE09	Final Rule Stage.
10	Enhancing Retailer Eligibility Standards in SNAP	0584–AE27	Final Rule Stage.
11	Supplemental Nutrition Assistance Program (SNAP) Photo Electronic Benefit Transfer (EBT) Card Implementation Requirements.	0584–AE45	Final Rule Stage.
12	Revision of the Nutrition Facts Panels for Meat and Poultry Products and Updating Certain Reference Amounts Customarily Consumed.	0583–AD56	Proposed Rule Stage.
13	Modernization of Swine Slaughter Inspection	0583–AD62	Proposed Rule Stage.

DEPARTMENT OF COMMERCE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
14	Endangered and Threatened Species; Critical Habitat for the Threatened Caribbean Corals.	0648–BG20	Proposed Rule Stage.
15	Designation of Critical Habitat for Threatened Indo-Pacific Reef-building Corals	0648–BG26	Proposed Rule Stage.
16	Magnuson-Stevens Fisheries Conservation and Management Act; Seafood Import Monitoring Program.	0648–BF09	Final Rule Stage.
17	Designation of Critical Habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic Sturgeon.	0648–BF28	Final Rule Stage.
18	Designation of Critical Habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon.	0648–BF32	Final Rule Stage.

DEPARTMENT OF DEFENSE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
19	Sexual Assault Prevention and Response Program Procedures	0790–AI36	Final Rule Stage.
20	Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals (Adding Subpart D).	0790–AJ37	Final Rule Stage.
21	Sexual Assault Prevention and Response (SAPR) Program	0790–AJ40	Final Rule Stage.
22	TRICARE; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities.	0720–AB47	Final Rule Stage.
23	TRICARE: Refills of Maintenance Medications Through Military Treatment Facility Pharmacies or National Mail Order Pharmacy Program.	0720–AB64	Final Rule Stage.

DEPARTMENT OF EDUCATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
24	Title I of the Elementary and Secondary Education Act of 1965—Accountability and State Plans.	1810–AB27	Final Rule Stage.
25	Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Supplement Not Supplant under Title I, Part A.	1810–AB33	Final Rule Stage.

DEPARTMENT OF ENERGY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage.
26	Energy Conservation Standards for General Service Lamps	1904–AD09	Proposed Rule Stage.
27	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces.	1904–AD20	Proposed Rule Stage.
28	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers	1904–AD59	Proposed Rule Stage.
29	Energy Conservation Standards for Manufactured Housing	1904–AC11	Final Rule Stage.
30	Energy Conservation Standards for Commercial Packaged Boilers	1904–AD01	Final Rule Stage.
31	Energy Conservation Standards for Commercial Water Heating Equipment	1904–AD34	Final Rule Stage.

DEPARTMENT OF ENERGY—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage.
32	Energy Conservation Standards for Dedicated-Purpose Pool Pumps	1904–AD52	Final Rule Stage.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage.
33	Confidentiality of Substance Use Disorder Patient Records	0930–AA21	Final Rule Stage.
34	Control of Communicable Diseases	0920–AA63	Final Rule Stage.
35	Mammography Quality Standards Act; Regulatory Amendments	0910–AH04	Proposed Rule Stage.
36	Patient Medication Information	0910–AH33	Proposed Rule Stage.
37	340(B) Civil Monetary Penalties for Manufacturers and Ceiling Price Regulations	0906–AA89	Final Rule Stage.
38	Definition of Human Organ Under Section 301 of the National Organ Transplant Act of 1984.	0906–AB02	Final Rule Stage.
39	340B Program Omnibus Guidelines	0906–AB08	Final Rule Stage.
40	Federal Policy for the Protection of Human Subjects; Final Rules	0937–AA02	Final Rule Stage.
41	Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid, and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP (CMS–2334–P2).	0938–AS55	Proposed Rule Stage.
42	FY 2018 Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities (SNFs) (CMS–1679–P).	0938–AS96	Proposed Rule Stage.
43	FY 2018 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update (CMS–1673–P).	0938–AS97	Proposed Rule Stage.
44	FY 2018 Inpatient Rehabilitation Facility (IRF) Prospective Payment System (CMS–1671–P).	0938–AS99	Proposed Rule Stage.
45	FY 2018 Hospice Rate Update (CMS–1675–P)	0938–AT00	Proposed Rule Stage.
46	CY 2018 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1678–P).	0938–AT03	Proposed Rule Stage.
47	CY 2018 Changes to the End- Stage. Renal Disease (ESRD) Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) (CMS–1674–P).	0938–AT04	Proposed Rule Stage.
48	Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid, and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP (CMS–2334–F2).	0938–AS27	Final Rule Stage..
49	CY 2017 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts (CMS–8062–N).	0938–AS70	Final Rule Stage.
50	CY 2018 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts (CMS–8065–N).	0938–AT05	Final Rule Stage.
51	Adoption and Foster Care Analysis and Reporting System (AFCARS)	0970–AC47	Final Rule Stage.
52	Flexibility, Efficiency, and Modernization of Child Support Enforcement Programs	0970–AC50	Final Rule Stage.

DEPARTMENT OF HOMELAND SECURITY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage.
53	Chemical Facility Anti-Terrorism Standards (CFATS)	1601–AA69	Proposed Rule Stage.
54	New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status.	1615–AA67	Proposed Rule Stage.
55	Requirements for Filing Motions and Administrative Appeals	1615–AB98	Proposed Rule Stage.
56	Improvement of the Employment Creation Immigrant Regulations	1615–AC07	Proposed Rule Stage.
57	Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status.	1615–AA59	Final Rule Stage.
58	Special Immigrant Juvenile Petitions	1615–AB81	Final Rule Stage.
59	International Entrepreneur	1615–AC04	Final Rule Stage.
60	Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Nonimmigrant Workers.	1615–AC05	Final Rule Stage.
61	Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation	1625–AB85	Proposed Rule Stage.
62	Seafarers' Access to Maritime Facilities	1625–AC15	Final Rule Stage.
63	Air Cargo Advance Screening (ACAS)	1651–AB04	Proposed Rule Stage.
64	Definition of Form I–94 to Include Electronic Format	1651–AA96	Final Rule Stage.
65	Surface Transportation Vulnerability Assessments and Security Plans	1652–AA56	Prerule Stage.
66	Security Training for Surface Transportation Employees	1652–AA55	Proposed Rule Stage.
67	Vetting of Certain Surface Transportation Employees	1652–AA69	Proposed Rule Stage.
68	Eligibility Checks of Nominated and Current Designated School Officials of Schools That Enroll F and M Nonimmigrant Students and of Exchange Visitor Program-Designated Sponsors of J Nonimmigrants.	1653–AA71	Proposed Rule Stage.

DEPARTMENT OF HOMELAND SECURITY—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage.
69	Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard.	1660–AA85	Final Rule Stage.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
70	Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard (FR–5717).	2501–AD62	Proposed Rule Stage.
71	Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Level (FR–5816).	2501–AD77	Final Rule Stage.

DEPARTMENT OF JUSTICE

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
72	Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments.	1190–AA65	Proposed Rule Stage.
73	Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description.	1190–AA63	Final Rule Stage.
74	Revision of Standards and Procedures for the Enforcement of Section 274B of the Immigration and Nationality Act.	1190–AA71	Final Rule Stage.
75	Motions To Reopen Removal, Deportation, or Exclusion Proceedings Based Upon a Claim of Ineffective Assistance of Counsel.	1125–AA68	Final Rule Stage.
76	Recognition of Organizations and Accreditation of Non-Attorney Representatives	1125–AA72	Final Rule Stage.
77	Implementation of the ADA Amendments Act of 2008 Federally Assisted Programs (Section 504 of the Rehabilitation Act of 1973).	1105–AB50	Proposed Rule Stage.

DEPARTMENT OF LABOR

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
78	Employment of Workers With Disabilities Under Special Certificates	1235–AA14	Proposed Rule Stage.
79	Equal Employment Opportunity in Apprenticeship Amendment of Regulations	1205–AB59	Final Rule Stage.
80	Amendment to Claims Procedure Regulation	1210–AB39	Final Rule Stage.
81	Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees.	1210–AB76	Final Rule Stage.
82	Respirable Crystalline Silica	1219–AB36	Proposed Rule Stage.
83	Proximity Detection Systems for Mobile Machines in Underground Mines	1219–AB78	Proposed Rule Stage.
84	Preventing Workplace Violence in Healthcare	1218–AD08	Prerule Stage.
85	Infectious Diseases	1218–AC46	Proposed Rule Stage.
86	Standards Improvement Project IV	1218–AC67	Proposed Rule Stage.
87	Occupational Exposure to Beryllium	1218–AB76	Final Rule Stage.

DEPARTMENT OF TRANSPORTATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
88	Airport Safety Management System	2120–AJ38	Proposed Rule Stage.
89	Pilot Professional Development	2120–AJ87	Proposed Rule Stage.
90	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (RRR).	2120–AK65	Final Rule Stage.
91	National Goals and Performance Management Measures 2 (MAP–21)	2125–AF53	Final Rule Stage.
92	National Goals and Performance Management Measures 3 (MAP–21)	2125–AF54	Final Rule Stage.
93	Entry-Level Driver Training	2126–AB66	Final Rule Stage.
94	Tire Fuel Efficiency Consumer Information—Part 2	2127–AK76	Proposed Rule Stage.
95	Heavy Vehicle Speed Limiters	2127–AK92	Proposed Rule Stage.
96	Federal Motor Vehicle Safety Standard (FMVSS) 150—Vehicle to Vehicle (V2V) Communication.	2127–AL55	Proposed Rule Stage.
97	Locomotive Recording Devices	2130–AC51	Proposed Rule Stage.
98	Risk Reduction Program	2130–AC11	Final Rule Stage.

DEPARTMENT OF TRANSPORTATION—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
99	Pipeline Safety: Safety of Hazardous Liquid Pipelines	2137–AE66	Final Rule Stage.
100	Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains.	2137–AF08	Final Rule Stage.

DEPARTMENT OF VETERANS AFFAIRS

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
101	Schedule for Rating Disabilities: The Genitourinary Diseases and Conditions	2900–AP16	Proposed Rule Stage.
102	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V001, Parts 803, 814, 822).	2900–AP50	Proposed Rule Stage.
103	VA Homeless Providers Grant and Per Diem Program	2900–AP54	Proposed Rule Stage.
104	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V005, Parts 812, 813).	2900–AP58	Proposed Rule Stage.
105	Diseases Associated With Exposure to Contaminants in the Water Supply at Camp Lejeune.	2900–AP66	Proposed Rule Stage.
106	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles VAAR Case 2014–V004 (Parts 811, 832).	2900–AP81	Proposed Rule Stage.
107	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002, Parts 816, 828).	2900–AP82	Proposed Rule Stage.
108	Schedule for Rating Disabilities: The Hematologic and Lymphatic Systems	2900–AO19	Final Rule Stage.
109	Schedule for Rating Disabilities: The Endocrine System	2900–AO44	Final Rule Stage.
110	Fiduciary Activities	2900–AO53	Final Rule Stage.
111	Per Diem Paid to States for Care of Eligible Veterans in State Homes	2900–AO88	Final Rule Stage.
112	Schedule for Rating Disabilities; Dental and Oral Conditions	2900–AP08	Final Rule Stage.
113	Schedule for Rating Disabilities: Gynecological Conditions and Disorders of the Breast.	2900–AP13	Final Rule Stage.
114	Schedule for Rating Disabilities: The Organs of Special Sense and Schedule of Ratings—Eye.	2900–AP14	Final Rule Stage.
115	Schedule for Rating Disabilities: Skin Conditions	2900–AP27	Final Rule Stage.
116	Tiered Pharmacy Copayments for Medications	2900–AP35	Final Rule Stage.
117	Advanced Practice Registered Nurses	2900–AP44	Final Rule Stage.
118	Expanded Access to Non-VA Care Through the Veterans Choice Program	2900–AP60	Final Rule Stage.
119	Veterans Employment Pay for Success Grant Program	2900–AP72	Final Rule Stage.

ENVIRONMENTAL PROTECTION AGENCY

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
120	Federal Baseline Water Quality Standards for Indian Reservations	2040–AF62	Prerule Stage.
121	Renewables Enhancement and Growth Support Rule	2060–AS66	Proposed Rule Stage.
122	Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements.	2060–AS82	Proposed Rule Stage.
123	Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019.	2060–AT04	Proposed Rule Stage.
124	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a)	2070–AK03	Proposed Rule Stage.
125	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a).	2070–AK07	Proposed Rule Stage.
126	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing.	2070–AK11	Proposed Rule Stage.
127	Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares.	2070–AK12	Proposed Rule Stage.
128	Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act.	2070–AK20	Proposed Rule Stage.
129	Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act.	2070–AK23	Proposed Rule Stage.
130	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry.	2050–AG61	Proposed Rule Stage.
131	National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.	2040–AF15	Proposed Rule Stage.
132	Fees for Water Infrastructure Project Applications Under the Water Infrastructure Finance and Innovation Act.	2040–AF64	Proposed Rule Stage.
133	National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W: Standards for Radon Emissions From Operating Uranium Mill Tailings: Review.	2060–AP26	Final Rule Stage.

ENVIRONMENTAL PROTECTION AGENCY—Continued

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
134	Revision of 40 CFR 192—Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities.	2060–AP43	Final Rule Stage.
135	Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014.	2060–AS47	Final Rule Stage.
136	Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018.	2060–AS72	Final Rule Stage.
137	Pesticides; Certification of Pesticide Applicators	2070–AJ20	Final Rule Stage.
138	Modernization of the Accidental Release Prevention Regulations Under Clean Air Act.	2050–AG82	Final Rule Stage.
139	Credit Assistance for Water Infrastructure Projects	2040–AF63	Final Rule Stage.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
140	Affirmative Action for Individuals With Disabilities in the Federal Government	3046–AA94	Final Rule. Stage.

SMALL BUSINESS ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
141	Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive.	3245–AG64	Final Rule Stage.
142	Small Business Investment Company (SBIC) Program—Impact SBICs	3245–AG66	Final Rule Stage.

SOCIAL SECURITY ADMINISTRATION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
143	Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P)	0960–AG38	Proposed Rule Stage.
144	Revised Medical Criteria for Evaluating Digestive Disorders (3441P)	0960–AG65	Proposed Rule Stage.
145	Revised Medical Criteria for Evaluating Cardiovascular Disorders (3477P)	0960–AG74	Proposed Rule Stage.
146	Revising the Ticket to Work Program Rules (3780A)	0960–AH50	Proposed Rule Stage.
147	Revisions to Rules Regarding the Evaluation of Medical Evidence	0960–AH51	Proposed Rule Stage.
148	Revised Medical Criteria for Evaluating Hearing Loss and Disturbances of Labyrinthine-Vestibular Function (3806P).	0960–AH54	Proposed Rule Stage.
149	Use of Electronic Payroll Data To Improve Program Administration	0960–AH88	Proposed Rule Stage.
150	Treatment of Earnings Derived From Services	0960–AH90	Proposed Rule Stage.
151	Closure of Unintended Loopholes (Conforming Changes to Regulations on Presumed Filing and Voluntary Suspension).	0960–AH93	Proposed Rule Stage.
152	Revisions to Rules on Representation of Parties (3396F)	0960–AG56	Final Rule Stage.
153	Revised Medical Criteria for Evaluating Human Immunodeficiency Virus (HIV) Infection and for Evaluating Functional Limitations in Immune System Disorders (3466F).	0960–AG71	Final Rule Stage.
154	Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F).	0960–AH07	Final Rule Stage.
155	Revisions to Rules of Conduct and Standards of Responsibility for Appointed Representatives.	0960–AH63	Final Rule Stage.
156	Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process.	0960–AH71	Final Rule Stage.
157	Implementation of the NICS Improvement Amendments Act of 2007	0960–AH95	Final Rule Stage.
158	Availability of Information and Records to the Public	0960–AI07	Final Rule Stage.

CONSUMER PRODUCT SAFETY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
159	Flammability Standard for Upholstered Furniture	3041–AB35	Proposed Rule Stage.

NATIONAL INDIAN GAMING COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
160	Class II Minimum Internal Control Standards	3141–AA60	Proposed Rule Stage.
161	Minimum Internal Control Standards	3141–AA55	Final Rule Stage.

NUCLEAR REGULATORY COMMISSION

Sequence No.	Title	Regulation Identifier No.	Rulemaking stage
162	Modified Small Quantities Protocol [NRC–2015–0263]	3150–AJ70	Final Rule Stage.

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U.S. DEPARTMENT OF AGRICULTURE

Fall 2016 Statement of Regulatory Priorities

The U.S. Department of Agriculture (USDA) provides leadership on food, agriculture, natural resources, rural development, nutrition, and related issues based on sound public policy, the best available science, and efficient management. The Department touches the lives of almost every American, every day. Our regulatory plan reflects that reality and reinforces our commitment to achieve results for everyone we serve.

The regulatory plan reflects USDA's efforts to implement several important pieces of legislation. The 2014 Farm Bill provides authorization for services and programs that impact every American and millions of people around the world. Under the Farm Bill authorities, USDA will continue to build on historic economic gains in rural America. The Healthy, Hunger-Free Kids Act of 2010 (HHFKA) provided the authority for USDA to make genuine reforms to the school lunch and breakfast programs by improving the critical nutrition and hunger safety net for millions of children.

To assist the country in addressing today's challenges, USDA has developed a regulatory plan consistent with five strategic goals that articulate the Department's priorities.

1. Assist Rural Communities To Create Prosperity So They Are Self-Sustaining, Re-Populating, and Economically Thriving

Rural America is home to a vibrant economy supported by nearly 50 million Americans. These Americans come from diverse backgrounds and work in a variety of industries, including manufacturing, agriculture, services, government, and trade. Today, the country looks to rural America not only to provide food and fiber, but for crucial emerging economic opportunities such as renewable energy, broadband, and recreation. Many of the Nation's small businesses are located in rural communities and are the engine of job growth and an important source of innovation for the country. The economic vitality and quality of life in rural America depends on a healthy agricultural production system. Farmers and ranchers face a challenging global, technologically advanced, and competitive business environment. USDA works to ensure that producers are prosperous and competitive, have access to new markets, can manage their risks, and receive support in times of economic distress or weather-related disasters. Prosperous rural communities are those with adequate assets to fully support the well-being of community members. USDA helps to strengthen rural assets by building physical, human and social, financial, and natural capital.

Enhance rural prosperity, including leveraging capital markets to increase Government's investment in rural America.

USDA is committed to providing broadband to rural areas. Since 2009, USDA investments have delivered broadband service to over 6 million rural residents. These investments support the USDA goal to create thriving communities where people want to live and raise families. Consistent with these efforts, the Rural Utilities Service (RUS) published a final rule confirming the interim rule entitled ''Rural Broadband Access Loans and Loan Guarantees'' which published in the **Federal Register** on June 9, 2016. The final rule implements the statutory changes from the 2014 Farm Bill and facilitates greater deployment of and access to broadband services in rural communities by adjusting certain service area eligibility criteria, establishing new priority considerations, and introducing new reporting sections that require more detailed information gathering and publishing for both the Agency and awardees. For more information about this rule, see RIN 0572–AC34.

USDA also works to increase the effectiveness of the Government's investment in rural America. To this end, Rural Development is developing a rule that will establish program metrics to measure the economic activities created through grants and loans, including any technical assistance provided as a component of the grant or loan program, and to measure the short and long-term viability of award recipients, and any entities to whom recipients provide assistance using the awarded funds. The action is required by section 6209 of the 2014 Farm Bill, and will not change the underlying provisions of the included programs, such as eligibility, applications, scoring, and servicing provisions. For more information about this rule, see RIN 0570–AA95.

Increase agricultural opportunities by ensuring a robust safety net, creating new markets, and supporting a competitive agricultural system.

In another step to increase the effectiveness of the Government's investment in rural America, the Farm Service Agency (FSA) published a final rule on December 16, 2015, on behalf of the Commodity Credit Corporation (CCC) to specify the requirements for a person to be considered actively engaged in farming for the purpose of payment eligibility for certain FSA and CCC programs. These changes ensure that farm program payments are made to the farmers and farm families that they are intended to help. Specifically, as required by the 2014 Farm Bill, FSA revised the requirements for a significant contribution of active personnel management to a farming operation. These changes are required by the 2014 Farm Bill, and will not apply to persons or entities comprised solely of family members. For more information about this rule, see RIN 0560–AI31.

The Federal Crop Insurance Program mitigates production and revenue losses

from yield or price fluctuations and provides timely indemnity payments. The 2014 Farm Bill improved the Federal Crop Insurance Program by allowing producers to elect coverage for shallow losses, improved options for growers of organic commodities, and the ability for diversified operations to insure their whole-farm under a single policy. To strengthen further the farm financial safety net, the Risk Management Agency (RMA) published a final rule on June 30, 2016, that amended the general administrative regulations governing Catastrophic Risk Protection Endorsement, Area Risk Protection Insurance, and the basic provisions for Common Crop Insurance consistent with the changes mandated by the 2014 Farm Bill. For more information about this rule, see RIN 0563–AC43.

The Packers and Stockyards Program promotes fair business practices and competitive environments to market livestock, meat, and poultry. Accordingly, and consistent with its oversight activities under the Packers and Stockyards Act (P&S Act), the Grain Inspection, Packers and Stockyards Administration (GIPSA) proposes to establish criteria to be considered in determining whether an undue or unreasonable preference or advantage has occurred during contractual growing arrangements. For more information about this rule, see RIN 0580–AB27. Consistent with the P&S Act, GIPSA also proposes to establish certain requirements when using a ''tournament'' system for contract poultry growing. For more information about this rule, see RIN 0580–AB26. Finally, GIPSA proposes to issue interim clarifying language on the list of unfair practices between those that do not require a showing of harm to competition and those that violate the P&S Act only with a finding of harm to competition. For more information about this rule, see RIN 0580–AB25

2. Ensure Our National Forests and Private Working Lands Are Conserved, Restored, and Made More Resilient to Climate Change, While Enhancing Our Water Resources

National forests and private working lands provide clean air, clean and abundant water, and wildlife habitat. These lands sustain jobs and produce food, fiber, timber, and bio-based energy. Many of our landscapes are scenic and culturally important and provide Americans a chance to enjoy the outdoors. The 2014 Farm Bill delivered a strong conservation title that made robust investments to conserve and support America's working lands, and consolidated, and streamlined programs to improve efficiency and encourage participation. Farm Bill conservation programs provide America's farmers, ranchers and others with technical and financial assistance to enable conservation of natural resources, while protecting and improving agricultural operations. Seventy percent of the American landscape is privately owned, making private lands conservation critical to the health of our nation's environment and ability to ensure our working lands are productive. To sustain these many benefits, USDA has implemented the authorities provided by the 2014 Farm Bill to protect and enhance 1.3 billion acres of working lands. USDA also manages 193 million acres of national forests and grasslands. Our partners include Federal, Tribal, and State governments; industry; non-governmental organizations, community groups and producers. The Nation's lands face increasing threats that must be addressed. USDA's natural resource-focused regulatory strategies are designed to make substantial contributions in the areas of soil health, resiliency to climate change, and improved water quality.

Improve the health of the Nation's forests, grasslands and working lands by managing our natural resources.

The Natural Resources Conservation Service (NRCS) administers the Agricultural Conservation Easement Program (ACEP), which provides financial and technical assistance to help conserve agricultural lands and wetlands and their related benefits. The 2014 Farm Bill consolidated the Wetlands Reserve Program (WRP), the Farm and Ranch Lands Protection Program (FRPP), and the Grassland Reserve Program (GRP) into ACEP. In fiscal year 2015, an estimated 115,233 acres of farmland, grasslands, and wetlands were enrolled into ACEP. Through regulation, NRCS established a comprehensive framework to implement ACEP, and standardized criteria for implementing the program, provided program participants with predictability when they initiate an application and convey an easement. On February 27, 2015, NRCS published an interim rule to implement ACEP. NRCS is currently developing a final rule to implement changes to the administration of ACEP based on public comments received. For more information about this rule, see RIN 0578–AA61.

The Conservation Stewardship Program (CSP) also helps the Department ensure that our national forests and private working lands are conserved, restored, and made more resilient to climate change. Through CSP, NRCS provides financial and technical assistance to eligible producers to conserve and enhance soil, water, air, and related natural resources on their land. NRCS makes funding for CSP available nationwide on a continuous application basis. In fiscal year 2014, NRCS enrolled about 9.6 million acres and now CSP enrollment exceeds 60 million acres, about the size of Iowa and Indiana combined. On March 10, 2016, NRCS published a final rule to implement provisions of the 2014 Farm Bill that amended CSP. For more information about this rule, see RIN 0578–AA63.

The Environmental Quality Incentives Program (EQIP) is another voluntary conservation program that helps agricultural producers in a manner that promotes agricultural production and environmental quality as compatible goals. Through EQIP, agricultural producers receive financial and technical assistance to implement structural and management conservation practices that optimize environmental benefits on working agricultural land. Through EQIP, producers addressed their conservation needs on over 11 million acres in fiscal year 2014. EQIP has been instrumental in helping communities respond to drought. On June 3, 2016, NRCS published a final rule that implemented changes mandated by 2014 Farm Bill and addressed key discretionary provisions, including adding waiver authority to irrigation history requirements, incorporation of Tribal Conservation Advisory Councils where appropriate, and clarifying provisions related to Comprehensive Nutrient Management Plans (CNMP) associated with Animal Feeding Operations (AFO). For more information about this rule, see RIN 0578–AA62.

Contribute to clean and abundant water by protecting and enhancing water resources on national forests and working lands.

The 2014 Farm Bill relinked highly erodible land conservation and wetland conservation compliance with eligibility for premium support paid under the federal crop insurance program. The Farm Service Agency implemented these provisions through an interim rule published on April, 24, 2015. Since publication of the interim rule, more than 98.2 percent of producers met the requirement to certify conservation compliance to qualify for crop insurance premium support payments. Implementing these provisions for conservation compliance is expected to extend conservation provisions for an additional 1.5 million acres of highly

erodible lands and 1.1 million acres of wetlands, which will reduce soil erosion, enhance water quality, and create wildlife habitat. Through this action, NRCS modified the existing wetlands Mitigation Banking Program to remove the requirement that USDA hold easements in the mitigation program. This allows entities recognized by USDA to hold mitigation banking easements granted by a person who wishes to maintain payment eligibility under the wetland conservation provision. FSA is currently developing a final rule to implement changes to the interim rule based on public comments received. For more information about this rule, see RIN 0560–AI26.

3. Help America Promote Agricultural Production and Biotechnology Exports as America Works To Increase Food Security

Food security is important for sustainable economic growth of developing nations and the long-term economic prosperity and security of the United States. Unfortunately, global food insecurity is expected to rise in the next five years. Food security means having a reliable source of nutritious and safe food and sufficient resources to purchase it. USDA has a role in curbing this distressing trend through programs such as Food for Progress and President Obama's Feed the Future Initiative and through new technology-based solutions, such as the development of genetically engineered plants that improves yields and reduces post-harvest loss.

Ensure U.S. agricultural resources contribute to enhanced global food security.

The Foreign Agricultural Service (FAS) published a final rule for the Local and Regional procurement (LRP) Program on July 1, 2016 as authorized in section 3207 of the 2014 Farm Bill. USDA implemented a successful LRP pilot program under the authorities of the 2008 Farm Bill. LRP ties to the President's 2014 Trade Policy Agenda and works with developing nations to alleviate poverty and foster economic growth to provide better markets for U.S. exporters. LRP is expected to help alleviate hunger for millions of individuals in food insecure countries. LRP supports development activities that strengthen the capacity of food-insecure developing countries, and build resilience and address the causes of chronic food insecurity while also supporting USDA's other food assistance programs, including the McGovern Dole International Food for Education and Child Nutrition Program (McGovern-Dole). In addition, the program can be used to fill food availability gaps generated by unexpected emergencies. For more information about this rule, see RIN 0551–AA87.

Enhance America's ability to develop and trade agricultural products derived from new and emerging technologies.

USDA uses science-based regulatory systems to allow for the safe development, use, and trade of products derived from new agricultural technologies. USDA continues to regulate the importation, interstate movement, and field-testing of newly developed genetically engineered (GE) organisms that qualify as ''regulated articles'' to ensure they do not pose a threat to plant health before they can be commercialized. These science-based evaluations facilitate the safe introduction of new agricultural production options and enhance public and international confidence in these products. As a part of this effort, the Animal and Plant Health Inspection Service (APHIS) will publish a proposed rule to revise its regulations and align them with current authorizations by incorporating the noxious weed authority and regulate GE organisms that pose plant pest or weed risks in a manner that balances oversight and risk, and that is based on the best available science. The regulatory framework being developed will enable more focused, risk-based regulation of GE organisms that pose plant pest or noxious weed risks and will implement regulatory requirements only to the extent necessary to achieve the APHIS protection goal. For more information about this rule, see RIN 0579–AE15.

As part of an Act to reauthorize and amend the National Sea Grant College Program Act (Act), the President signed a bill to amend the Agricultural Marketing Act of 1946 to include subtitle E, the National Bioengineered Food Disclosure Standard (Pub. L. 114–216). The legislation requires that the Agricultural Marketing Service (AMS) establish a mandatory national bioengineered food disclosure standard and the procedures necessary to implement the national standard within two years of the enactment of the Act. Throughout the process, AMS will engage consumers and industry stakeholders to ensure that the final program is established effectively and with the utmost transparency. AMS is currently preparing an advance notice of proposed rulemaking to begin the rulemaking process for implementing the national bioengineered food disclosure standards. For more information about this action, see RIN 0581–AD54.

The AMS National Organic Program establishes national standards governing the marketing of organically produced agricultural products. These standards do not currently include organic farmed aquatic animals in the United States which means that seafood currently sold as organic in the United States is imported from other countries and certified to private standards or other countries' standards. Accordingly, and based on recommendations from the National Organic Standards Board, USDA is proposing to establish standards for organic farmed aquatic animals and their products. This would allow U.S. producers to compete in the organic seafood market and may expand trade partnerships. For more information about this rule, see RIN 0581–AD34.

4. Ensure That All of America's Children Have Access to Safe, Nutritious, and Balanced Meals

A plentiful supply of safe and nutritious food is essential to the well-being of every family and the healthy development of every child in America. Science has established strong links between diet, health, and productivity. Even small improvements in the average diet, fostered by USDA, may yield significant health and economic benefits. However, foodborne illness is still a common, costly-yet largely preventable-public health problem, even though the U.S. food supply system is one of the safest in the world. USDA is committed to ensuring that Americans have access to safe food through a farm-to-table approach to reduce and prevent foodborne illness. To help ensure a plentiful supply of food, the Department detects and quickly responds to new invasive species and emerging agricultural and public health situations.

Improve access to nutritious food.

USDA's domestic nutrition assistance programs serve one in four Americans annually. The Department is committed to making benefits available to every eligible person who wishes to participate in the major nutrition assistance programs, including the Supplemental Nutrition Assistance Program (SNAP), the cornerstone of the nutrition assistance safety net, which helped over 45 million Americans, more than half of whom were children, the elderly, or individuals with disabilities, put food on the table in 2015. The Food and Nutrition Service (FNS) plans to publish a final rule that works with States interested in implementing photos on SNAP Electronic Benefit Transfer (EBT) cards to ensure that the issuance of photo EBT cards does not

inhibit access to this critical nutrition assistance program. For more information about this rule, see RIN 0584–AE09.

Additionally, FNS plans to issue a final rule codifying 2008 Farm Bill changes addressing SNAP eligibility, certification, and employment and training provisions. While the ultimate objective is for economic opportunities to make nutrition assistance unnecessary for as many families as possible, we will ensure that these vital programs remain ready to serve all eligible people who need them. For more information about this rule, see RIN 0584–AD87.

Promote healthy diet and physical activity behaviors.

The Administration has set a goal to solve the problem of childhood obesity within a generation so that children born today will reach adulthood at a healthy weight. This objective represents FNS's efforts to ensure that program benefits meet appropriate standards to effectively improve nutrition for program participants, to improve the diets of its clients through nutrition education, and to support the national effort to reduce obesity by promoting healthy eating and physical activity. The Department will finalize changes to eligibility requirements for SNAP retail food stores to ensure access to nutritious foods for home preparation and consumption for the families most vulnerable to food insecurity. The final rule will consider the balance of ensuring participant access to retail food stores with enhanced stocking requirements. For more information about this rule, see RIN 0584–AE27.

FNS published a final rule on July 27, 2016, for Nutrition Standards for All Foods Sold in School, as required by HHFKA. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools, outside the school meal programs, on the school campus, and at any time during the school day. For more information about this rule, see RIN 0584–AE09.

FNS published the final rule, Meal Pattern Revisions Related to the Healthy Hunger-Free Kids Act of 2010, on July 8, 2016, to implement section 221 of the HHFKA. This section requires USDA to review and update, no less frequently than once every 10 years, requirements for meals served under the Child and Adult Care Food Program (CACFP) to ensure that meals are consistent with the most recent Dietary Guidelines for Americans and relevant nutrition science. For more information about this rule, see RIN 0584–AE18.

FNS published a final rule, Local School Wellness Policy Implementation and School Nutrition Environment Information, on July 27, 2016, to implement section 204 of the HHFKA. As a result of meal pattern changes in the school meals programs, students are now eating 16 percent more vegetables and there was a 23 percent increase in the selection of fruit at lunch. This Act requires each local educational agency participating in Federal child nutrition programs to establish, for all schools under its jurisdiction, a local school wellness policy to maintain this momentum. The HHFKA requires that the wellness policy include goals for nutrition, nutrition education, physical activity, and other school-based activities that promote student wellness. In addition, the HHFKA requires that local educational agencies ensure stakeholder participation in development of local school wellness policies; periodically assess compliance with the policies; and disclose information about the policies to the public. For more information about this rule, see RIN 0584–AE25.

The Food Safety and Inspection Service (FSIS) continues to ensure that meat and poultry products are properly marked, labeled, and packaged, and prohibits the distribution in-commerce of meat or poultry products that are adulterated or misbranded. FSIS is planning to publish a proposed rule that would amend the nutrition labeling requirements for meat and poultry products to better reflect scientific research and dietary recommendations and to improve the presentation of nutrition information to assist consumers in maintaining healthy dietary practices. This rule will be consistent with the recent changes that the Food and Drug Administration (FDA) finalized for other food products. This rule will ensure that nutrition information is presented consistently across the food supply. For more information about this rule, see RIN 0583–AD56.

Protect agricultural health by minimizing major diseases and pests to ensure access to safe, plentiful, and nutritious food.

The Food Safety and Inspection Service (FSIS) continue to enforce and improve compliance with the Humane Methods of Slaughter Act. FSIS published a final rule on July 18, 2016, requiring non-ambulatory disabled veal calves that are offered for slaughter to be condemned and promptly euthanized. This rule will improve compliance with the Humane Methods of Slaughter Act by encouraging improved treatment of veal calves, as well as improve inspection efficiency by allowing FSIS inspection program personnel to devote more time to activities related to food safety. For more information about this rule, see RIN 0583–AD54.

FSIS is also proposing to amend the Federal meat inspection regulations to improve the effectiveness of swine slaughter inspection by establishing a new inspection system for swine slaughter establishments. The proposed New Swine Slaughter Inspection System would facilitate pathogen reduction in pork products by permitting FSIS to conduct more offline inspection activities that are more effective in ensuring food safety; improving animal welfare and compliance with the Humane Methods of Slaughter Act; and making better use of FSIS resources. For more information about this rule, see RIN 0583–AD62.

5. Create a USDA for the 21st Century That Is High Performing, Efficient, and Adaptable

USDA has been a leader in the Federal government at implementing innovative practices to rein in costs and increase efficiencies. By taking steps to find efficiencies and cut costs, USDA employees have achieved savings and cost avoidances of over $1.4 billion in recent years. Some of these results came from relatively smaller, common-sense initiatives such as the $1 million saved by streamlining the mail handling at one of the USDA mailrooms or the consolidation of the Department's cell phone contracts, which is saving taxpayers over $5 million per year. Other results have come from larger-scale activities, such as the focus on reducing non-essential travel that has yielded over $400 million in efficiencies. Overall, these results have allowed us to do more with less during a time when such stewardship of resources has been critical to meeting the needs of those that we serve.

While these proactive steps have given USDA the tools to carry out our mission-critical work, ensuring that USDA's millions of customers receive stronger service, they are matters relating to agency management, personnel, public property, and/or contracts, and as such they are not subject to the notice and comment requirements for rulemaking codified at 5 U.S.C. 553. Consequently, they are not included in the Department's regulatory agenda. For more information about the USDA efforts to cut costs and modernize operations via the Blueprint for Stronger Service Initiative, see *http://www.usda.gov/wps/portal/usda/usdahome?contentidonly=true&*

contentid=blueprint_for_stronger_service.html.

Retrospective Review of Existing Regulations

In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' and Executive Order 13610, ''Identifying and Reducing Regulatory Burdens,'' USDA continues to review its existing regulations and information collections to evaluate the continued effectiveness in addressing the circumstances for which the regulations were implemented. As part of this ongoing review to maximize the cost-effectiveness of its regulatory programs, USDA will publish a **Federal Register** notice inviting public comment to assist in analyzing its existing significant regulations to determine whether any should be modified, streamlined, expanded, or repealed.

USDA has identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list are completed actions, which do not appear in the Regulatory Agenda. You can find more information about these completed rulemakings in past publications of the Unified Agenda (search the Completed Actions sections) on *www.reginfo.gov*. Other entries on this list are still in development and have not yet appeared in the Regulatory Agenda. You can read more about these entries and the Department's strategy for regulation reform at *http://www.usda.gov/wps/portal/usda/usdahome?navid=USDA_OPEN*.

Agency	Title	RIN
Food Safety & Inspection Service (FSIS).	Requirements for the Disposition of Non-Ambulatory Disabled Veal Calves	0583–AD54.
Animal Plant Health & Inspection Service (APHIS).	Participation in the International Trade Data System (ITDS) via the Automated Commercial Environment (ACE).	TBD.
FSIS	Electronic Export Application and Certification Fee	0583–AD41.
Agricultural Marketing Service (AMS) ...	Input Export Form Numbers Into the Automated Export System	TBD.
AMS	Revisions to the Electronic Submission of the Import Request of Shell Eggs ...	0581–AD40.
APHIS	Forms for Declaration Mandated by 2008 Farm Bill (Lacey Act Amendments)	0579–AD99.
Farm Service Agency (FSA) and Risk Management Agency.	Acreage and Crop Reporting Streamlining Initiative	0563–0084.
FSA	Environmental Policies and Procedures; Compliance with the National Environmental Policy Act and Related Authorities.	0560–AH02.
Natural Resources Conservation Service.	Conservation Delivery Streamlining Initiative (CDSI)—Conservation Client Gateway (CCG).	TBD.
Rural Business Services (RBS)	Business and Industry Loan Guaranteed Program	0570–AA85.
Rural Housing Service	Community Facilities Loan and Grants	0575–AC91.
FNS	Simplified Cost Accounting and Other Actions to Reduce Paperwork in the Summer Food Service Program.	0584–AD84.
Rural Business Services (RBS)	Biorefinery, Renewable Chemical, and Biobased Product Manufacturing Assistance.	0570–AA73, 0570–0065.
RBS	Rural Energy for America Program	0570–AA76.

USDA—AGRICULTURAL MARKETING SERVICE (AMS)

Proposed Rule Stage

1. National Organic Program—Organic Aquaculture Standards

Priority: Other Significant.

Legal Authority: 7 U.S.C. 6501 to 6522

CFR Citation: 7 CFR 205.

Legal Deadline: None.

Abstract: This action proposes to establish standards for organic production and certification of farmed aquatic animals and their products in the USDA organic regulations. This action would also add aquatic animals as a scope of certification and accreditation under the National Organic Program (NOP).

Statement of Need: This action is necessary to establish standards for organic farmed aquatic animals and their products which would allow U.S. producers to compete in the organic seafood market. This action is also necessary to address multiple recommendations provided to USDA by the National Organic Standards Board (NOSB). From 2007 through 2009, the NOSB made five recommendations to establish standards for the certification of organic farmed aquatic animals and their products. Finally, the U.S. currently has organic standards equivalence arrangements with Canada and the European Union (EU). Both Canada and the EU established standards for organic aquaculture products. Because the U.S.does not have organic aquaculture standards, the U.S. is unable to include aquaculture in the scope of these arrangements. Establishing U.S. organic aquaculture may provide a basis for expanding those trade partnerships.

Summary of Legal Basis: AMS National Organic Program is authorized by the Organic Foods Production Act of 1990 (OFPA) to establish national standards governing the marketing of organically produced agricultural products (7 U.S.C. 6501–6522). The USDA organic regulations set the requirements for the organic certification of agricultural products (7 CFR part 205).

Alternatives: An alternative to providing organic aquatic animal standards would be to not publish such standards and allow aquatic animal products to continue to be sold as organic based on private standards or other countries' standards.

Anticipated Cost and Benefits: The cost for existing conventional aquaculture operations to convert and participate in this voluntary marketing program generally would be incurred in the cost of changing management practices, increased feed costs, and obtaining organic certification. There also would be some costs to certifying agents who would need to add aquaculture to their areas of accreditation under the USDA organic regulations. These costs include application fees and expanded audits to ensure certifying agents meet the accreditation requirements needed to provide certification services to aquaculture operations. By providing organic standards for organic aquatic animal products, producers will be able to sell certified organic aquatic animal products for a premium above the price of conventionally produced seafood. Organic consumers will be assured that organic aquatic animal products comply with the USDA organic regulations.

Risks: There are no known risks to providing these additional standards for certification of organic products.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD34

USDA—AMS

Final Rule Stage

2. NOP; Organic Livestock and Poultry Practices

Priority: Other Significant.

Legal Authority: 7 U.S.C. 6501 to 6522

CFR Citation: 7 CFR 205.

Legal Deadline: None.

Abstract: This action would establish standards that support additional practice standards for organic livestock and poultry production. This action would add provisions to the USDA organic regulations to address and clarify livestock and poultry living conditions (for example, outdoor access, housing environment and stocking densities), health care practices (for example physical alterations, administering medical treatment, euthanasia), and animal handling and transport to and during slaughter.

Statement of Need: This action would establish standards that support additional practice standards for organic livestock and poultry production. This action would add provisions to the USDA organic regulations to address and clarify livestock and poultry living conditions (for example, outdoor access, housing environment and stocking densities), health care practices (for example physical alterations, administering medical treatment, euthanasia), and animal handling and transport to and during slaughter.

Summary of Legal Basis: This action is necessary to augment the USDA organic livestock and poultry production regulations with robust and clear provisions to fulfill an objective of the Organic Foods Production Act of 1990 (OFPA): To assure consumers that organically-produced products meet a consistent and uniform standard (7 U.S.C. 6501). OFPA mandates that detailed livestock and poultry regulations be developed through notice and comment rulemaking and intends for National Organic Standards Board (NOSB) involvement in that process (7 U.S.C. 6508(g)).

Alternatives: The alternative is that consumers will not have the assurance that organically-produced products meet a consistent and uniform standard as there will be continued inconsistency among organic livestock producers. Nor will certifying agents be able to make consistent certification decisions and facilitate fairness and transparency for the organic producers and consumers that participate in the market.

Anticipated Cost and Benefits: AMS expects this rule to maintain consumer confidence in the high standards represented by the USDA organic seal. This action would promote consistency among certifying agents to uniformly verify and enforce clear requirements for organic livestock. AMS estimates that annualized benefits for increased or sustained demand for organic products is $14.5 to $34 million per year. The cost of implementing the rule would fall primarily on organic poultry operations that may need to purchase and transition additional land to organic production and modify existing poultry structures to come into compliance with this rule. AMS estimates that the annualized cost to the organic industry for this rule is $13 to 15.6 million per year.

Risks: AMS expects that a few provisions among the numerous proposed will be contentious.

Timetable:

Action	Date	FR Cite
NPRM	04/13/16	81 FR 21955
NPRM Comment Period End.	06/13/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD44

USDA—ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)

Proposed Rule Stage

3. Importation, Interstate Movement, and Release Into the Environment of Certain Genetically Engineered Organisms

Priority: Other Significant.

Legal Authority: 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 31 U.S.C. 9701

CFR Citation: 7 CFR 340.

Legal Deadline: None.

Abstract: USDA uses science-based regulatory systems to allow for the safe development, use, and trade of products derived from new agricultural technologies. USDA continues to regulate the importation, interstate movement, and field-testing of newly developed genetically engineered (GE) organisms that qualify as ''regulated articles'' to ensure they do not pose a threat to plant health before they can be commercialized. These science-based evaluations facilitate the safe introduction of new agricultural production options and enhance public and international confidence in these products. As a part of this effort, the Animal and Plant Health Inspection Service (APHIS) will publish a proposed rule to revise its regulations regarding the regulation of GE organisms.

Statement of Need: This rule is necessary in order to respond to advances in genetic engineering and APHIS' understanding of the pest risks posed by genetically engineered organisms, to evaluate genetically engineered plants for noxious weed risk (an evaluation that is not part of the current regulations), to respond to two Office of Inspector General audits regarding APHIS' regulation of genetically engineered organisms, and to respond to the requirements of the 2008 Farm Bill.

Summary of Legal Basis: The Plant Protection Act of 200, as amended (7 U.S.C. 7701 *et seq.*).

Alternatives: Alternatives that we considered were (1) to leave the regulations unchanged; (2) to regulate all GE organisms as presenting a possible plant pest or noxious weed risk, without exception, and with no means of granting nonregulated status; or (3) to withdraw APHIS regulations governing biotechnology and instead implement a voluntary program under which developers would present genetically engineered organisms to APHIS for an evaluation of their plant pest and noxious weed risk, and organisms determined to be plant pests and/or noxious weeds would be

regulated under other APHIS regulations.

Anticipated Cost and Benefits: Not yet determined.

Risks: Unless we issue this proposal, we may not be able to regulate a genetically engineered plant that does not pose a plant pest risk, but does pose a noxious weed risk. Additionally, as noted above, the current regulations do not incorporate recommendations of two OIG audits, and do not respond to the requirements of the 2008 Farm Bill, particularly regarding APHIS oversight of field trials and environmental releases of genetically engineered organisms.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	
NPRM Comment Period End.	02/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: Local, State.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Gwendolyn Burnett, Agriculturalist, BRS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 147, Riverdale, MD 20737–1236, *Phone:* 301 851–3893.

RIN: 0579–AE15

USDA—APHIS

Final Rule Stage

4. Horse Protection; Licensing of Designated Qualified Persons and Other Amendments

Priority: Other Significant.

Legal Authority: 15 U.S.C. 1823 to 1825; 15 U.S.C. 1828

CFR Citation: 9 CFR 11.

Legal Deadline: None.

Abstract: This rulemaking will amend training and licensing requirements mandated by the horse protection regulations. We are also making several changes to the responsibilities of show management of horse shows, horse exhibitions, horse sales, and horse auctions, as well as changes to the list of devices, equipment, substances, and practices that can cause soring or are otherwise prohibited under the Horse Protection Act and regulations. Additionally, we are amending the inspection procedures. These actions are intended to strengthen existing requirements intended to eliminate soring and promote enforcement of Horse Protection Act and regulations.

Statement of Need: Soring, the act of deliberately inducing pain in a horse's feet to produce an exaggerated show gait, has been a persistent practice within the Tennessee Walking Horse industry despite regulations prohibiting it. Third party inspectors are currently trained and licensed by horse industry organizations and conduct inspections of horses at horse shows and exhibitions. In response to public concerns about the ability of the Horse Protection Program to prevent soring, the United States Department of Agriculture's (USDA's) Office of the Inspector General (OIG) initiated an audit of APHIS' oversight of the Horse Protection program and concluded that APHIS' inspection program for inspecting gaited horses is not adequate to ensure that horses are not being sored for the purposes of enhanced performance. OIG recommended that APHIS eliminate the horse inspection program in its current form and assume a direct involvement in the accreditation and monitoring of inspectors and inspection procedures. Under the proposed rule, all training and licensing of inspectors would be conducted only by APHIS, and devices used to cause soring would be further restricted or prohibited. APHIS is in agreement with these recommendations but needs to amend the regulations through rulemaking in order to adopt it.

Summary of Legal Basis: Section 4 of the Horse Protection Act, as amended (15 U.S.C. 1823), requires the Secretary of Agriculture to prescribe by regulation requirements for the appointment by the management of a horse show, exhibition, sale, or auction (referred to below as show management) of persons qualified to detect and diagnose a horse which is sore or to otherwise inspect horses for the purpose of enforcing the Act. Section 9 (15 U.S.C. 1828) authorizes the Secretary of Agriculture to issue such rules and regulations as deemed necessary to carry out the provisions of the Act.

Alternatives: In following the recommendations of the USDA OIG Audit, we believe the changes we proposed in this rulemaking represent the best alternative option that would accomplish the stated objectives and minimize impacts on small entities. In the proposed rule, we welcomed comments from the public on other options, in particular the viability of alternative approaches that would continue to rely on the horse industry organization concept, and what the governance of such an organization should be like.

Anticipated Cost and Benefits: The benefits of the proposed rule are expected to justify the costs. The proposed changes to the horse protection regulations would promote the humane treatment of walking and racking horses by more effectively ensuring that those horses that participate in exhibitions, sales, shows, or auctions are not sored. This benefit is an unquantifiable animal welfare enhancement. The proposed rule is not expected to adversely impact communities in which shows are held since walking and racking horse shows are expected to continue.

Risks: This rulemaking is intended to reduce the risk of horses suffering pain and injury from the practice of soring without restricting the activities of horse owners and organizations that have no history of soring and for which the USDA does not consider soring to be a concern.

Timetable:

Action	Date	FR Cite
NPRM	07/26/16	81 FR 49111
NPRM Comment Period End.	09/26/16	
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

Additional Information: Additional information about APHIS and its programs is available on the Internet at *http://www.aphis.usda.gov*.

Agency Contact: Rachel Cezar, Supervisory Veterinary Medical Officer, Horse Protection Coordinator, Animal Care, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 84, Riverdale, MD 20737, *Phone:* 301 851–3746.

RIN: 0579–AE19

USDA—GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION (GIPSA)

Proposed Rule Stage

5. Tournament Systems and Poultry Growing Arrangements

Priority: Other Significant.

Legal Authority: 7 U.S.C. 181 to 229c
CFR Citation: 9 CFR 201.
Legal Deadline: None.
Abstract: The U.S. Department of Agriculture's Grain Inspection, Packers and Stockyards Administration (GIPSA) plans to propose amending part 201 of the Regulations under the Packers and Stockyards Act (P&S Act) (7 U.S.C. 181–229c) to address the use of tournament systems as a method of payment and settlement grouping for poultry growers under contract in poultry growing arrangements with live poultry dealers. The proposed regulation would establish certain requirements to which a live poultry dealer must comply if a tournament system is going to be utilized to determine grower payment. A live poultry dealer's failure to comply would be deemed an unfair, unjustly discriminatory and deceptive practice according to factors outlined in the proposed rule.

Statement of Need: This proposed section 201.214 will establish criteria that the Secretary may consider when determining whether a live poultry dealer has used a poultry grower ranking system to compensate poultry grower in an unfair, unjustly discriminatory, or deceptive manner, or in a way that gives an undue or unreasonable prejudice or disadvantage. Proposed section 201.210(10) will link the criteria to an unfair practice in violation of section 202(a) of the P&S Act. These provisions are needed to protect poultry growers from unfair, unjustly discriminatory or deceptive practices and devices and from undue or unreasonable prejudice or disadvantage. SUMMARY OF LEGAL BASIS: Section 407 of the P&S Act provides that [t]he Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act. This rule is necessary to carry out the provisions of Section 202(a) and (b) of the P&S Act.

Summary of Legal Basis: GIPSA considered three regulatory alternatives: Maintain the status quo and not propose the regulation; propose a revised version of the proposed rule published in 2010; and propose a revised version that would be phased in as existing contracts expire, are replaced, or modified.

Alternatives:

Anticipated Cost and Benefits: GIPSA estimates the annualized costs of proposed regulation 201.211 to be less than $11 million. GIPSA estimates the costs to be greater than $100 million annually. GIPSA was unable to quantify the benefits of the regulations. However, the primary benefit of regulation 201.214 is the increased ability to protect poultry growers from unfair practices associated with the use of poultry grower ranking systems. GIPSA also expects that the regulation will improve efficiencies and reduce market failures, by increasing the amount of relevant information available to poultry growers and reducing information asymmetries. Potential poultry growers will make better informed business decisions regarding whether to enter the industry and established poultry growers will make better informed decisions regarding additional capital investments.

Risks: The risk addressed by this rulemaking is the present uncertainty that poultry growers face regarding treatment in a poultry grower ranking system and the inefficient allocation of resources due to incomplete information needed for business decisions.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.
Government Levels Affected: None.
Agency Contact: Raymond Dexter Thomas II, Lead Regulatory Analyst, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 1400 Independence Avenue SW., Room 2530–South, Washington, DC 20250, *Phone:* 202 720–6529, *Fax:* 202 690–2173, *Email:* *r.dexter.thomas@usda.gov*.
RIN: 0580–AB26

USDA—GIPSA

6. Unfair Practices and Unreasonable Preference

Priority: Other Significant.
Legal Authority: Pub. L. 110–246; 7 U.S.C. 181–229c
CFR Citation: 9 CFR 201.
Legal Deadline: None.
Abstract: Title XI of the 2008 Farm Bill required the Secretary of Agriculture to issue a number of regulations under the P&S Act. Among these instructions, the 2008 Farm Bill directed the Secretary to identify criteria to be considered in determining whether an undue or unreasonable preference or advantage has occurred in violation of the P&S Act. In June of 2010, the Grain Inspection, Packers and Stockyards Administration (GIPSA) published a proposed rule addressing this statutory requirement along with several other rules required by the 2008 Farm Bill. Proposed 201.211 to the regulations under the P&S Act would have established criteria that the Secretary may consider in determining if conduct would violate section 202(b) of the P&S Act (undue or unreasonable preference or advantage). While many commenters provided examples of similarly situated poultry growers and livestock producers receiving different treatment, other commenters were concerned about the impacts of the provision on marketing arrangements and other beneficial contractual agreements. Beginning with the FY 2012 appropriations act, USDA was precluded from working on certain proposed regulatory provisions related to the P&S Act, including criteria in this proposal regarding undue or unreasonable preferences or advantages. Consequently, GIPSA did not finalize this rule in 2011. The prohibitions are not included in the Consolidated Appropriations Act, 2016. This rulemaking is necessary to fulfill statutory requirements. Section 201.210 will illustrate by way of examples types of conduct GIPSA would consider unfair, unjustly discriminatory, or deceptive.

Statement of Need: This proposed rulemaking will establish a list of practices that violate section 202(a) of the P&S Act without a showing of harm to completion and establish criteria that the Secretary will consider when determining whether a packer, swine contractor, or live poultry dealer has engaged in conduct or action that constitutes an undue or unreasonable preference or advantage in violation of section 202(b) of the P&S Act. These provisions are needed to protect livestock producers and poultry growers from unfair, unjustly discriminatory or deceptive practices and devices and from undue or unreasonable prejudice or disadvantage or undue or unreasonable preference or advantage. The 2008 Farm Bill directed the Secretary of Agriculture to establish criteria that the Secretary will consider in determining whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement; when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of the P&S Act; and if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract. GIPSA published final rules establishing the

required criteria in December 2011. These regulations will link the regulatory criteria to a violation of the P&S Act.

Summary of Legal Basis: Section 11006 of the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) (2008 Farm Bill) required GIPSA to establish criteria regarding: Undue or unreasonable preference or advantage; suspension of delivery of birds under a poultry growing arrangement; additional capital investments for poultry or swine contracts; and reasonable period of time to remedy a breach of contract. GIPSA issued final regulations for three of the four required criteria on December 9, 2011. Section 201.210 of this rule, will link the criteria to a violation of the section 202(a) of the Packers and Stockyards Act. In addition, section 201.210 will identify other conduct that GIPSA considers to be unfair, unjustly discriminatory, or deceptive and a violation of section 202(a) of the P&S Act without a showing of harm to competition. Section 201.211 will establish criteria for the remaining area undue or unreasonable preference or advantage. Together, the regulations will complete the unfinished work from the 2008 Farm Bill. Section 407 of the P&S Act provides that [t]he Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act. This rule is necessary to carry out the provisions of section 202(a) and (b) of the P&S Act.

Alternatives: GIPSA considered three regulatory alternatives: Maintain the status quo and not issue the regulations; issuing revised versions of the proposed rule published in 2010 as proposed rules; and proposing regulations that would be phased in as existing contracts expire.

Anticipated Cost and Benefits: GIPSA estimates the cost to be greater than $100 million annually. GIPSA was unable to quantify the benefits of the regulations. However, the primary benefit of regulations 201.210 and 201.211 is the increased ability to protect producers and growers through enforcement of the P&S Act for violations of section 202(a) and/or (b) that do not result in harm or the likelihood of harm to competition.

Risks: The risk addressed by this rulemaking is the present uncertainty that limits enforcement of section 202(a) or (b) of the P&S Act. The clarification provided by this rulemaking will allow the linkage of the regulatory criteria to a violation of the P&S Act, which is a substantial portion of the GIPSA Packers and Stockyards Program's mission.

Timetable:

Action	Date	FR Cite
Proposed Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Raymond Dexter Thomas II, Lead Regulatory Analyst, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 1400 Independence Avenue SW., Room 2530–South, Washington, DC 20250, *Phone:* 202 720–6529, *Fax:* 202 690–2173, *Email: r.dexter.thomas@usda.gov*.

RIN: 0580–AB27

USDA—GIPSA

Final Rule Stage

7. Clarification of Scope

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 110–246; 7 U.S.C. 181 to 229c

CFR Citation: 9 CFR 201.

Legal Deadline: None.

Abstract: In June of 2010, GIPSA published a proposal to amend section 201.3 of the regulations issued under the Packers and Stockyards Act (P&S Act), 1921, as amended. This proposed change responds to guidance from the courts. The courts, in addressing litigation brought by poultry growers alleging harm, have said that GIPSA's statements regarding the appropriate application of subsections 202(a) and 202(b) are not entitled to deference in the absence of regulation addressing whether the P&S Act prohibits all unfair practices, or only those causing harm or a likelihood of harm to competition. The amendment to 201.3 will establish GIPSA's interpretation of the statute which will then be entitled to judicial deference.

Statement of Need: This rulemaking will clarify the long held position of the Department of Agriculture that it is not necessary in all cases to demonstrate harm or likely harm to competition in order to establish a violation of either Section 202(a) or (b) of the P&S Act. Several U.S. Courts of Appeals have held that it was necessary for plaintiffs to prove harm or likely harm to competition in cases alleging unfair practices in violation of the P&S Act. The 2008 Farm Bill directed the Secretary of Agriculture to establish criteria that the Secretary will consider in determining whether a live poultry dealer has provided reasonable notice to poultry growers of any suspension of the delivery of birds under a poultry growing arrangement; when a requirement of additional capital investments over the life of a poultry growing arrangement or swine production contract constitutes a violation of the P&S Act; and if a live poultry dealer or swine contractor has provided a reasonable period of time for a poultry grower or a swine production contract grower to remedy a breach of contract that could lead to termination of the poultry growing arrangement or swine production contract. GIPSA published final rules establishing the required criteria in December 2011. However, to link the regulatory criteria and a violation of the P&S Act, requires the interpretation that it is not necessary to show harm to competition in order to prove that a packer, swine contractor, or live poultry dealer has committed an unfair practice in violation of the P&S Act.

Summary of Legal Basis: Section 407 of the P&S Act provides that [t]he Secretary may make such rules, regulations, and orders as may be necessary to carry out the provisions of this Act. This rule is necessary to carry out the provisions of section 202(a) and (b) of the P&S Act.

Alternatives: GIPSA considered three regulatory alternatives: Maintain the status quo and not issue the regulation; issuing regulation as an interim final regulation; and issuing the regulation as an interim final regulation but exempting small businesses.

Anticipated Cost and Benefits: GIPSA estimates the costs to be greater than $100 million annually. GIPSA was unable to quantify the benefits of the regulation. However, the primary benefit of regulation 201.3 is the increased ability to protect producers and growers through enforcement of the P&S Act for violations of section 202(a) and/or (b) that do not result in harm or the likelihood of harm to competition.

Risks: The risk addressed by this rulemaking is the present uncertainty that limits enforcement of section 202(a) or (b) of the P&S Act. The clarification provided by this rulemaking will allow the linkage of the regulatory criteria to a violation of the P&S Act, which is a substantial portion of the GIPSA Packers and Stockyards Program's mission.

Timetable:

Action	Date	FR Cite
NPRM	06/22/10	75 FR 35338
NPRM Comment Period End.	11/22/10	
Interim Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Raymond Dexter Thomas II, Lead Regulatory Analyst, Department of Agriculture, Grain Inspection, Packers and Stockyards Administration, 1400 Independence Avenue SW., Room 2530–South, Washington, DC 20250, *Phone:* 202 720–6529, *Fax:* 202 690–2173, *Email: r.dexter.thomas@usda.gov*.

RIN: 0580–AB25

USDA—FOOD AND NUTRITION SERVICE (FNS)

Final Rule Stage

8. Eligibility, Certification, and Employment and Training Provisions

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Pub. L. 110–246; Pub. L. 104–121

CFR Citation: 7 CFR 273.

Legal Deadline: None.

Abstract: This final rule amends the regulations governing the Supplemental Nutrition Assistance Program (SNAP) to codify provisions from the Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246) (FCEA) concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training.

Statement of Need: This rule amends the regulations governing SNAP to implement provisions from the FCEA concerning the eligibility and certification of SNAP applicants and participants and SNAP employment and training. In addition, this rule revises the SNAP regulations throughout 7 CFR part 273 to change the program name from the Food Stamp Program to SNAP and to make other nomenclature changes as mandated by the FCEA. The statutory effective date of these provisions was October 1, 2008. The Food and Nutrition Service (FNS) is also implementing two discretionary revisions to SNAP regulations to provide State agencies options that are available currently only through waivers. These provisions allow State agencies to average student work hours and to provide telephone interviews in lieu of face-to-face interviews. FNS anticipates that this rule will impact the associated paperwork burdens.

Summary of Legal Basis: Food, Conservation, and Energy Act of 2008 (Pub. L. 110–246).

Alternatives: Most aspects of the rule are non-discretionary and tied to specific requirements for SNAP in the FCEA, and others were new program options the FCEA created that State agencies may include in their administration of the program. FNS did consider alternatives within these mandatory and optional FCEA provisions addressed in the rule. For example, under the new optional provision implementing section 4119 of the FCEA, Telephonic Signature Systems, FNS considered what specific conditions must be satisfied for a signature to be considered a spoken signature.

Anticipated Cost and Benefits: The proposed rule estimated total SNAP costs to the Government of the FCEA provisions proposed in the rule to be $831 million in fiscal 2010 and $5.619 billion over the five years of fiscal year 2010 through fiscal year 2014. The final rule will present a revised cost analysis. There are many potential societal benefits of this rule, including that certain provisions in the rule will reduce the administrative burden for households and State agencies.

Risks: The statutory and discretionary changes under consideration would streamline program operations. The changes are expected to reduce the risk of inefficient operations.

Timetable:

Action	Date	FR Cite
NPRM	05/04/11	76 FR 25414
NPRM Comment Period End.	07/05/11	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Local, State.

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Lynnette M. Thomas, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.thomas@fns.usda.gov*.

RIN: 0584–AD87

USDA—FNS

9. National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: Pub. L. 111–296

CFR Citation: 7 CFR 210; 7 CFR 220.

Legal Deadline: None.

Abstract: This rule codifies a provision of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools. The nutrition standards apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

Statement of Need: This rule codifies the two provisions of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220. Section 203 requires schools participating in the National School Lunch Program to make available to children free of charge, as nutritionally appropriate, potable water for consumption in the place where meals are served during meal service. Section 208 requires the Secretary to promulgate regulations to establish science-based nutrition standards for all foods sold in schools not later than December 13, 2011. The nutrition standards apply to all food sold outside the school meal programs, on the school campus, and at any time during the school day.

Summary of Legal Basis: There is no existing regulatory requirement to make water available where meals are served. Regulations at 7 CFR parts 210.11 direct State agencies and school food authorities to establish regulations necessary to control the sale of foods in competition with lunches served under the NSLP, and prohibit the sale of foods of minimal nutritional value in the food service areas during the lunch periods. The sale of other competitive foods may, at the discretion of the State agency and school food authority, be allowed in the food service area during the lunch period only if all income from the sale of such foods accrues to the benefit of the nonprofit school food service or the school or student organizations approved by the school. State agencies and school food authorities may impose additional restrictions on the sale of and income from all foods sold at any time throughout schools participating in the Program.

Alternatives: Several alternatives were considered in the proposed rule that were not incorporated into the final rule. Alternatives included different options for the treatment of entrees and side dishes that are served as part of a reimburseable meal, options for establishing limits on the frequency of exempt fundraisers, options for public comment on lower-calorie beverages for high school students, and an option that considered prohibiting the sale of beverages with added caffeine to high school students.

Anticipated Cost and Benefits: Expected Costs Analysis and Budgetary Effects Statement: We expect that these provisions would incur no Federal costs.

Although the complexity of factors that influence overall food consumption and obesity prevent us from defining a level of dietary change or disease or cost reduction that is attributable to the rule, there is evidence that standards like those in the rule will positively influence and perhaps directly improve food choices and consumption patterns that contribute to students' long-term health and well-being, and reduce their risk for obesity.

Any rule-induced benefit of healthier eating by school children would be accompanied by costs, at least in the short term. Healthier food may be more expensive than unhealthy food either in raw materials, preparation, or both and this greater expense would be distributed among students, schools, and the food industry.

Risks: None known.

Timetable:

Action	Date	FR Cite
NPRM	02/08/13	78 FR 9530
NPRM Comment Period End.	04/09/13	
Interim Final Rule	06/28/13	78 FR 39067
Interim Final Rule Effective.	08/27/13	
Interim Final Rule Comment Period End.	10/28/13	
Final & Interim Final Rule.	07/29/16	81 FR 50131
Final Action	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: This action may have federalism implications as defined in E.O. 13132.

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RIN: 0584–AE09

USDA—FNS

10. Enhancing Retailer Eligibility Standards in SNAP

Priority: Other Significant.

Legal Authority: 3 U.S.C. 2012; 9 U.S.C. 2018

CFR Citation: 7 CFR 271.2; 7 CFR 278.1.

Legal Deadline: None.

Abstract: The final rule will address the criteria used to authorize retail food stores for redemption of SNAP benefits.

Statement of Need: The Agricultural Act 2014 (2014 Farm Bill) amended the Food and Nutrition Act of 2008 to increase the required amount of food that certain SNAP authorized retail food stores have available on a continual basis from at least three varieties of items in each of four staple food categories to a mandatory minimum of seven varieties. The 2014 Farm Bill also amended the Act to increase the minimum number of categories in which perishable foods are required from two to three. This rule codifies these mandatory requirements. Further, the rulemaking addresses depth of stock, redefines staple and accessory foods, and amends the definition of retail food store to clarify when a retailer is a restaurant rather than a retail food store.

Summary of Legal Basis: Section 3(k) of the Food and Nutrition Act of 2008 (the Act) generally (with limited exception) (1) requires that food purchased with SNAP benefits be meant for home consumption and (2) prohibits the purchase of hot foods with SNAP benefits. The intent of those statutory requirements can be circumvented by selling cold foods, which may be purchased with SNAP benefits, and offering onsite heating or cooking of those same foods, either for free or at an additional cost. In addition, section 9 of the Act provides for approval of retail food stores and wholesale food concerns based on their ability to effectuate the purposes of the Program.

Alternatives: Alternative approaches to several discretionary provisions are being considered based on commenter feedback on the proposed rule.

Anticipated Cost and Benefits: The changes will allow FNS to improve access to healthy food choices for SNAP participants and to ensure that participating retailers effectuate the purposes of the Program. FNS anticipates that these provisions will have no significant costs to States.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	02/17/16	81 FR 8015
NPRM Comment Period End.	05/18/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: State.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–0800, *Email: charles.watford@fns.usda.gov*.

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RIN: 0584–AE27

USDA—FNS

11. Supplemental Nutrition Assistance Program (SNAP) Photo Electronic Benefit Transfer (EBT) Card Implementation Requirements

Priority: Other Significant.

Legal Authority: Pub. L. 104–193

CFR Citation: 7 CFR 273; 7 CFR 274; 7 CFR 278.

Legal Deadline: None.

Abstract: Under section 7(h)(9) of the Food and Nutrition Act of 2008 (the Act), as amended [7 U.S.C. 2016(h)(9)], States have the option to require the SNAP Electronic Benefit Transfer (EBT) card contain a photo of one or more household members. The final rule would incorporate into regulation and provide additional clarity on the Food and Nutrition Service (FNS) guidance developed for State agencies wishing to implement the photo EBT card option.

Statement of Need: The regulation would create a clearer structure for those States wishing to exercise the option of placing a photo on EBT cards and ensure uniform accessibility for participants in all States.

Summary of Legal Basis: The Food and Nutrition Act of 2008, 7 U.S.C. 2011 *et seq.,* requires that any States choosing to issue a photo on the EBT card establish procedures to ensure that all other household members or any authorized representative of the household may utilize the card. Furthermore, applying this option must also preserve client rights and responsibilities afforded by the Act to ensure that all household members are able to maintain uninterrupted access to benefits, that non-applicants applying on behalf of eligible household members are not negatively impacted, and that SNAP recipients using photo EBT cards are treated equitably in accordance with Federal law when purchasing food at authorized retailers.

Alternatives: The final rule would mostly codify guidance issued in December 2014. The Department considered not issuing any regulation on photo EBT cards.

Anticipated Cost and Benefits: The changes are not expected to create serious inconsistencies or otherwise interfere with actions taken or planned by another agency or materially alter the budgetary impacts of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof. The requirements will not raise novel or legal policy issues.

As a result of this rule, States that exercise the option to implement photos on EBT cards would incur costs associated with development of an implementation plan, State staff training, client training, and retailer training. It is expected that providing guidance or oversight of these requirements would fall under the standard purview of these agencies and could be absorbed by existing staff. State Agencies are responsible for approximately 50% of SNAP administration costs, which would include the costs associated with implementing and maintaining photo EBT cards.

Risks: This rule will promulgate and expand on current program guidance to provide clarification and more detailed guidance to States implementing the photo EBT option and ensure program access is protected.

Timetable:

Action	Date	FR Cite
NPRM	01/06/16	81 FR 398
NPRM Comment Period End.	03/07/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Local, State.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–0800, *Email: charles.watford@fns.usda.gov*.

RIN: 0584–AE45

USDA—FOOD SAFETY AND INSPECTION SERVICE (FSIS)

Proposed Rule Stage

12. Revision of the Nutrition Facts Panels for Meat and Poultry Products and Updating Certain Reference Amounts Customarily Consumed

Priority: Other Significant.

Legal Authority: Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*); Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*)

CFR Citation: 9 CFR 317; 9 CFR 381; 9 CFR 413.

Legal Deadline: None.

Abstract: Consistent with the recent changes that the Food and Drug Administration (FDA) finalized, the Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat and poultry products inspection regulations to update and revise the nutrition labeling requirements for meat and poultry products to reflect recent scientific research and dietary recommendations and to improve the presentation of nutrition information to assist consumers in maintaining healthy dietary practices. FSIS is proposing to (1) update the list of nutrients that are required or permitted to be declared; (2) provide updated Daily Reference Values (DRV) and Reference Daily Intake (RDI) values that are based on current dietary recommendations from consensus reports; and (3) amend the requirements for foods represented or purported to be specifically for children under the age of four years and pregnant and lactating women and establish nutrient reference values specifically for these population subgroups. FSIS is also proposing to revise the format and appearance of the Nutrition Facts Panel; amend the definition of a single-serving container; require dual-column labeling for certain containers; and update and modify several reference amounts customarily consumed (RACCs or reference amounts). FSIS also is proposing to consolidate the nutrition labeling regulations for meat and poultry products into a new Code of Federal Regulations (CFR) part.

Statement of Need: On May 27, 2016, the Food and Drug Administration (FDA) published two final rules: (1) ''Food Labeling: Revision of the Nutrition and Supplement Facts Labels'' (81 FR 33742); and (2) ''Food Labeling: Serving Sizes of Foods that Can Reasonably be Consumed at One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain Reference Amounts Customarily Consumed; Serving Size for Breath Mints; and Technical Amendments'' (81 FR 34000). FDA finalized these rules to update the Nutrition Facts label to reflect new nutrition and public health research, to reflect recent dietary recommendations from expert groups, and to improve the presentation of nutrition information to help consumers make more informed choices and maintain healthy dietary practices. FSIS has reviewed FDA's analysis and, to ensure that nutrition information is presented consistently across the food supply, FSIS will propose to amend the nutrition labeling regulations for meat and poultry products to parallel, to the extent possible, FDA's regulations. This approach will help increase clarity of information to consumers and will improve efficiency in the marketplace.

Summary of Legal Basis: The Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*).

Alternatives: FSIS is considering different alternatives for presentation of nutrition information on the Nutrition Facts Panel.

Anticipated Cost and Benefits: These proposed regulations are expected to benefit consumers by increasing and improving dietary information available in the market. An estimate of the monetary benefits from these market improvements can be obtained by calculating the medical cost savings generated by linking information use to improved consumer diets. In addition, FSIS believes that the public would be better served by having the regulations governing nutrition labeling consolidated in one part of title 9. Rather than searching through two separate parts of title 9, CFR parts 317 and 381, to find the nutrition labeling regulations, interested parties would only have to survey one, part 413, to be able to apply nutrition panels to their meat and poultry products. The proposed actions would necessitate the majority of products to be relabeled. Firms would incur a one-time cost for relabeling, recordkeeping costs, and costs associated with voluntary reformulation.

Risks: None.
Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: Businesses.
Government Levels Affected: None.
Agency Contact: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 349–E JWB, Washington, DC 20250, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: daniel.engeljohn@fsis.usda.gov*.
RIN: 0583–AD56

USDA—FSIS

13. • Modernization of Swine Slaughter Inspection

Priority: Other Significant.
Legal Authority: 21 U.S.C. 601 *et seq.*
CFR Citation: 9 CFR 301, 309, 310, and 314.
Legal Deadline: None.
Abstract: The Food Safety and Inspection Service (FSIS) is proposing to amend the Federal meat inspection regulations to establish a new inspection system for swine slaughter establishments demonstrated to provide greater public health protection than the existing inspection system. The Agency is also proposing several changes to the regulations that would affect all establishments that slaughter swine, regardless of the inspection system under which they operate.
Statement of Need: The proposed action is necessary to improve food safety; improve compliance with the Humane Methods of Slaughter Act; improve the effectiveness of market hog slaughter inspection; make better use of the Agency's resources; and remove unnecessary regulatory obstacles to innovation.
Summary of Legal Basis: 21 U.S.C. 601 *et seq.*
Alternatives: The Agency is considering alternatives such as: (1) A mandatory New Swine Slaughter Inspection System (NSIS) for market hog slaughter establishments and (2) a voluntary NSIS for market hog establishments, under which FSIS would conduct the same offline inspection activities as traditional inspection.
Anticipated Cost and Benefits: The estimated total annualized value of all mandatory costs to industry is approximately $0.74 million, while total annualized value of all voluntary costs to industry is approximately $11.66 million, assuming a 10 year annualization and a 3 percent discount rate. Estimated combined the total annualized costs to industry is approximately $12.40 million ($0.77 + $11.66), assuming a 10 year annualization and a 3 percent discount rate. FSIS estimates industry-wide adoption of the NSIS would reduce the number of human illness attributed to products derived from market hog by an average of about 2,621 Salmonella illnesses, which represents potential savings of approximately $9.56 million annually. The Agency's budget is expected to be impacted by changes to personnel and training requirements. The estimated annualized value of the combined changes to the Agency's budget is a net reduction of roughly $8.77 million, over 10 years assuming a 3 percent discount rate. With the expected impact on the Agency's budget included, and assuming all large and small exclusively market hog establishments convert to NSIS, the rule is anticipated to have a net benefit of approximately $4.97 million a year, annualized over 10 years assuming a 3 percent discount rate.
Risks: None.
Timetable:

Action	Date	FR Cite
NPRM	03/00/17	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: Businesses.
Government Levels Affected: None.
Agency Contact: Charles Williams, Director, Issuances Staff (IS), Department of Agriculture, Food Safety and Inspection Service, Office of Policy and Program Development, 1400 Independence Avenue SW., Room 6065, South Building, Washington, DC 20250–3700, *Phone:* 202 720–5627, *Fax:* 202 690–0486, *Email: charles.williams@fsis.usda.gov*.
RIN: 0583–AD62

BILLING CODE 3410–90–P

DEPARTMENT OF COMMERCE (DOC)

Statement of Regulatory and Deregulatory Priorities

Established in 1903, the Department of Commerce (Commerce) is one of the oldest Cabinet-level agencies in the Federal Government. Commerce's mission is to create the conditions for economic growth and opportunity by promoting innovation, entrepreneurship, competitiveness, and environmental stewardship. Commerce has 12 operating units, which are responsible for managing a diverse portfolio of programs and services, ranging from trade promotion and economic development assistance to broadband and the National Weather Service.

Commerce touches Americans daily, in many ways—making possible the daily weather reports and survey research; facilitating technology that all of us use in the workplace and in the home each day; supporting the development, gathering, and transmission of information essential to competitive business; enabling the diversity of companies and goods found in America's and the world's marketplace; and supporting environmental and economic health for the communities in which Americans live.

Commerce has a clear and compelling vision for itself, for its role in the Federal Government, and for its roles supporting the American people, now and in the future. To achieve this vision, Commerce works in partnership with businesses, universities, communities, and workers to:

- Innovate by creating new ideas through cutting-edge science and technology from advances in nanotechnology, to ocean exploration, to broadband deployment, and by protecting American innovations through the patent and trademark system;
- Support entrepreneurship and commercialization by enabling community development and strengthening minority businesses and small manufacturers;
- Maintain U.S. economic competitiveness in the global marketplace by promoting exports, ensuring a level playing field for U.S. businesses, and ensuring that technology transfer is consistent with our nation's economic and security interests;
- Provide effective management and stewardship of our nation's resources and assets to ensure sustainable economic opportunities; and
- Make informed policy decisions and enable better understanding of the economy by providing accurate economic and demographic data.

Commerce is a vital resource base, a tireless advocate, and Cabinet-level voice for job creation.

The Regulatory Plan tracks the most important regulations that implement these policy and program priorities,

several of which involve regulation of the private sector by Commerce.

Responding to the Administration's Regulatory Philosophy and Principles

The vast majority of the Commerce's programs and activities do not involve regulation. Of Commerce's 12 primary operating units, only the National Oceanic and Atmospheric Administration (NOAA) will be planning actions that are considered the ''most important'' significant pre-regulatory or regulatory actions for FY 2017. During the next year, NOAA plans to publish five rulemaking actions that are designated as Regulatory Plan actions. The Bureau of Industry and Security (BIS) may also publish rulemaking actions designated as Regulatory Plan actions. Further information on these actions is provided below.

Commerce has a long-standing policy to prohibit the issuance of any regulation that discriminates on the basis of race, religion, gender, or any other suspect category and requires that all regulations be written so as to be understandable to those affected by them. The Secretary also requires that Commerce afford the public the maximum possible opportunity to participate in Departmental rulemakings, even where public participation is not required by law.

National Oceanic and Atmospheric Administration

NOAA establishes and administers Federal policy for the conservation and management of the Nation's oceanic, coastal, and atmospheric resources. It provides a variety of essential environmental and climate services vital to public safety and to the Nation's economy, such as weather forecasts, drought forecasts, and storm warnings. It is a source of objective information on the state of the environment. NOAA plays the lead role in achieving Commerce's goal of promoting stewardship by providing assessments of the global environment.

Recognizing that economic growth must go hand-in-hand with environmental stewardship, Commerce, through NOAA, conducts programs designed to provide a better understanding of the connections between environmental health, economics, and national security. Commerce's emphasis on ''sustainable fisheries'' is designed to boost long-term economic growth in a vital sector of the U.S. economy while conserving the resources in the public trust and minimizing any economic dislocation necessary to ensure long-term economic growth. Commerce is where business and environmental interests intersect, and the classic debate on the use of natural resources is transformed into a ''win-win'' situation for the environment and the economy.

Three of NOAA's major components, the National Marine Fisheries Services (NMFS), the National Ocean Service (NOS), and the National Environmental Satellite, Data, and Information Service (NESDIS), exercise regulatory authority.

NMFS oversees the management and conservation of the Nation's marine fisheries, protects threatened and endangered marine and anadromous species and marine mammals, and promotes economic development of the U.S. fishing industry. NOS assists the coastal States in their management of land and ocean resources in their coastal zones, including estuarine research reserves; manages the national marine sanctuaries; monitors marine pollution; and directs the national program for deep-seabed minerals and ocean thermal energy. NESDIS administers the civilian weather satellite program and licenses private organizations to operate commercial land-remote sensing satellite systems.

Commerce, through NOAA, has a unique role in promoting stewardship of the global environment through effective management of the Nation's marine and coastal resources and in monitoring and predicting changes in the Earth's environment, thus linking trade, development, and technology with environmental issues. NOAA has the primary Federal responsibility for providing sound scientific observations, assessments, and forecasts of environmental phenomena on which resource management, adaptation, and other societal decisions can be made.

In the environmental stewardship area, NOAA's goals include: Rebuilding and maintaining strong U.S. fisheries by using market-based tools and ecosystem approaches to management; increasing the populations of depleted, threatened, or endangered species and marine mammals by implementing recovery plans that provide for their recovery while still allowing for economic and recreational opportunities; promoting healthy coastal ecosystems by ensuring that economic development is managed in ways that maintain biodiversity and long-term productivity for sustained use; and modernizing navigation and positioning services. In the environmental assessment and prediction area, goals include: Understanding climate change science and impacts, and communicating that understanding to government and private sector stakeholders enabling them to adapt; continually improving the National Weather Service; implementing reliable seasonal and interannual climate forecasts to guide economic planning; providing science-based policy advice on options to deal with very long-term (decadal to centennial) changes in the environment; and advancing and improving short-term warning and forecast services for the entire environment.

Magnuson-Stevens Fishery Conservation and Management Act

Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) rulemakings concern the conservation and management of fishery resources in the U.S. Exclusive Economic Zone (generally 3–200 nautical miles). Among the several hundred rulemakings that NOAA plans to issue in FY 2017, a number of the preregulatory and regulatory actions will be significant. The exact number of such rulemakings is unknown, since they are usually initiated by the actions of eight regional Fishery Management Councils (FMCs) that are responsible for preparing fishery management plans (FMPs) and FMP amendments, and for drafting implementing regulations for each managed fishery. NOAA issues regulations to implement FMPs and FMP amendments. Once a rulemaking is triggered by an FMC, the Magnuson-Stevens Act places stringent deadlines upon NOAA by which it must exercise its rulemaking responsibilities. FMPs and FMP amendments for Atlantic highly migratory species, such as bluefin tuna, swordfish, and sharks, are developed directly by NOAA, not by FMCs.

FMPs address a variety of issues including maximizing fishing opportunities on healthy stocks, rebuilding overfished stocks, and addressing gear conflicts. One of the problems that FMPs may address is preventing overcapitalization (preventing excess fishing capacity) of fisheries. This may be resolved by market-based systems such as catch shares, which permit shareholders to harvest a quantity of fish and which can be traded on the open market. Harvest limits based on the best available scientific information, whether as a total fishing limit for a species in a fishery or as a share assigned to each vessel participant, enable stressed stocks to rebuild. Other measures include staggering fishing seasons or limiting gear types to avoid gear conflicts on the fishing grounds and establishing seasonal and area closures to protect fishery stocks.

The FMCs provide a forum for public debate and, using the best scientific information available, make the judgments needed to determine optimum yield on a fishery-by-fishery basis. Optional management measures are examined and selected in accordance with the national standards set forth in the Magnuson-Stevens Act. This process, including the selection of the preferred management measures, constitutes the development, in simplified form, of an FMP. The FMP, together with draft implementing regulations and supporting documentation, is submitted to NMFS for review against the national standards set forth in the Magnuson-Stevens Act, in other provisions of the Act, and other applicable laws. The same process applies to amending an existing approved FMP.

Marine Mammal Protection Act

The Marine Mammal Protection Act of 1972 (MMPA) provides the authority for the conservation and management of marine mammals under U.S. jurisdiction. It expressly prohibits, with certain exceptions, the take of marine mammals. The MMPA allows NMFS to permit the collection of wild animals for scientific research or public display or to enhance the survival of a species or stock. NMFS initiates rulemakings under the MMPA to establish a management regime to reduce marine mammal mortalities and injuries as a result of interactions with fisheries. The MMPA also established the Marine Mammal Commission, which makes recommendations to the Secretaries of the Departments of Commerce and the Interior and other Federal officials on protecting and conserving marine mammals. The Act underwent significant changes in 1994 to allow for takings incidental to commercial fishing operations, to provide certain exemptions for subsistence and scientific uses, and to require the preparation of stock assessments for all marine mammal stocks in waters under U.S. jurisdiction.

Endangered Species Act

The Endangered Species Act of 1973 (ESA) provides for the conservation of species that are determined to be ''endangered'' or ''threatened,'' and the conservation of the ecosystems on which these species depend. The ESA authorizes both NMFS and the Fish and Wildlife Service (FWS) to jointly administer the provisions of the ESA. NMFS manages marine and ''anadromous'' species, and FWS manages land and freshwater species. Together, NMFS and FWS work to protect critically imperiled species from extinction. Of the approximately 1,300 listed species found in part or entirely in the United States and its waters, NMFS has jurisdiction over approximately 60 species. NMFS' rulemaking actions are focused on determining whether any species under its responsibility is an endangered or threatened species and whether those species must be added to the list of protected species. NMFS is also responsible for designating, reviewing, and revising critical habitat for any listed species. In addition, under the ESA's procedural framework, Federal agencies consult with NMFS on any proposed action authorized, funded, or carried out by that agency that may affect one of the listed species or designated critical habitat, or is likely to jeopardize proposed species or adversely modify proposed critical habitat that is under NMFS' jurisdiction.

NOAA's Regulatory Plan Actions

While most of the rulemakings undertaken by NOAA do not rise to the level necessary to be included in Commerce's regulatory plan, NMFS is undertaking five actions that rise to the level of ''most important'' of Commerce's significant regulatory actions and thus are included in this year's regulatory plan. A description of the five regulatory plan actions is provided below.

1. Magnuson-Stevens Fishery Conservation and Management Act; Seafood Import Monitoring Program (0648–BF09): The Magnuson-Stevens Fishery Conservation and Management Act prohibits the importation and trade in interstate commerce of fishery products from fish caught in in violation of any foreign law or regulation.

2. Final Rule to Designate Critical Habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic Sturgeon (0648–BF28): The National Marine Fisheries Service listed four distinct population segments of Atlantic sturgeon as endangered—and one distinct population of Atlantic sturgeon as threatened—under the Endangered Species Act on February 6, 2012. This rule would designate critical habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic sturgeon.

3. Final Rule to Designate Critical Habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon (0648–BF32): The National Marine Fisheries Service listed four distinct population segments of Atlantic sturgeon as endangered—and one distinct population of Atlantic sturgeon as threatened—under the Endangered Species Act on February 6, 2012. This action would designate critical habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic sturgeon, both listed as endangered.

4. Proposed Rule to Designate Critical Habitat for Threatened Caribbean Corals (0648–BG20): On September 10, 2014, the National Marine Fisheries Service listed 5 corals in the Caribbean as threatened under the Endangered Species Act. With this action, the National Marine Fisheries Service proposes to designate critical habitat for the 5 Caribbean corals (*Dendrogyra cylindrus, Orbicella annularis, Orbicella faveolata, Orbicella franksi,* and *Mycetophyllia ferox*) and revises critical habitat for the previously-listed corals *Acropora palmata* and *Acropora cervicornis.* The proposed designation would cover coral reef habitat containing essential features that support reproduction, growth, and survival of the listed coral species.

5. Proposed Rule to Designate Critical Habitat for Threatened Indo-Pacific Corals (0648–BG26): On September 10, 2014, the National Marine Fisheries Service listed 15 species of reef-building corals in the Indo-Pacific as threatened under the Endangered Species Act. Of the 15 Indo-Pacific species listed, seven occur in U.S. waters of the Pacific Islands Region, including in American Samoa, Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. With this action, the National Marine Fisheries Service proposes to designate critical habitat for the seven species in U.S. waters (*Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis,* and *Seriatopora aculeata*). The proposed designation would cover coral reef habitat containing essential features that support reproduction, growth, and survival of the listed coral species.

Bureau of Industry and Security

The Bureau of Industry and Security (BIS) advances U.S. national security, foreign policy, and economic objectives by maintaining and strengthening adaptable, efficient, and effective export control and treaty compliance systems as well as by administering programs to prioritize certain contracts to promote the national defense and to protect and enhance the defense industrial base.

Major Programs and Activities

BIS administers four sets of regulations. The Export Administration Regulations (EAR) regulate exports and

reexports to protect national security, foreign policy, and short supply interests. The EAR also regulates U.S. persons' participation in certain boycotts administered by foreign governments. The National Security Industrial Base Regulations provide for prioritization of certain contracts and allocations of resources to promote the national defense, require reporting of foreign Government-imposed offsets in defense sales, provide for surveys to assess the capabilities of the industrial base to support the national defense and address the effect of imports on the defense industrial base. The Chemical Weapons Convention Regulations implement declaration, reporting, and on-site inspection requirements in the private sector necessary to meet United States treaty obligations under the Chemical Weapons Convention treaty. The Additional Protocol Regulations implement similar requirements with respect to an agreement between the United States and the International Atomic Energy Agency.

BIS also has an enforcement component with nine offices covering the United States. BIS export control officers are also stationed at several U.S. embassies and consulates abroad. BIS works with other U.S. Government agencies to promote coordinated U.S. Government efforts in export controls and other programs. BIS participates in U.S. Government efforts to strengthen multilateral export control regimes and to promote effective export controls through cooperation with other Governments.

BIS' Regulatory Plan Actions

In August 2009, the President directed a broad-based interagency review of the U.S. export control system with the goal of strengthening national security and the competitiveness of key U.S. manufacturing and technology sectors by focusing on the current threats and adapting to the changing economic and technological landscape. In August 2010, the President outlined an approach, known as the Export Control Reform Initiative (ECRI), under which agencies that administer export controls will apply new criteria for determining what items need to be controlled and a common set of policies for determining when an export license is required. The control list criteria are to be based on transparent rules, which will reduce the uncertainty faced by our Allies, U.S. industry and its foreign customers, and will allow the Government to erect higher walls around the most sensitive export items in order to enhance national security.

Under the President's approach, agencies are to apply the criteria and revise the lists of munitions and dual-use items that are controlled for export so that they:

- Distinguish the transactions that should be subject to stricter levels of control from those where more permissive levels of control are appropriate;
- Create a ''bright line'' between the two current control lists to clarify jurisdictional determinations and reduce Government and industry uncertainty about whether particular items are subject to the control of the State Department or the Commerce Department; and
- Are structurally aligned so that they potentially can be combined into a single list of controlled items.

BIS' current regulatory plan action is designed to implement the initial phase of the President's directive, which will add to BIS' export control purview, military related items that the President determines no longer warrant control under rules administered by the State Department.

As the agency responsible for leading the administration and enforcement of U.S. export controls on dual-use and other items warranting controls but not under the provisions of export control regulations administered by other departments, BIS plays a central role in the Administration's efforts to reform the export control system. Changing what we control, how we control it and how we enforce and manage our controls will help strengthen our national security by focusing our efforts on controlling the most critical products and technologies, and by enhancing the competitiveness of key U.S. manufacturing and technology sectors.

In FY 2011, BIS began implementing the ECRI with a final rule (76 FR 35275, June 16, 2011) implementing a license exception that authorizes exports, reexports and transfers to destinations that do not pose a national security concern, provided certain safeguards against diversion to other destinations are taken. Additionally, BIS began publishing proposed rules to add to its Commerce Control List (CCL), military items the President determined no longer warranted control by the Department of State. BIS continued to publish such proposed rules in FY 2012.

In FY 2013, BIS crossed an important milestone with publication of two final rules that began to put ECRI policies into place. An Initial Implementation rule (78 FR 22660, April 16, 2013) set in place the structure under which items the President determines no longer warrant control on the United States Munitions List are controlled on the Commerce Control List. It also revised license exceptions and regulatory definitions, including the definition of ''specially designed'' to make those exceptions and definitions clearer and to more closely align them with the International Traffic in Arms Regulations, and added to the CCL certain military aircraft, gas turbine engines and related items. A second final rule (78 FR 40892, July 8, 2012) followed on by adding to the CCL military vehicles, vessels of war, submersible vessels, and auxiliary military equipment that President determined no longer warrant control on the USML.

BIS continued its ECRI efforts and by the end of fiscal year 2016 had published final rules adding to the CCL additional items that the President determined no longer warrant control under rules administered by the State Department in the following categories: Military training equipment; Explosives and energetic materials; Personal protective equipment; Launch vehicles and rockets; Spacecraft; Military Electronics; Toxicological agents; and Directed energy weapons. During fiscal year 2015, BIS published a proposed rule that would add to the CCL items related to: Fire control, range finder, optical and guidance and control equipment, followed by a second proposed rule in fiscal year 2016.

During fiscal year 2015, BIS initiated a process of evaluating the effectiveness of its ECRI efforts by seeking public input on whether the regulations are clear; do not inadvertently control, as military items, items in normal commercial use; account for technological developments; and properly implement the national security and foreign policy objectives of the reform effort. The first review addressed the first two categories of items added to the CCL by ECRI: Military aircraft and gas turbine engines. After reviewing public comments, BIS completed this review by publishing a final rule in fiscal year 2016. In fiscal year 2016, BIS continued this review process with a notice seeking public comment on implementation of ECRI with respect to military vehicles, vessels of war, submersible vessels, oceanographic equipment, and auxiliary and miscellaneous military equipment. BIS anticipates continuing this series of notices after the public has had time to develop experience with each regulation that added categories of items to the CCL.

Promoting International Regulatory Cooperation

As the President noted in Executive Order 13609, ''international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting'' public health, welfare, safety, and our environment as well as economic growth, innovation, competitiveness, and job creation. Accordingly, in E.O. 13609, the President requires each executive agency to include in its Regulatory Plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

The Department of Commerce engages with numerous international bodies in various forums to promote the Department's priorities and foster regulations that do not ''impair the ability of American business to export and compete internationally.'' E.O. 13609(a). For example, the United States Patent and Trademark Office is working with the European Patent Office to develop a new classification system for both offices' use. The Bureau of Industry and Security, along with the Department of State and Department of Defense, engages with other countries in the Wassenaar Arrangement, through which the international community develops a common list of items that should be subject to export controls because they are conventional arms or items that have both military and civil uses. Other multilateral export control regimes include the Missile Technology Control Regime, the Nuclear Suppliers Group, and the Australia Group, which lists items controlled for chemical and biological weapon nonproliferation purposes. In addition, the National Oceanic and Atmospheric Administration works with other countries' regulatory bodies through regional fishery management organizations to develop fair and internationally-agreed-to fishery standards for the High Seas.

BIS is also engaged, in partnership with the Departments of State and Defense, in revising the regulatory framework for export control, through the President's Export Control Reform Initiative (ECRI). Through this effort, the United States Government has moved certain items currently controlled by the United States Military List (USML) to the Commerce Control List (CCL) in BIS' Export Administration Regulations. The objective of ECRI is to improve interoperability of U.S. military forces with those of allied countries, strengthen the U.S. industrial base by, among other things, reducing incentives for foreign manufacturers to design out and avoid U.S.-origin content and services, and allow export control officials to focus Government resources on transactions that pose greater concern. The new export control framework also will benefit companies in the United States seeking to export items through more flexible and less burdensome export controls. The system, however, requires ongoing review and maintenance for it to accomplish these objectives. Some technologies are modified and become more sensitive or are applied to more sensitive uses; others become more commercially available and warrant fewer controls. The approach is novel and will require regular refinement to further the objective of increasing interoperability with allies and reducing unnecessary regulatory burdens.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the Department has identified several rulemakings as being associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Accordingly, the Agency is reviewing these rules to determine whether action under E.O. 13563 is appropriate. Some of these entries on this list may be completed actions, which do not appear in the Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov in the Completed Actions section for the Agency. These rulemakings can also be found on *Regulations.gov*.

Two rulemakings that are the product of the Agency's retrospective review are from BIS and NOAA. BIS published a rule effective in September 2015 that removed the Special Comprehensive License provisions from the EAR. These provisions had been rendered obsolete by liberalizations to the individual licensing process, and their removal not only streamlined the EAR but also achieved paperwork burden reductions. More significantly, BIS, working with its colleagues in the State Department, substantially updated and revised the key structural definitions within the export control regulations. The effort is not yet completed and substantial additional work is needed to harmonize, update, and simplify the regulatory structure of the existing export control system, which has been in place for decades without material modification.

NOAA continues to demonstrate great success in fishery sustainability managed under the Magnuson-Stevens Act, with near-record landings and revenue accomplished while rebuilding stocks across the country and preventing overfishing. Since the Magnuson-Stevens Act reauthorization in 2007, NMFS and the Regional Fishery Management Councils have implemented annual catch limits and accountability measures in every fishery management plan under National Standard One of the act. Informed by a robust public process that gained input through a public summit (Managing our Nation's Fisheries), visits to each region and Council and multiple public hearings, NMFS took the experience gained from 8 years of implementation of National Standard One and has proposed multiple substantive, technical changes to the National Standard One rule that will improve implementation and continue to support healthy fisheries.

For more information, the most recent E.O. 13563 progress report for the Department can be found here: *http://open.commerce.gov/news/2016/04/05/commerce-plan-retrospective-analysis-existing-rules*.

DOC—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION (NOAA)

Proposed Rule Stage

14. • Endangered and Threatened Species; Critical Habitat for the Threatened Caribbean Corals

Priority: Other Significant.
Legal Authority: 16 U.S.C. 1531 *et seq.*
CFR Citation: 50 CFR 226.
Legal Deadline: None.
Abstract: The National Marine Fisheries Service listed five Caribbean corals in the Southeast Region as threatened under the Endangered Species Act on October 10, 2014. Critical habitat shall be specified to the maximum extent prudent and determinable at the time a species is proposed for listing. We concluded that critical habitat was not determinable for the five corals at the time of listing. However, we anticipated that critical habitat would be determinable in the future given on-going research. We, therefore, announced in the final listing rules that we would propose critical habitat in separate rulemakings. This rule proposes to designate critical habitat for the 5 newly-listed corals and revises critical habitat for the previously-listed corals Acropora palmata and Acropora cervicornis. A

separate rule is being prepared that would propose to designate critical habitat for the 15 Indo-Pacific corals listed as threatened in the same rule as the five Caribbean corals.

Statement of Need: This action would designate new critical habitat for five corals (Dendrogyra cylindrus, Orbicella annularis, O. faveolata, O. franksi, and Mycetophyllia ferox) and revise the 2008 critical habitat designation for two corals (Acropora palmata and A. cervicornis) in accordance with section 4 of the Endangered Species Act. This action follows from the listing of the five new species.

Summary of Legal Basis: Endangered Species Act.

Alternatives: NMFS evaluated alternatives including the impacts of designating all and any parts of 38 (one for each species in each US jurisdiction in which it occurs) units as critical habitat. Units 1 for each species are the waters offshore Florida (generally Martin, Palm Beach, Broward, Miami-Dade, and Monroe counties). Units 2 are the waters surrounding the islands of Puerto Rico. Units 3 are the waters surround the islands of St. Thomas and St. John, US Virgin Islands. Units 4 are the waters surrounding the island of St. Croix, US Virgin Islands. Units 5 are the waters surrounding the island of Navassa. Units 6 are the waters within the Flower Garden Banks National Marine Sanctuary, approximately 100 miles offshore of Texas in the Gulf of Mexico. NMFS analyzed the economic, national security, and other relevant impacts of designating critical habitat. NMFS will further consider these impacts based on any relevant public and peer reviewer comments regarding this proposed designation.

Anticipated Cost and Benefits: The primary benefit of designation is the protection afforded under section 7 of the Endangered Species Act, requiring all Federal agencies to insure their actions are not likely to destroy or adversely modify designated critical habitat. In addition to these protections, the designation may also result in other forms of benefits including, but not limited to: Educational awareness and outreach benefits, benefits to tourism and recreation, and improved or sustained habitat quality. Costs specifically associated with the designation of critical habitat stem mainly from Federal agencies requirement to consult with NMFS, under section 7 of the Endangered Species Act, to insure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species.

Risks: If critical habitat is not designated, listed corals will not be protected to the extent provided for in the ESA, posing a legal risk to the agency and a risk to the species continued existence and recovery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: None.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East–West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400

RIN: 0648–BG20

DOC—NOAA

15. • Designation of Critical Habitat for Threatened Indo-Pacific Reef-Building Corals

Priority: Other Significant.

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

CFR Citation: 50 CFR 226.

Legal Deadline: Final, Statutory, September 10, 2016, Statutory deadline for final critical habitat designation of listed Indo–Pacific corals.

Abstract: On September 10, 2014, the National Marine Fisheries Service listed 20 species of reef-building corals as threatened under the Endangered Species Act, 15 in the Indo-Pacific and five in the Caribbean. Of the 15 Indo-Pacific species, seven occur in U.S. waters of the Pacific Islands Region, including in American Samoa, Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. This proposed rule would designate critical habitat for the seven species in U.S. waters (Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis, and Seriatopora aculeata). A separate proposed rule is being prepared to designate critical habitat for the listed Caribbean coral species. The proposed designation would cover coral reef habitat around 13 island or atoll units in the Pacific Islands Region, including three in American Samoa, one in Guam, seven in the Commonwealth of the Mariana Islands, and two in Pacific Remote Island Areas, containing essential features that support reproduction, growth, and survival of the listed coral species.

Statement of Need: This action would designate new critical habitat for seven corals (Acropora globiceps, Acropora jacquelineae, Acropora retusa, Acropora speciosa, Euphyllia paradivisa, Isopora crateriformis, and Seriatopora aculeata) in accordance with section 4 of the Endangered Species Act. This action follows from the listing of the seven new species.

Summary of Legal Basis: Endangered Species Act.

Alternatives: NMFS evaluated alternatives including the impacts of designating all and any parts of 19 islands within the U.S. jurisdictions of American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Pacific Remote Island Areas as units of proposed critical habitat for the seven listed corals, including: (1) Tutuila & Offshore Banks; (2) Ofu & Olosega; (3) Ta'u; (4) Rose Atoll; (5) Guam & Offshore Banks; (6) Rota; (7) Aguijan; (8) Tinian and Tatsumi Reef; (9) Saipan and Garapan Bank; (10) Farallon de Medinilla; (11) Anatahan; (12) Pagan; (13) Maug Islands & Supply Reef; (14) Howland Island; (15) Palmyra Atoll; (16) Kingman Reef; (17) Johnston Atoll; (18) Wake Atoll; and (19) Jarvis Island. NMFS analyzed the economic, national security, and other relevant impacts of designating critical habitat. NMFS will further consider these impacts based on any relevant public and peer reviewer comments regarding this proposed designation.

Anticipated Cost and Benefits: The primary benefit of designation is the protection afforded under section 7 of the Endangered Species Act, requiring all Federal agencies to insure their actions are not likely to destroy or adversely modify designated critical habitat. In addition to these protections, the designation may also result in other forms of benefits including, but not limited to: Educational awareness and outreach benefits, benefits to tourism and recreation, and improved or sustained habitat quality. Costs specifically associated with the designation of critical habitat stem mainly from Federal agencies requirement to consult with NMFS, under section 7 of the Endangered Species Act, to insure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species.

Risks: If critical habitat is not designated, listed corals will not be protected to the extent provided for in the ESA, posing a legal risk to the

agency and a risk to the species continued existence and recovery.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East–West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

RIN: 0648–BG26

DOC—NOAA

Final Rule Stage

16. Magnuson-Stevens Fisheries Conservation and Management Act; Seafood Import Monitoring Program

Priority: Other Significant.

Legal Authority: 16 U.S.C. 1857

CFR Citation: 50 CFR 300; 50 CFR 600.

Legal Deadline: None.

Abstract: On March 15, 2015, the Presidential Task Force on Combating Illegal, Unreported, and Unregulated Fishing and Seafood Fraud (Task Force), co-chaired by the Departments of Commerce and State, published its action plan to implement Task Force recommendations for a comprehensive framework of integrated programs to combat illegal, unreported, and unregulated fishing and seafood fraud. The plan identifies actions that will strengthen enforcement, create and expand partnerships with state and local governments, industry, and non-governmental organizations, and create a traceability program to track seafood from harvest to entry into U.S. commerce, including the use of existing traceability mechanisms. As part of that plan, the National Marine Fisheries Service proposes regulatory changes to improve the administration of the Magnuson-Stevens Fisheries Conservation and Management Act prohibition on the entry into interstate or foreign commerce of any fish taken in violation of any foreign law or regulation. The rule includes adjustments to permitting and reporting requirements to provide for traceability of seafood products offered for entry into the U.S. supply chain, and to ensure that these products were lawfully acquired and are properly labeled. Requirements for an international trade permit and reporting on the origin of certain imported or exported fishery products were previously established by regulations applicable to a number of specified fishery products. This rulemaking would extend those existing permitting and reporting requirements to additional fish species and seafood products.

Statement of Need: The Magnuson-Stevens Fishery Conservation and Management Act prohibits the importation and trade in interstate commerce of fishery products from fish caught in violation of any foreign law or regulation.

Summary of Legal Basis: Magnuson-Stevens Fishery Conservation and Management Act.

Alternatives: An alternative to this rulemaking that would diminish the incentives for illegal, unreported and unregulated fishing would be through cooperation and assistance programs. While the U.S. has developed effective fisheries management and enforcement techniques and applied these in many fisheries, there is no guarantee that these methods will be widely adopted in foreign fisheries. Technical and financial assistance for the development and implementation of monitoring, control and surveillance measures would not be precluded by this rulemaking, but market access incentives will increase the likelihood of action by harvesting nations exporting to the U.S.

Anticipated Cost and Benefits: Potential benefits of this rulemaking include: An incentive for exporting nations to adopt and implement fisheries regulatory and enforcement standards, including monitoring, control and surveillance measures that are comparable to the U.S. as a condition for access to the U.S. seafood market, enhanced fisheries conservation for shared and transboundary stocks, especially high seas stocks, and a safe and sustainable seafood supply for the U.S. market. Anticipated costs include: Increased administrative costs to the U.S. government for monitoring U.S. imports and making determinations about lawful acquisition of fisheries products; increased requests for international cooperation and assistance to implement fisheries monitoring, control and surveillance measures. Additionally, U.S. importers and fish processors may incur incremental costs for recordkeeping and reporting.

Risks: Prohibiting imports from seafood exporting nations for which lawful acquisition cannot be established will diminish the risk of further declines in global fisheries stocks that are affected by illegal, unreported and unregulated fishing activities.

Timetable:

Action	Date	FR Cite
NPRM	02/05/16	81 FR 6210
NPRM Comment Period End.	04/05/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: John Henderschedt, Director, Office for International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Room 10362, Silver Spring, MD 20910, *Phone:* 301 427–8314, *Email: john.henderschedt@noaa.gov.*

Related RIN: Related to 0648–AX63

RIN: 0648–BF09

DOC—NOAA

17. Designation of Critical Habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic Sturgeon

Priority: Other Significant.

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

CFR Citation: 50 CFR 226.

Legal Deadline: NPRM, Judicial, May 30, 2016, per consent decree entered December 3, 2014, and modified by a November 9, 2015, order.

Following a complaint from the Natural Resources Defense Council and Delaware Riverkeeper Network, we agreed to submit this proposed rule to the **Federal Register** by November 30, 2015 for publication.

Abstract: The National Marine Fisheries Service listed four distinct population segments of Atlantic sturgeon as endangered and one distinct population of Atlantic sturgeon as threatened under the Endangered Species Act on February 6, 2012. This rule would designate critical habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic sturgeon. A separate rule would designate critical habitat for the Carolina and South Atlantic distinct population segments of Atlantic sturgeon.

Statement of Need: The Gulf of Maine, New York Bight, and

Chesapeake Bay distinct population segments (DPSs) of Atlantic sturgeon were listed under the Endangered Species Act (ESA) in February 2012. Section 4 of the ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time a species is listed (16 U.S.C. 1533(b)(6)(C)). The ESA also requires that we publish final critical habitat rules within one year of proposed rules. At the time the Atlantic sturgeon DPSs were listed, we were unable to determine what areas met the statutory definition of critical habitat. We subsequently published a proposed rule to designate critical habitat for these DPSs on June 3, 2016. Under an existing court-ordered settlement agreement, we are required to publish final critical habitat designations by June 3, 2017—one year from the date of publication of the proposed rules.

Summary of Legal Basis: Endangered Species Act and court-ordered settlement agreement.

Alternatives: During the formulation of the final rule, pursuant to section 4(b)(2) of the ESA, we will evaluate the impacts of designating all and any parts of the proposed critical habitat. We are required to analyze the economic, national security, and other relevant impacts of designating critical habitat. Through this process, we have discretion to exclude areas from the final designation as long as such exclusions do not result in the extinction of Atlantic sturgeon DPSs. Based on our draft impacts analysis supporting the proposed rule, we did not exclude any portions of the proposed critical habitat. We also completed an Initial Regulatory Flexibility Analysis and analyzed a no action alternative, an alternative in which some of the identified critical habitat areas are designated, and an alternative in which all critical habitat areas identified for the Gulf of Maine, New York Bight, and Chesapeake Bay DPSs of Atlantic sturgeon are designated.

Anticipated Cost and Benefits: The primary benefit of critical habitat designation is the protection afforded under section 7 of the ESA, which requires all Federal agencies to insure their actions are not likely to destroy or adversely modify designated critical habitat. In addition to these protections, the designation may also result in other forms of benefits including, but not limited to: educational awareness and outreach benefits, benefits to tourism and recreation, and improved or sustained habitat quality. Costs specifically associated with the designation of critical habitat stem mainly from the requirement that Federal agencies consult with NMFS, under section 7 of the ESA, to insure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species.

Risks: If critical habitat is not designated, listed Atlantic sturgeon will not be protected to the extent provided for in the ESA, posing a legal risk to the agency and a risk to the species continued existence and recovery.

Timetable:

Action	Date	FR Cite
NPRM	06/03/16	81 FR 35701
NPRM Comment Period End.	09/01/16	
NPRM Comment Period Re-opened.	09/29/16	81 FR 66911
Comment Period End.	10/14/16	
Final Action	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, Local, State.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

RIN: 0648–BF28

DOC—NOAA

18. Designation of Critical Habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon

Priority: Other Significant.

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

CFR Citation: 50 CFR 226.

Legal Deadline: NPRM, Judicial, May 30, 2016, Per consent decree entered December 3, 2014, and modified by a November 9, 2015, order.

Abstract: The National Marine Fisheries Service listed four distinct population segments of Atlantic sturgeon as endangered—and one distinct population of Atlantic sturgeon as threatened—under the Endangered Species Act on February 6, 2012. This action proposes to designate critical habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic sturgeon, both listed as endangered.

Statement of Need: The Carolina and south Atlantic distinct population segments (DPSs) of Atlantic sturgeon were listed under the Endangered Species Act (ESA) in February 2012. Section 4 of the ESA requires that critical habitat be specified to the maximum extent prudent and determinable at the time a species is listed (16 U.S.C. 1533(b)(6)(C)). The ESA also requires that we publish final critical habitat rules within one year of proposed rules. At the time the Atlantic sturgeon DPSs were listed, we were unable to determine what areas met the statutory definition of critical habitat. We subsequently published a proposed rule to designate critical habitat for these DPSs on June 3, 2016. Under an existing court-ordered settlement agreement, we are required to publish final critical habitat designations by June 3, 2017—one year from the date of publication of the proposed rules.

Summary of Legal Basis: Endangered Species Act and court-ordered settlement agreement.

Alternatives: During the formulation of the final rule, pursuant to section 4(b)(2) of the ESA, we will evaluate the impacts of designating all and any parts of the proposed critical habitat. We are required to analyze the economic, national security, and other relevant impacts of designating critical habitat. Through this process, we have discretion to exclude areas from the final designation as long as such exclusions do not result in the extinction of Atlantic sturgeon DPSs. Based on our draft impacts analysis supporting the proposed rule, we did not exclude any portions of the proposed critical habitat. We also completed an Initial Regulatory Flexibility Analysis and analyzed a no action alternative, an alternative in which some of the identified critical habitat areas are designated, and an alternative in which all critical habitat areas identified for the Carolina and south Atlantic DPSs of Atlantic sturgeon are designated.

Anticipated Cost and Benefits: The primary benefit of critical habitat designation is the protection afforded under section 7 of the ESA, which requires all Federal agencies to insure their actions are not likely to destroy or adversely modify designated critical habitat. In addition to these protections, the designation may also result in other forms of benefits including, but not limited to: Educational awareness and outreach benefits, benefits to tourism and recreation, and improved or sustained habitat quality. Costs specifically associated with the designation of critical habitat stem mainly from the requirement that Federal agencies consult with NMFS,

under section 7 of the ESA, to insure that any action they carry out, permit (authorize), or fund will not result in the destruction or adverse modification of critical habitat of a listed species.

Risks: If critical habitat is not designated, listed Atlantic sturgeon will not be protected to the extent provided for in the ESA, posing a legal risk to the agency and a risk to the species continued existence and recovery.

Timetable:

Action	Date	FR Cite
NPRM	06/03/16	81 FR 36077
Correction	06/28/16	81 FR 41926
NPRM Comment Period End.	09/01/16	
NPRM Comment Period Re-opened.	09/29/16	81 FR 66911
Comment Period End.	10/14/16	
Final Action	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, Local, State.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East–West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

RIN: 0648–BF32

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DEPARTMENT OF DEFENSE

Statement of Regulatory Priorities

Background

The Department of Defense (DoD) is the largest Federal department consisting of three Military departments (Army, Navy, and Air Force), nine Unified Combatant Commands, 17 Defense Agencies, and ten DoD Field Activities. It has 1,329,949 military personnel and 878,527 civilians assigned as of June 30, 2016, and over 200 large and medium installations in the continental United States, U.S. territories, and foreign countries. The overall size, composition, and dispersion of DoD, coupled with an innovative regulatory program, present a challenge to the management of the Defense regulatory efforts under Executive Order (E.O.) 12866 ''Regulatory Planning and Review'' of September 30, 1993.

Because of its diversified nature, DoD is affected by the regulations issued by regulatory agencies such as the Departments of Commerce, Energy, Health and Human Services, Housing and Urban Development, Labor, State, Transportation, and the Environmental Protection Agency. In order to develop the best possible regulations that embody the principles and objectives embedded in Executive Order 12866, there must be coordination of proposed regulations among the regulatory agencies and the affected DoD components. Coordinating the proposed regulations in advance throughout an organization as large as DoD is a straightforward, yet formidable, undertaking.

DoD issues regulations that have an effect on the public and that can be significant as defined in Executive Order 12866. In addition, some of DoD's regulations may affect other agencies. DoD, as an integral part of its program, not only receives coordinating actions from other agencies, but coordinates with the agencies that are affected by its regulations as well.

Overall Priorities

The Department needs to function at a reasonable cost, while ensuring that it does not impose ineffective and unnecessarily burdensome regulations on the public. The rulemaking process should be responsive, efficient, cost-effective, and both fair and perceived as fair. This is being done in DoD while reacting to the contradictory pressures of providing more services in a constrained fiscal environment. DoD, as a matter of overall priority for its regulatory program, fully incorporates the provisions of the President's priorities and objectives under Executive Order 12866.

International Regulatory Cooperation

As the President noted in Executive Order 13609, ''Promoting International Regulatory Cooperation'' of May 1, 2012, ''international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting'' public health, welfare, safety, and our environment as well as economic growth, innovation, competitiveness, and job creation. Accordingly, in Executive Order 13609, the President requires each executive agency to include in its Regulatory Plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

The Department of Defense, along with the Departments of State and Commerce, engages with other countries in the Wassenaar Arrangement, Nuclear Suppliers Group, Australia Group, and Missile Technology Control Regime through which the international community develops a common list of items that should be subject to export controls. DoD has been a key participant in the Administration's Export Control Reform effort that resulted in a complete overhaul of the U.S. Munitions List and fundamental changes to the Commerce Control List. New controls have facilitated transfers of goods and technologies to allies and partners while helping prevent transfers to countries of national security and proliferation concern. DoD will continue to assess new and emerging technologies to ensure items that provide critical military and intelligence capabilities are properly controlled on international export control regime lists.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (January 18, 2011), the following Regulatory Identification Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Several are of particular interest to small businesses. The entries on this list are completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on *reginfo.gov* in the Completed Actions section for DoD. These rulemakings can also be found on *regulations.gov*. We will continue to identify retrospective review regulations as they are published and report on the progress of the overall plan biannually. DoD's final agency plan and all updates to the plan can be found at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036*.

RIN	Rule title (*expected to significantly reduce burdens on small businesses)
0702–AA71	Army Privacy Program

RIN	Rule title (*expected to significantly reduce burdens on small businesses)
0703–AA90	Guidelines for Archaeological Investigation Permits and Other Research on Sunken Military Craft and Terrestrial Military Craft Under the Jurisdiction of the Department of the Navy
0703–AA92	Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General
0710–AA66	Civil Monetary Penalty Inflation Adjustment Rule
0710–AA60	Nationwide Permit Program Regulations*
0750–AG47	Safeguarding Unclassified Controlled Technical Information (DFARS Case 2011–D039)
0750–AG62	Patents, Data, and Copyrights (DFARS Case 2010–D001)
0750–AH11	Only One Offer (DFARS Case 2011–D013)
0750–AH19	Accelerated Payments to Small Business (DFARS Case 2011–D008)
0750–AH54	Performance-Based Payments (DFARS Case 2011–D045)
0750–AH70	Defense Trade Cooperation Treaty With Australia and the United Kingdom (DFARS Case 2012–D034)
0750–AH86	Forward Pricing Rate Proposal Adequacy Checklist (DFARS Case 2012–D035)
0750–AH87	System for Award Management Name Changes, Phase 1 Implementation (DFARS Case 2012–D053)
0750–AH90	Clauses With Alternates—Transportation (DFARS Case 2012–D057)
0750–AH94	Clauses with Alternates—Foreign Acquisition (DFARS Case 2013–D005)
0750–AH95	Clauses with Alternates—Quality Assurance (DFARS Case 2013–D004)
0750–AI02	Clauses with Alternates—Contract Financing (DFARS Case 2013–D014)
0750–AI10	Clauses with Alternates—Research and Development Contracting (DFARS Case 2013–D026)
0750–AI19	Clauses with Alternates—Taxes (DFARS Case 2013–D025)
0750–AI27	Clauses with Alternates—Special Contracting Methods, Major System Acquisition, and Service Contracting (DFARS Case 2014–D004)
0750–AI03	Approval of Rental Waiver Requests (DFARS Case 2013–D006)
0750–AI07	Storage, Treatment, and Disposal of Toxic or Hazardous Materials—Statutory Update (DFARS Case 2013–D013)
0750–AI18	Photovoltaic Devices (DFARS Case 2014–D006)
0750–AI34	State Sponsors of Terrorism (DFARS Case 2014–D014)
0750–AI43	Inflation Adjustment of Acquisition-Related Thresholds (DFARS Case 2014–D025)
0750–AI58	Detection and Avoidance of Counterfeit Electronic Parts—Further Implementation (DFARS Case 2014–D005)
0750–AI76	Duty-Free Entry Threshold (DFARS Case 2015–D036)
0750–AI85	Prohibition on Requiring the Use of Fire-Resistant Rayon Fiber (DFARS Case 2016–D012)
0790–AI19	Service Academies
0790–AI42	Personnel Security Program
0790–AI54	Defense Support of Civilian Law Enforcement Agencies
0790–AI63	Alternative Dispute Resolution
0790–AI77	Provision of Early Intervention and Special Education Services to Eligible DoD Dependents
0790–AI86	Defense Logistics Agency Privacy Program
0790–AI87	Defense Logistics Agency Freedom of Information Act Program
0790–AI88	Shelter for the Homeless
0790–AI90	DoD Assistance to Non-Government, Entertainment-Oriented Media Productions
0790–AI94	Public Affairs Liaison with Industry
0790–AI98	Professional U.S. Scouting Organizations Operating at U.S. Military Installations Overseas
0790–AJ00	Civilian Employment and Reemployment Rights of Applicants for, and Service Members and Former Service Members of, the Uniformed Services
0790–AJ03	DoD Privacy Program
0790–AJ06	Voluntary Education Programs
0790–AJ07	Historical Research in the Files of the Office of the Secretary of Defense (OSD)
0790–AJ10	Enhancement of Protections on Consumer Credit for Members of the Armed Forces and Their Dependents
0790–AJ11	Defense Materiel Disposition
0790–AJ19	Background Checks on Individuals in DoD Child Care Services Programs
0790–AJ28	National Language Service Corps (NLSC)
	Pursuant to Executive Order 13563, DoD also removed 32 CFR part 513, ''Indebtedness of Military Personnel,'' because the part is obsolete and the governing policy is now codified at 32 CFR part 112.

Administration Priorities

1. Rulemakings that are expected to have high net benefits well in excess of costs.

The Department plans to finalize the following Defense Federal Acquisition Regulation Supplement (DFARS) rule:

• Network Penetration Reporting and Contracting for Cloud Services (DFARS case 2013–D018). This final rule implements section 941 of the National Defense Authorization Act (NDAA) for FY 2013 and section 1632 of the NDAA for FY 2015. Section 941 requires cleared defense contractors to report penetrations of networks and information systems and allows DoD personnel access to equipment and information to assess the impact of reported penetrations. Section 1632 requires that a contractor designated as operationally critical must report each time a cyber-incident occurs on that contractor's network or information systems. Ultimately, DoD anticipates significant savings to taxpayers as a result of this rule, by improving information security for DoD information that resides in or transits through contractor systems and a cloud environment. Recent high-profile breaches of Federal information show the need to ensure that information security protections are clearly, effectively, and consistently addressed in contracts. This rule will help protect covered defense information or other Government data from compromise and protect against the loss of operationally critical support capabilities, which could directly impact national security.

The Department plans to propose the following DFARS rule:

• Use of the Government Property Clause (DFARS Case 2015–D035). This rule amends the DFARS to expand the prescription for use of Federal Acquisition Regulation (FAR) clause 52.245–1, Government Property. This clause requires contractors to comply with basic property receipt and record

keeping requirements in order for the Government to track, report, and manage Government-furnished property. Currently, this clause is not required for use in purchase orders for repair when the unit acquisition cost of Government property to be repaired does not exceed the simplified acquisition threshold (SAT). However, acquisition value alone is not an indicator of the criticality or sensitivity of Government property items. For example, firearms, body armor, night vision equipment, computers or cryptological devices may individually all be below the SAT, but accountability of these items is of vital importance. Lack of the use of the Government property clause in these instances significantly increases the risk of misuse or loss of Government property. In order to strengthen the management and accountability of Government-furnished property (GFP), this rule proposes to amend the DFARS to require use of the Government property clause in these instances, regardless of the acquisition value.

2. Rulemakings that promote open Government and use disclosure as a regulatory tool.

The Department plans to finalize the following DFARS rule:

• Promoting Voluntary Post-Award Disclosure of Defective Pricing (DFARS Case 2015–D030). In response to the Better Buying Power 2.0 initiative on ''Eliminating Requirements Imposed on Industry where Costs Outweigh Benefits,'' contractors recommended that DoD clarify policy guidance to reduce repeated submissions of certified cost or pricing data. Frequent submissions of such data are used as a defense against defective pricing claims by DoD after contract award, since data that are frequently updated are less likely to be considered outdated or inaccurate and, therefore, defective. Better Buying Power 3.0 called for a revision of regulatory guidance regarding the requirement for contracting officers to request an audit, even if a contractor voluntarily discloses defective pricing after contract award. This rule amends the DFARS to stipulate that DoD contracting officers shall request a limited-scope audit when a contractor voluntarily discloses defective pricing after contract award, unless a full-scope audit is appropriate for the circumstances.

3. Rulemakings of particular interest to small businesses.

The Department plans to propose the following DFARS rules—

• Temporary Extension of Test Program for Comprehensive Small Business Subcontracting Plans (DFARS Case 2015–D013). This rule amends the DFARS to implement section 821 of the NDAA for FY 2015 regarding the Test Program for Comprehensive Small Business Subcontracting Plans. The Test Program was established under section 834 of the NDAAs for FYs 1990 and 1991 to determine whether the negotiation and administration of comprehensive small business subcontracting plans would result in an increase of opportunities provided for small business concerns under DoD contracts. A comprehensive subcontracting plan (CSP) can be negotiated on a corporate, division, or sector level, rather than contract by contract. This rule will amend the DFARS to: (1) Extend the Test Program through December 31, 2017; (2) implement new reporting requirements for program participants; (3) require contracting officers to consider an offerors failure to make a good faith effort to comply with its CSP in past performance evaluations; and (4) establish procedures for the assessment of liquidated damages. This rule is of particular interest to small businesses because it holds prime contractors that are participating in the program accountable for the small business goals established in their CSP, resulting in increased business opportunities for small business subcontractors.

• Amendment to Mentor-Protégé Program (DFARS Case 2016–D011). This rule amends the DFARS to implement section 861 of the NDAA for FY 2016 (Pub. L. 114–92), which provides amendments to the Pilot Mentor-Protégé Program (''the Program''). Specifically, section 861 requires mentor firms participating in the Program to report additional information on the assistance they have provided to their protégé firms, the success this assistance has had in addressing the protégé firm's developmental needs, the impact on DoD contracts, and any problems encountered. The new reporting requirements apply retroactively to mentor-protégé agreements entered into before, on, or after the date of enactment of the NDAA for FY 2016 (enacted November 25, 2015). DoD's OSBP will use the information reported by mentors to support decisions regarding continuation of particular mentor-protégé agreements. In addition, section 861 adds new eligibility criteria for mentor and protégé firms; limits the period of time a protégé firm can participate in the Program; limits the number of mentor-protégé agreements to which a protégé can be a party; and extends the Program for three years. This rule amends DFARS to implement the new reporting requirements and other Program amendments.

The Department plans to reissue the Nationwide Permits—

• Department of the Army (DA) permits are required for discharges of dredged or fill material into waters of the United States and any structures or other work that affect the course, location, or condition of navigable waters of the United States. Small businesses proposing to discharge dredged or fill material into waters of the United States and/or install structures or do work in navigable waters of the United States must obtain DA permits to conduct those activities, unless a particular activity is exempt from those permit requirements. Individual permits and general permits can be issued by the Corps to satisfy the permit requirements of these two statutes. Nationwide permits (NWPs) are a form of general permit issued by the U.S. Army Corps of Engineers (Corps) that authorize activities that have no more than minimal individual and cumulative adverse environmental effects. The NWPs provide a streamline authorization process for small businesses to fulfill DA permit requirements. Nationwide permits can only be issued for a period of no more than five years. The issuance and reissuance of NWPs must be done every five years to continue the NWP program. Currently, there are 50 NWPs, and those NWPs expire on March 18, 2017. In addition to proposing to reissue all of the 50 existing NWPs, the Corps is also proposing to issue two new NWPs. The Corps plans on issuing the final NWP rule before the current NWPs expire so that NWPs will continue to be available to small businesses and other regulated entities.

4. Rulemakings that streamline regulations, reduce unjustified burdens, and minimize burdens on small businesses.

The Department plans to propose the following DFARS rule—

• Pilot Program for Streamlining Awards for Innovative Technology Projects (DFARS Case 2016–D016). This rule proposes to amend the DFARS to implement section 873 of the NDAA for FY 2016 (Pub. L. 114–92). Section 873 provides the following exception from certified cost and pricing data requirements for contracts, subcontracts, or modifications of contracts or subcontracts valued at less than $7.5 million awarded to a small business or nontraditional defense contractor pursuant to a technical, merit-based selection procedure (*e.g.,* broad agency announcement) or the Small Business Innovation Research (SBIR) Program. In

addition, section 873 provides an exception from the records examination requirement at 10 U.S.C. 2313 for contracts valued at less than $7.5 million awarded to a small business or nontraditional defense contractor pursuant to a technical, merit-based selection procedure (*e.g.,* broad agency announcement) or the SBIR Program. However, section 873 also provides authority in certain circumstances to determine that submission of cost and pricing data or auditing of records should be required based on past performance of the specific small business or nontraditional defense contractor or analysis of other information specific to the award. These exceptions end on October 1, 2020.

The Department plans to reissue the Nationwide Permits—

• As discussed above, nationwide permits (NWPs) are a form of general permit issued by the Corps that authorizes activities that require DA authorization and have no more than minimal individual and cumulative adverse environmental effects. The Corps plans to reissue the 50 existing NWPs and issue two new NWPs. Unlike individual permits, NWPs authorize activities without the requirement for public notice and comment on each proposed activity, which reduces burdens on small businesses and streamlines the authorization process. In FY 2015, the Corps issued approximately 31,700 NWP verifications, with an average processing time of 41 days. In FY 2015, the Corps issued approximately 1,700 standard individual permits, with an average processing time of 211 days. The proposed NWPs were published in the **Federal Register** on June 1, 2016, for a 60-day comment period. The Corps plans on finalizing the NWPs before the current NWPs expire on March 18, 2017. The costs for obtaining authorization under an NWP are low compared to the standard individual permit process, both in terms of financial costs and the time it takes to obtain the required authorization.

5. Rules to be modified, streamlined, expanded, or repealed to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.

The Department plans to finalize the following DFARS rule—

• Enhancing Independent Research and Development Efforts (DFARS Case 2016–D002). This rule will amend the DFARS to improve the effectiveness of independent research and development (IR&D) investments by the defense industrial base that are reimbursed as allowable costs. Specifically, DoD is revising DFARS 231.205–18, Independent Research and Development and Bid and Proposal Costs, to require that proposed new independent research and development (IR&D) efforts be communicated to appropriate DoD personnel prior to the initiation of these investments, and that results from these investments should also be shared with appropriate DoD personnel. IR&D investments need to meet the complementary goals of providing defense companies an opportunity to exercise independent judgement on investments in promising technologies that will provide a competitive advantage, including the creation of intellectual property, while at the same time pursuing technologies that may improve the military capability of the United States. These efforts can have the best payoff, both for DoD and for individual performing companies, when the Government is well informed of the investments that companies are making, and when companies are well informed about related investments being made elsewhere in the Government's research and development portfolios and about Government plans for potential future acquisitions where this IR&D may be relevant.

Specific DoD Priorities: For this regulatory plan, there are six specific DoD priorities, all of which reflect the established regulatory principles. DoD has focused its regulatory resources on the most serious health and safety risks. Perhaps most significant is that each of the priorities described below promulgates regulations to offset the resource impacts of Federal decisions on the public or to improve the quality of public life, such as those regulations concerning acquisition, health affairs, personnel benefits, and cyber security.

1. Acquisition, Technology, and Logistics/Defense Procurement and Acquisition Policy (DPAP), Department of Defense

DPAP continuously reviews the DFARS and continues to lead Government efforts to—

• Improve the presentation, clarity, and streamlining of the regulation by, for example: (1) Implementing the new convention to construct clauses with alternates in a manner whereby the alternate clauses are included in full-text; and (2) removing obsolete reporting or other requirements imposed on contractors. Such improvements ensure that contracting officers, contractors, and offerors have a clear understanding of the rules for doing business with the Department.

• Obtain early engagement with industry on procurement topics of high public interest by, for example: (1) Utilizing the DPAP Defense Acquisition Regulation System Web site to obtain early public feedback on newly enacted legislation that impacts the Department's acquisition regulations, prior to initiating rulemaking to draft the implementing rules; and (2) holding public meetings to solicit industry feedback on proposed rulemakings.

• Employ methods to facilitate and improve efficiency of the contracting process, such as (1) updating certain evaluation thresholds based on the consumer price index; (2) allowing contractors to display one DoD Inspector General hotline poster instead of three; and (3) revising the DD Form 1547, Record of Weighted Guidelines, to provide a more transparent means of documenting costs incurred during the undefinitized period of an undefinitized contract action.

2. Health Affairs, Department of Defense

The Department of Defense is able to meet its dual mission of wartime readiness and peacetime health care for those entitled to DoD medical care and benefits by operating an extensive network of military medical treatment facilities supplemented by services furnished by civilian health care providers and facilities through the TRICARE program as administered under DoD contracts. TRICARE is a major health care program designed to improve the management and integration of DoD's health care delivery system.

The Department of Defense's Military Health System (MHS) continues to meet the challenge of providing the world's finest combat medicine and aeromedical evacuation, while supporting peacetime health care for those entitled to DoD medical care and benefits at home and abroad. The MHS brings together the worldwide health care resources of the Uniformed Services (often referred to as ''direct care,'' usually within military treatment facilities) and supplements this capability with services furnished by network and non-network civilian health care professionals, institutions, pharmacies, and suppliers, through the TRICARE program as administered under DoD contracts, to provide access to high quality health care services while maintaining the capability to support military operations. The TRICARE program serves 9.5 million Active Duty Service Members, National Guard and Reserve members, retirees, their families, survivors, and certain former spouses worldwide. TRICARE continues to offer an increasingly integrated and comprehensive health

care plan, refining and enhancing both benefits and programs in a manner consistent with the law, industry standard of care, and best practices, to meet the changing needs of its beneficiaries. The program's goal is to increase access to health care services, improve health care quality, and control health care costs.

The Defense Health Agency plans to publish the following rules—

• Final Rule: Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE: Refills of Maintenance Medications Through Military Treatment Facility Pharmacies or National Mail Order Pharmacy Program. This final rule implements Section 702(c) of the Carl Levin and Howard P. ''Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 which states that beginning October 1, 2015; the pharmacy benefits program shall require eligible covered beneficiaries generally to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program. Section 702(c) of the National Defense Authorization Act for Fiscal Year 2015 also terminates the TRICARE For Life Pilot Program on September 30, 2015. The TRICARE For Life Pilot Program described in Section 716(f) of the National Defense Authorization Act for Fiscal Year 2013, was a pilot program which began in March 2014 requiring TRICARE For Life beneficiaries to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program. TRICARE for Life beneficiaries are those enrolled in the Medicare wraparound coverage option of the TRICARE program. This rule includes procedures to assist beneficiaries in transferring covered prescriptions to the mail order pharmacy program. This rule has been identified as an economically significant rule. DoD anticipates publishing the final rule in the first quarter of FY 2017.

• Final Rule: TRICARE; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities. The Department of Defense, Defense Health Agency, is revising its reimbursement of Long Term Care Hospitals (LTCHs) and Inpatient Rehabilitation Facilities (IRFs). Revisions are in accordance with the statutory provision at title 10, United States Code (U.S.C.), section 1079(i)(2) that requires TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. 32 CFR 199.2 includes a definition for ''Hospital, long-term (tuberculosis, chronic care, or rehabilitation).'' This rule deletes this definition and creates separate definitions for ''Long Term Care Hospital'' and ''Inpatient Rehabilitation Facility'' in accordance with Centers for Medicare and Medicaid Services (CMS) classification criteria. Under TRICARE, LTCHs and IRFs (both freestanding rehabilitation hospitals and rehabilitation hospital units) are currently paid the lower of a negotiated rate (if they are a network provider) or billed charges (if they are a non-network provider). Although Medicare's reimbursement methods for LTCHs and IRFs are different, it is prudent to adopt both the Medicare LTCH and IRF Prospective Payment System (PPS) methods simultaneously to align with our statutory requirement to reimburse like Medicare. This rule sets forth the proposed regulation modifications necessary for TRICARE to adopt Medicare's LTCH and IRF Prospective Payment Systems and rates applicable for inpatient services provided by LTCHs and IRFs to TRICARE beneficiaries. This rule has been identified as an economically significant rule. DoD anticipates publishing the final rule in the third quarter of FY 2017.

3. Personnel and Readiness, Department of Defense

The Department of Defense plans to publish the following rules—

• Final Rule; Amendment: Sexual Assault Prevention and Response (SAPR) Program. The purpose of this rule is to implement DoD policy and assign responsibilities for the SAPR Program on prevention, response, and oversight of sexual assault. The goal is for DoD to establish a culture free of sexual assault through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of all persons. DoD anticipates publishing the final rule in the third quarter of FY 2017.

• Final Rule: Sexual Assault Prevention and Response (SAPR) Program Procedures. This rule establishes policy, assigns responsibilities, and provides guidance and procedures for the SAPR Program. It establishes processes and procedures for the Sexual Assault Forensic Examination Kit, the multidisciplinary Case Management Group, and guidance on how to handle sexual assault reports, SAPR minimum program standards, SAPR training requirements, and SAPR requirements for the DoD Annual Report on Sexual Assault in the Military. The DoD goal is a culture free of sexual assault through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of all persons. DoD anticipates publishing the final rule in the third quarter of FY 2017.

• Final Rule: Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals. Among the Obama Administration regulatory priorities are rules which extend fairness and tolerance to all Americans. The Department of Defense (DoD) previously published an interim final rule that extended benefits to all eligible dependents of uniformed Service members and eligible DoD civilians. It was necessary to publish an amended interim final rule to ensure the issuance of ID cards and extension of benefits aligns with current Federal and DoD policy, and to include an additional implementing manual addressing eligibility documentation requirements. The final rule incorporates all comments received during the public comment process that were adjudicated by the Department as necessary changes to the rule. DoD anticipates publishing the final rule in the third quarter of FY 2017.

4. Chief Information Officer, Department of Defense

The Department of Defense plans to publish the final rule for the Defense Industrial Base (DIB) Cybersecurity (CS) Activities that implements statutory requirements for mandatory cyber incident reporting while maintaining the voluntary cyber threat information sharing program.

• Interim Final Rule: Defense Industrial Base (DIB) Cyber Security (CS) Activities. The DoD–DIB CS Activities regulation mandates reporting of cyber incidents that result in an actual or potentially adverse effect on a covered contractor information system or covered defense information residing therein, or on a contractor's ability to provide operationally critical support. This interim final rule will modify eligibility criteria to permit greater participation in the voluntary DoD–DIB CS information sharing program. Expanding participation in the DoD–DIB CS information sharing program is part of DoD's comprehensive approach to counter cyber threats through information sharing between the Government and DIB participants. The

DoD–DIB CS information sharing program allows eligible DIB participants to receive Government furnished information (GFI) and cyber threat information from other DIB participants, thereby providing greater insights into adversarial activity targeting the DIB. DoD anticipates publishing the interim final rule in the third quarter of FY 2017.

DOD—OFFICE OF THE SECRETARY (OS)

Final Rule Stage

19. Sexual Assault Prevention and Response Program Procedures

Priority: Other Significant.

Legal Authority: Pub. L. 112–239; Pub. L. 113–66; Pub. L. 113–291; Pub. L. 114–92

CFR Citation: 32 CFR 105.

Legal Deadline: None.

Abstract: This rule will provide sexual assault victims the ability to get a fresh start through an Expedited Transfer policy aimed at removing the stigma associated with victimization. It will also allow sexual assault victims to be notified of the protections and support that come with individual legal representation as they navigate the criminal justice process. With this rule Reserve Component and National Guard members who are victims of sexual assault would receive the same SAPR advocacy regardless of when the sexual assault incident occurred, similar to the advocate support afforded their active duty counterparts. The goal of this rule is to ensure victims of sexual assault receive improved victim advocacy support, quality health care service, appropriate and sensitive command involvement, individualized legal support, and a military culture better informed on the issue of sexual assault. This rule establishes the SAFE Helpline as the sole DoD hotline for crisis intervention; establishes requirements for a sexual assault victim safety assessment and the execution of a high-risk team to monitor cases where the sexual assault victim's life and safety may be in jeopardy; and incorporates several requirements of the National Defense Authorization Act (NDAA) relating to sexual assault in the military.

Statement of Need: Issue this part to:

(1) Implement 32 Code of Federal Regulations (CFR) 103 and assign responsibilities and provide guidance and procedures for the SAPR Program;

(2) Establish SAPR minimum program standards, SAPR training requirements, and SAPR requirements for the Department of Defense (DoD) Annual Report on Sexual Assault in the Military; and consistent with title 10, United States Code (Reference (d)) the DoD Task Force Report on Care for Victims of Sexual Assault (Reference (e)) and pursuant to References (b) and (c), and Public Law 106–65, 108–375, 109–163, 109–364, 110–417, 111–84, 111–383, 112–81, 112–239, 113–66, 113–291, and 114–92;

(3) Provide of the preemption of state and local laws mandating reporting of an adult sexual assault incident;

(4) Protect from retaliation, coercion, and reprisal due to reporting a sexual assault;

(5) Provide for individualized legal representation from a Special Victims' Counsel (SVC) or Victims' Legal Counsel (VLC);

(6) Provide for the opportunity to request an Expedited Transfer as a means to getting a fresh start to support victim recovery;

(7) Establish the multidisciplinary Case Management Group as the oversight body of an Unrestricted sexual assault report.

Summary of Legal Basis: This regulation is pursued under the authorities of all applicable congressional mandates from section 113 of title 10, United States Code (U.S.C.), and Public Law 106–65, 108–375, 109–163, 109–364, 110–417, 111–84, 112–81, 113–66; 113–291, 114–92.

Alternatives: The DoD will not have current guidance relating to the provisions of law enacted by Congress critical to the implementation of sexual assault prevention and response (SAPR), SAPR training standards, victim support, and reporting procedures.

Anticipated Cost and Benefits: Fiscal year 2016 estimate of the anticipated cost associated with this rule is approximately $15 million. Additionally, each of the Military Services establishes its own SAPR budget for the programmatic costs arising from the implementation of the training, prevention, reporting, response, and oversight requirements established by this rule. These costs are less than those of other alternative benefits and include:

(1) A complete SAPR Policy consisting of this part and 32 CFR 103, to include comprehensive SAPR procedures to implement the DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program, which is the DoD policy on prevention and response to sexual assaults involving members of the U.S. Armed Forces.

(2) Guidance and procedures with which the DoD may establish a culture free of sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of all persons covered by this part and 32 CFR 103.

(3) Requirement that medical care and SAPR services are gender-responsive, culturally competent, and recovery-oriented. A 24 hour, 7 day per week sexual assault response capability for all locations, including deployed areas for persons covered in this part.

(4) Creating Command sexual assault awareness and prevention programs and DoD law enforcement procedures that enable persons to be held appropriately accountable for their actions.

(5) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for training materials focus on awareness, prevention, and response at all levels, as appropriate.

(6) Requiring Sexual Assault Response Coordinators (SARC), SAPR Victim Advocates (VA), and other responders to assist sexual assault victims regardless of Service affiliation.

(7) Procedures for informing victims at the time of making the report, or as soon as practicable, of the option to request a temporary or permanent expedited transfer from their assigned command or installation, or to a different location within their assigned command or installation, in accordance with the procedures for commanders in 105.9 of this part.

(8) Protections from reprisal, or threat of reprisal, for filing a report of sexual assault.

(9) Reporting options for Service members and military dependents 18 years and older who have been sexually assaulted.

(10) Providing support to an active duty Military Service member regardless of when or where the sexual assault took place.

(11) Establishing a DoD-wide certification program with a national accreditor to ensure all sexual assault victims are offered the assistance of a SARC or SAPR VA who has obtained this certification.

(12) Implementing training standards that cover general SAPR training for Service members, and contain specific standards for: Accessions, annual, professional military education and leadership development training, pre- and post-deployment, pre-command, General and Field Officers and SES, military recruiters, civilians who supervise military, and responders trainings.

(13) Requiring Military Departments to establish procedures for supporting

the DoD Safe Helpline in accordance with Guidelines for the DoD Safe Helpline for the referral database, provide timely response to victim feedback, publicize the DoD Safe Helpline to SARCs and Service members and at military confinement facilities.

(14) Directing additional responsibilities for the DoD SAPRO Director (develop metrics for measuring effectiveness, act as liaison between DoD and other agencies with regard to SAPR, oversee development of strategic program guidance and joint planning objectives, quarterly include Military Service Academies as a SAPR IPT standard agenda item, semi-annually meet with the Superintendents of the Military Service Academies, and develop and administer standardized and voluntary surveys for survivors of sexual assault to comply with 1726 of NDAA FY 14.

(15) Providing for the Preemption of state and local laws requiring disclosure of personally identifiable information of the service member (or adult military dependent) victim or alleged perpetrator to state or local law enforcement agencies, unless such reporting is necessary to prevent or mitigate a serious and imminent threat to the health and safety of an individual, as determined by an authorized Department of Defense official.

Risks: The degree of risk to Service member is that sexual assault victims will not be able to access support services or understand the availability of resources to assist them, such as: the opportunity to receive an Expedited Transfer as a means to getting a fresh start to support recovery; inability to request a Restricted Report in mandatory reporting jurisdiction; and failure to capture and preserve forensic evidence associated with sexual assault cases.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/11/13	78 FR 21715
Interim Final Rule Effective.	04/11/13	
Interim Final Rule Comment Period End.	06/10/13	
Interim Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 6495.02, ''Sexual Assault Prevention and Response (SAPR) Program Procedures''.

Agency Contact: Diana Rangoussis, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301, *Phone:* 703 696–9422.

RIN: 0790–AI36

DOD—OS

20. Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals (Adding Subpart D)

Priority: Other Significant.

Legal Authority: 10 U.S.C. 1061; 10 U.S.C. 1062; 10 U.S.C. 1063; 10 U.S.C. 1064; 10 U.S.C. 1072; 10 U.S.C. 1073; 10 U.S.C. 1074; 10 U.S.C. 1074(a); 10 U.S.C. 1074(b); 10 U.S.C. 1074(c); 10 U.S.C. 1076; 10 U.S.C. 1076(a); 10 U.S.C. 1077; 10 U.S.C. 1095(k)(2); 18 U.S.C. 499; 18 U.S.C. 506; 18 U.S.C. 509; 18 U.S.C. 701; 18 U.S.C. 1001

CFR Citation: 32 CFR 161.

Legal Deadline: None.

Abstract: Among the Obama Administration regulatory priorities are rules which extend fairness and tolerance to all Americans. The Department of Defense (DoD) previously published an interim final rule that establishes policy, assigns responsibilities, and provides procedures for the issuing of distinct DoD ID cards. The ID cards are issued to uniformed service members, their dependents, and other eligible individuals and are used as proof of identity and DoD affiliation, and facilitate the extension of DoD benefits. The interim final rule extended benefits to all eligible dependents of Uniformed Service members and eligible DoD civilians. It was necessary to amend the interim final rule to ensure the issuance of ID cards and extension of benefits aligns with current Federal and DoD policy, and to include an additional implementing manual addressing eligibility documentation requirements. The revisions to this rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563, completed in August 2011. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

Statement of Need: Many changes have occurred since DoD previously issued ID card policy in 1997 that require regulation and policy to be updated, which include but are not limited to Obama administration priorities of extending fairness and tolerance to all Americans. Supreme Court decisions within the last five years, required DoD to ensure that ID card policy was inclusive of same-sex spouse and transgender retiree and dependent populations. Additionally, the length of the previous document combined with additional information necessary to make the document current, required separation into an overarching instruction with supporting subject matter specific manuals.

Summary of Legal Basis: This regulation is pursued under the authorities of title 5, title 10 and title 18 U.S.C.

Alternatives: DoD does not have any alternatives to address the issuing of distinct DoD ID cards.

Anticipated Cost and Benefits: There are no costs to the public. There are no capital or start-up costs associated with the issuance of this rule. ID cards cost the Department approximately $28.3 million annually.

Risks: There is no risk to the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/27/16	81 FR 74874
Interim Final Rule Effective.	10/27/16	
Interim Final Rule Comment Period End.	12/27/16	
Final Action	05/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Instruction 1000.13, ''Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals''; DoD Manual 1000.13, Volume 1, ''DoD Identification (ID) Cards: ID Card Life-Cycle''; DoD Manual 1000.13, Volume 2, ''DoD Identification (ID) Cards: Benefits for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals''; DoD Manual 1000.13, Volume 3, ''DoD Identification (ID) Cards: Eligibility Documentation Required for Defense Enrollment Eligibility (DEERS) Enrollment, Record Management, and ID Card Issuance''

Agency Contact: Robert Eves, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301, *Phone:* 571 372–1956, *Email: robert.c.eves.civ@mail.mil.*

Related RIN: Related to 0790–AI61

RIN: 0790–AJ37

DOD—OS

21. Sexual Assault Prevention and Response (SAPR) Program

Priority: Other Significant.

Legal Authority: 10 U.S.C. 113; Pub. L. 112–81; Pub. L. 113–66; Pub. L. 114–92

CFR Citation: 32 CFR 103.

Legal Deadline: None.

Abstract: This interim final rule establishes that victims of sexual assault perpetrated by a spouse or intimate partner, or military dependent under the age of 18 is a Family Advocate Program (FAP) matter and does not fall within the SAPR program. However to ensure FAP involvement, this interim final rule requires the installation SARC and installation FAP to coordinate together when a sexual assault occurs as a result of domestic violence or involves child abuse. The rule requires sexual assault victims be informed of the availability of legal assistance and the right to consult with a Special Victims' Counsel and Victims' Legal Counsel and gives military members who are sexually assaulted the ability to request an Expedited Transfer as a means to getting a fresh start'' while escaping the stigma associated with sexual assault. Finally, the rule mandates the establishment and implementation of a SAPR program within National Guard Bureau. The Department of Defense is publishing this rule as interim to maintain and enhance the current SAPR program which elucidates the prevention, response, and oversight of sexual assaults involving members of the U.S. Armed Forces and Reserve Component, to include the National Guard.

Statement of Need: The purpose of this rule is to:

(1) Establish and implement a complete SAPR program which focuses on prevention, training, and response to sexual assaults involving members of the U.S. Armed Forces.

(2) Establish a culture free of sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of all persons covered.

(3) Focus on the victim and on doing what is necessary and appropriate to support victim recovery.

(4) Establish SAPR minimum program standards to include training requirements, oversight responsibilities, data collection, and reports.

Summary of Legal Basis: This regulation is established pursuant to all applicable congressional mandates from section 113 of title 10, United States Code (U.S.C.), and Public Laws 106–65, 108–375, 109–163, 109–364, 110–417, 111–84, 112–81, 113–66.

Alternatives: The DoD will not have current guidance relating to the implementation of the provisions of law enacted by Congress critical to sexual assault prevention and response (SAPR), SAPR training standards, victim support, and reporting procedures.

Anticipated Cost and Benefits: Fiscal Year 2015 Operation and Maintenance funding for DoD SAPRO was $24.3 million with an additional Congressional allocation of $25.0 million designated for the Special Victims' Counsel program and the Special Victims' Investigation and Prosecution capability that was reprogrammed to the Military Services and the National Guard Bureau. Additionally, each of the Military Services establishes its own SAPR budget for the programmatic costs arising from the implementation of the training, prevention, reporting, response, and oversight requirements established by this rule. These costs are less than those of other alternative benefits and include:

(1) A complete and up-to-date SAPR Policy consisting of this part and 32 CFR 105, to include comprehensive SAPR policy guidance on the prevention and response to sexual assaults involving members of the U.S. Armed Forces.

(2) Guidance and policy with which the DoD may establish a culture free of sexual assault, through an environment of prevention, education and training, response capability, victim support, reporting procedures, and appropriate accountability that enhances the safety and well-being of all persons covered by this part and 32 CFR 105.

(3) Requirement to provide care that is gender-responsive, culturally competent, and recovery-oriented.

(4) Standardized SAPR requirements, terminology, guidelines, protocols, and guidelines for training materials shall focus on awareness, prevention, and response at all levels, as appropriate.

(5) An immediate, trained sexual assault response capability for each report of sexual assault in all locations, including in deployed locations.

(6) Victims of sexual assault shall be protected from coercion, retaliation, and reprisal.

Risks: The rule does not intend physical or mental harm to individuals of the public. The rule intends to enable military readiness by establishing a culture free of sexual assault. Sexual assault poses a serious threat to military readiness because the potential costs and consequences are extremely high: chronic psychological consequences may include depression, post-traumatic stress disorder, and substance abuse. In the U.S. Armed Forces, sexual assault not only degrades individual resilience but also may erode unit integrity. An effective fighting force cannot tolerate sexual assault within its ranks. Sexual assault is incompatible with military culture and mission readiness, and the risks to mission accomplishments are unbearable. This rule aims to mitigate this risk to mission readiness.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: DoD Directive 6495.01, ''Sexual Assault Prevention and Response (SAPR) Program''.

Agency Contact: Diana Rangoussis, Department of Defense, Office of the Secretary, Defense Pentagon, Washington, DC 20301, *Phone:* 703 696–9422.

RIN: 0790–AJ40

DOD—OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS (DODOASHA)

Final Rule Stage

22. TRICARE; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 5 U.S.C. 301; 10 U.S.C. ch 55

CFR Citation: 32 CFR 199.

Legal Deadline: None.

Abstract: The Department of Defense, Defense Health Agency, is proposing to revise its reimbursement of Long Term Care Hospitals (LTCHs) and Inpatient Rehabilitation Facilities (IRFs). Proposed revisions are in accordance with the statutory provision at title 10, United States Code (U.S.C.), section 1079(i)(2) that requires TRICARE payment methods for institutional care be determined, to the extent practicable, in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare. 32 CFR 199.2 includes a definition for ''Hospital, long-term (tuberculosis, chronic care, or rehabilitation).'' This rule proposes to delete this definition and create separate definitions for ''Long Term Care Hospital'' and ''Inpatient Rehabilitation Facility'' in accordance with Centers for Medicare and Medicaid Services (CMS) classification criteria. Under TRICARE, LTCHs and IRFs (both freestanding

rehabilitation hospitals and rehabilitation hospital units) are currently paid the lower of a negotiated rate (if they are a network provider) or billed charges (if they are a non-network provider). Although Medicare's reimbursement methods for LTCHs and IRFs are different, it is prudent to propose adopting both the Medicare LTCH and IRF Prospective Payment System (PPS) methods simultaneously to align with our statutory requirement to reimburse like Medicare.This proposed rule sets forth the proposed regulation modifications necessary for TRICARE to adopt Medicare's LTCH and IRF Prospective Payment Systems and rates applicable for inpatient services provided by LTCHs and IRFs to TRICARE beneficiaries. The revisions to this rule will be reported in future status updates as part of DoD's retrospective plan under Executive Order 13563, completed in August 2011. DoD's full plan can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036*.

Statement of Need: The rule is necessary to meet the statutory provision to use Medicare reimbursement rules to the extent practicable.

Summary of Legal Basis: Congress established enabling legislation under section 707 of the National Defense Authorization Act of Fiscal Year 2002 (NDAA–02), Public Law 107–107 (Dec. 28, 2001) changing the statutory authorization in 10 U.S.C. 1079 (j)(2) that TRICARE payment methods for institutional care shall be determined to the extent practicable, in accordance with the same reimbursement rules used by Medicare.

Alternatives: This rule implements statutorily required provisions for adoption and implementation of Medicare institutional reimbursement rules which are consistent with well established congressional objectives. No other alternative is applicable.

Anticipated Cost and Benefits: It is projected that implementation of this rule in Fiscal Year (FY) 17 will result in a health care savings of $77 million for LTCHs and $53 million for IRFs.

Risks: The rule implements statutorily required provisions for adoption and implementation of Medicare institutional reimbursement systems which are consistent with well established Congressional objectives. No risk to the public is applicable.

Timetable:

Action	Date	FR Cite
NPRM	01/26/15	80 FR 3926
NPRM Comment Period End.	03/27/15	
Second NPRM	08/31/16	81 FR 59934
Second NPRM Comment Period End.	10/31/16	
Final Action	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Agency Contact: Ann N. Fazzini, Department of Defense, Office of Assistant Secretary for Health Affairs, 1200 Defense Pentagon, Washington, DC 20301, *Phone:* 303 676–3803.

RIN: 0720–AB47

DOD—DODOASHA

23. TRICARE: Refills of Maintenance Medications Through Military Treatment Facility Pharmacies or National Mail Order Pharmacy Program

Priority: Other Significant.

Legal Authority: 10 U.S.C. ch 55; 5 U.S.C. 301

CFR Citation: 32 CFR 199.

Legal Deadline: Other, Statutory, October 1, 2015, section 702(c) of the NDAA 2015. Section 702(c) of the Carl Levin and Howard P. Buck McKeon National Defense Authorization Act for Fiscal Year 2015 states that beginning October 1, 2015, the pharmacy benefits program shall require eligible covered beneficiaries generally to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program. Section 702(c) also terminates the TRICARE For Life Pilot Program on September 30, 2015.

Abstract: This final rule implements section 702(c) of the Carl Levin and Howard P. Buck'' McKeon National Defense Authorization Act for Fiscal Year 2015 which states that beginning October 1, 2015, the pharmacy benefits program shall require eligible covered beneficiaries generally to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program. Section 702(c) of the National Defense Authorization Act for Fiscal Year 2015 also terminates the TRICARE For Life Pilot Program on September 30, 2015. The TRICARE For Life Pilot Program described in section 716(f) of the National Defense Authorization Act for Fiscal Year 2013, was a pilot program which began in March 2014 requiring TRICARE For Life beneficiaries to refill non-generic prescription maintenance medications through military treatment facility pharmacies or the national mail-order pharmacy program. TRICARE for Life beneficiaries are those enrolled in the Medicare wraparound coverage option of the TRICARE program. This rule includes procedures to assist beneficiaries in transferring covered prescriptions to the mail order pharmacy program.

Statement of Need: The DoD interim rule established processes for the new program of refills of maintenance medications for all non-active duty TRICARE beneficiaries through military treatment facility pharmacies and the mail order pharmacy program.

Summary of Legal Basis: This regulation is established under the authorities of 5 U.S.C. 301; 10 U.S.C. ch 55; 32 CFR 199.21.

Alternatives: The rule fulfills a statutory requirement, therefore there are no alternatives.

Anticipated Cost and Benefits: The effect of the statutory requirement, implemented by this rule, is to shift a volume of prescriptions from retail pharmacies to the most cost-effective point-of-service venues of military treatment facility pharmacies and the mail order pharmacy program. This will produce savings to the Department of approximately $88 million per year, and savings to beneficiaries of approximately $16.5 million per year in reduced copayments. Updated and more in-depth economic data will be provided with the final rule.

Risks: Not finalizing this rule would risk a loss of savings to both the Department and beneficiaries. There is no risk to the public.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/06/15	80 FR 46796
Interim Final Rule Effective.	08/06/15	
Interim Final Rule Comment Period End.	10/05/15	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: George Jones, Department of Defense, Office of Assistant Secretary for Health Affairs, Defense Pentagon, Washington, DC 20301, *Phone:* 703 681–2890.

RIN: 0720–AB64

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Statement of Regulatory Priorities

I. Introduction

The U.S. Department of Education (Department) supports States, local communities, institutions of higher education, and others in improving education and other services nationwide in order to ensure that all Americans, including those with disabilities, receive a high-quality education and are prepared for high-quality employment. We provide leadership and financial assistance pertaining to education and related services at all levels to a wide range of stakeholders and individuals, including State educational and other agencies, local school districts, providers of early learning programs, elementary and secondary schools, institutions of higher education, career and technical schools, nonprofit organizations, postsecondary students, members of the public, families, and many others. These efforts are helping to ensure that all children and students from pre-kindergarten through grade 12 will be ready for, and succeed in, postsecondary education or employment, and that students attending postsecondary institutions are prepared for a profession or career.

We also vigorously monitor and enforce the implementation of Federal civil rights laws in educational programs and activities that receive Federal financial assistance, and support innovative programs, research and evaluation activities, technical assistance, and the dissemination of research and evaluation findings to improve the quality of education.

Overall, the laws, regulations, and programs that the Department administers will affect nearly every American during his or her life. Indeed, in the 2016–2017 school year, about 56 million students will attend an estimated 132,000 elementary and secondary schools in approximately 13,500 districts, and about 21 million students will enroll in degree-granting postsecondary schools. All of these students may benefit from some degree of financial assistance or support from the Department.

In developing and implementing regulations, guidance, technical assistance, and monitoring related to our programs, we are committed to working closely with affected persons and groups. Specifically, we work with a broad range of interested parties and the general public, including families, students, and educators; State, local, and tribal governments; other Federal agencies; and neighborhood groups, community-based early learning programs, elementary and secondary schools, colleges, rehabilitation service providers, adult education providers, professional associations, advocacy organizations, businesses, and labor organizations.

If we determine that it is necessary to develop regulations, we seek public participation at the key stages in the rulemaking process. We invite the public to submit comments on all proposed regulations through the Internet or by regular mail. We also continue to seek greater public participation in our rulemaking activities through the use of transparent and interactive rulemaking procedures and new technologies.

To facilitate the public's involvement, we participate in the Federal Docketing Management System (FDMS), an electronic single Government-wide access point (*www.regulations.gov*) that enables the public to submit comments on different types of Federal regulatory documents and read and respond to comments submitted by other members of the public during the public comment period. This system provides the public with the opportunity to submit comments electronically on any notice of proposed rulemaking or interim final regulations open for comment, as well as read and print any supporting regulatory documents.

We are continuing to streamline information collections, reduce the burden on information providers involved in our programs, and make information easily accessible to the public.

II. Regulatory Priorities

A. Every Student Succeeds Act

President Obama signed the Every Student Succeeds Act (ESSA) into law on December 10, 2015. ESSA reauthorized the Elementary and Secondary Education Act of 1965 with provisions aimed at helping to ensure success for students and schools. The law:

- Advances equity by upholding critical protections for America's disadvantaged and high-need students.
- Requires—for the first time—that all students in America be taught to high academic standards that will prepare them to succeed in college and careers.
- Ensures that vital information is provided to educators, families, students, and communities through annual statewide assessments that measure students' progress toward those high standards.
- Helps to support and grow local innovations—including evidence-based and place-based interventions developed by local leaders and educators—consistent with our Investing in Innovation and Promise Neighborhoods grant programs.
- Sustains and expands this administration's historic investments in increasing access to high-quality preschool.
- Maintains an expectation that there will be accountability and action to effect positive change in our lowest-performing schools, where groups of students are not making progress, and where graduation rates are low over extended periods of time.

The Department issued two notices of proposed rulemaking (NPRMs) that would amend existing regulations pertaining to accountability and State plans, and the innovative assessment demonstration authority. We also, following the completion of negotiated rulemaking, issued an NPRM proposing to amend regulations on academic assessments, and plan to publish an NPRM on the supplement not supplant provision in September 2016. We intend to issue final rules in all of these areas by January 2017.

B. Higher Education Act of 1965, as Amended

Congress is currently considering reauthorization of the Higher Education Act of 1965, as amended (HEA). When enacted, the HEA's reauthorization will likely require the Department to promulgate conforming regulations. In the meantime, we have identified several regulatory activities for Fiscal Year 2017 under the Title IV Federal Student Aid programs to improve protections for students and safeguard Federal dollars invested in postsecondary education.

C. Perkins Act

Congress is currently considering reauthorization of the Carl D. Perkins Career and Technical Education Act of 2006 (Perkins Act), which focuses on increasing the quality of technical education. The priorities for reauthorization include:

- Effective alignment with today's labor market, including clear expectations for high-quality programs;
- Stronger collaboration among secondary and postsecondary institutions, employers, and industry partners;
- Meaningful accountability to improve academic and employment outcomes for students; and
- Local and State innovation in CTE, particularly the development and replication of innovative CTE models.

We anticipate regulatory activity in response to the reauthorization of the Perkins Act.

IV. Principles for Regulating

Over the next year, we may need to issue other regulations because of new legislation or programmatic changes. In doing so, we will follow the Principles for Regulating, which determine when and how we will regulate. Through consistent application of those principles, we have eliminated unnecessary regulations and identified situations in which major programs could be implemented without regulations or with limited regulatory action.

In deciding when to regulate, we consider the following:

- Whether regulations are essential to promote quality and equality of opportunity in education.
- Whether a demonstrated problem cannot be resolved without regulation.
- Whether regulations are necessary to provide a legally binding interpretation to resolve ambiguity.
- Whether entities or situations subject to regulation are similar enough that a uniform approach through regulation would be meaningful and do more good than harm.
- Whether regulations are needed to protect the Federal interest, that is, to ensure that Federal funds are used for their intended purpose and to eliminate fraud, waste, and abuse.

In deciding how to regulate, we are mindful of the following principles:

- Regulate no more than necessary.
- Minimize burden to the extent possible, and promote multiple approaches to meeting statutory requirements if possible.
- Encourage coordination of federally funded activities with State and local reform activities.
- Ensure that the benefits justify the costs of regulating.
- To the extent possible, establish performance objectives rather than specify compliance behavior.
- Encourage flexibility, to the extent possible and as needed to enable institutional forces to achieve desired results.

ED—OFFICE OF ELEMENTARY AND SECONDARY EDUCATION (OESE)

Final Rule Stage

24. Title I of the Elementary and Secondary Education Act of 1965—Accountability and State Plans

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 20 U.S.C. 1001, 1111, 1221e–3, 6303, 6311, 6394, 6601, 6611(d), 6823, 7113(c), 7801, 7842, 7844, 7845, and 8302; 42 U.S.C. 11432(g)

CFR Citation: 34 CFR 200.

Legal Deadline: None.

Abstract: The Secretary will amend the regulations implementing programs under title I of the Elementary and Secondary Education Act of 1965 (ESEA) to implement changes to the ESEA by the Every Student Succeeds Act (ESSA) enacted on December 10, 2015. The Secretary also will update the current ESEA general regulations to include the requirements for the submission of State plans under ESEA programs, including optional consolidated State plans.

Statement of Need: These regulations are necessary to implement changes to the ESEA by the ESSA.

Summary of Legal Basis: These regulations are necessary to implement changes to the ESEA by the ESSA.

Alternatives: These will be discussed in the final regulations.

Anticipated Cost and Benefits: These will be discussed in the final regulations.

Risks: These will be discussed in the final regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/31/16	81 FR 34539
NPRM Comment Period End.	08/01/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: State.

URL For Public Comments: *www.regulations.gov.*

Agency Contact: Meredith Miller, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue SW., 3C106, Washington, DC 20202, *Phone:* 202 401–8368, *Email: meredith.miller@ed.gov.*

RIN: 1810–AB27

ED—OESE

25. • Elementary and Secondary Education Act of 1965, as Amended by the Every Student Succeeds Act—Supplement Not Supplant Under Title I, Part A

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 20 U.S.C. 6321(b)

CFR Citation: 34 CFR 200.

Legal Deadline: None.

Abstract: The Secretary proposes to establish regulations governing programs administered under title I, part A of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA). These proposed regulations are needed to implement recent changes to the supplement not supplant requirement of title I of the ESEA made by the ESSA.

Statement of Need: These proposed regulations are needed to implement recent changes to the supplement not supplant requirement of title I of the ESEA made by the ESSA.

Summary of Legal Basis: These proposed regulations are needed to implement recent changes to the supplement not supplant requirement of title I of the ESEA made by the ESSA.

Alternatives: These will be discussed in the final regulations.

Anticipated Cost and Benefits: These will be discussed in the final regulations.

Risks: These will be discussed in the final regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/16/16	81 FR 61148
NPRM Comment Period End.	11/07/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State.

URL For Public Comments: *www.regulations.gov.*

Agency Contact: James Butler, Department of Education, Office of Elementary and Secondary Education, Room 3E108, 400 Maryland Avenue SW., Washington, DC 20202, *Phone:* 202 260–2274, *Email: james.butler@ed.gov.*

RIN: 1810–AB33

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Statement of Regulatory and Deregulatory Priorities

The Department of Energy (Department or DOE) makes vital contributions to the Nation's welfare through its activities focused on improving national security, energy supply, energy efficiency, environmental remediation, and energy research. The Department's mission is to:

- Promote dependable, affordable and environmentally sound production and distribution of energy;
- Advance energy efficiency and conservation;

• Provide responsible stewardship of the Nation's nuclear weapons;

• Provide a responsible resolution to the environmental legacy of nuclear weapons production; and

• Strengthen U.S. scientific discovery, economic competitiveness, and improve quality of life through innovations in science and technology.

The Department's regulatory activities are essential to achieving its critical mission and to implementing major initiatives of the President's National Energy Policy. Among other things, the Regulatory Plan and the Unified Agenda contain the rulemakings the Department will be engaged in during the coming year to fulfill the Department's commitment to meeting deadlines for issuance of energy conservation standards and related test procedures. The Regulatory Plan and Unified Agenda also reflect the Department's continuing commitment to cut costs, reduce regulatory burden, and increase responsiveness to the public.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), several regulations have been identified as associated with retrospective review and analysis in the Department's retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in the Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on *www.reginfo.gov* in the Completed Actions section. These rulemakings can also be found on *www.regulations.gov*. The final agency plan can be found at *https://www.whitehouse.gov/sites/default/files/other/2011-regulatory-action-plans/departmentofenergyregulatoryreformplanaugust2011.pdf*. DOE has published a number of retrospective review update reports that are available at *http://www.energy.gov/gc/services/open-government/restrospective-regulatory-review*.

Energy Efficiency Program for Consumer Products and Commercial Equipment

The Energy Policy and Conservation Act (EPCA) requires DOE to set appliance efficiency standards at levels that achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified. The Department continues to follow its schedule for setting new appliance efficiency standards. These rulemakings are expected to save American consumers billions of dollars in energy costs.

Estimate of Combined Aggregate Costs and Benefits

In 2015, the Department published final rules that adopted new or amended energy conservation standards for 13 different products, including, commercial air-cooled air conditioners and heat pumps, ceiling fan light kits, commercial pre-rinse spray valves, and beverage vending machines. The 13 standards finalized in 2015 are estimated to reduce carbon dioxide emissions by over 429 million metric tons and save American families and businesses $84 billion in electricity bills through 2030.

Since 2009, the Energy Department has finalized new efficiency standards for more than 45 household and commercial products, including dishwashers, refrigerators and water heaters, which are estimated to save consumers $540 billion through 2030. To build on this momentum, the Department is committed to continuing to establish new efficiency standards that—when combined with the progress already made through previously finalized standards—will reduce carbon pollution by approximately 3 billion metric tons in total by 2030, equal to more than a year's carbon pollution from the entire U.S. electricity system.

As part of the President's Climate Action Plan, the Energy Department has committed to an ambitious goal of finalizing at least 14 additional energy efficiency standards by the end of 2016. The overall plan for implementing the schedule is contained in the Report to Congress pursuant to section 141 of EPACT 2005, which was released on January 31, 2006. This plan was last updated in the August 2016 report to Congress and now includes the requirements of the Energy Independence and Security Act of 2007 (EISA 2007), the American Energy Manufacturing Technical Corrections Act (AEMTCA), and the Energy Efficiency Improvement Act of 2015. The reports to Congress are posted at: *http://energy.gov/eere/buildings/reports-and-publications*. While each of these high priority rules will build on the progress made to date, and will continue to move the U.S. closer to a low carbon future, DOE believes that seven rulemakings are the most important of its significant regulatory actions and, therefore, comprise the Department's Regulatory Plan.

• Walk-In Coolers and Walk-In Freezers (1904–AD59)

• Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces (1904–AD20)

• Commercial Water Heaters (1904–AD34)

• Commercial Packaged Boilers (1904–AD01)

• General Service Fluorescent Lamps (1904–AD09)

• Dedicated Purpose Pool Pumps (1904–AD52)

• Manufactured Housing (1904–AC11)

For walk-in coolers and freezers, DOE estimates that energy savings from electricity will be 0.90 quads over 30 years and the net benefit to the Nation will be between $1.8 billion and $4.3 billion. For non-weatherized gas furnaces and mobile home gas furnaces, DOE estimates that energy savings will be 2.78 quads over 30 years and the net benefit to the Nation will be between $3.1 billion and $16.1 billion. For commercial water heaters, DOE estimates that energy savings for combined natural gas and electricity will be 1.8 quads over 30 years and the net benefit to the Nation will be between $2.26 billion and $6.75 billion. For commercial packaged boilers, DOE estimates that energy savings will be 0.349 quads over 30 years and the net benefits to the Nation will be between $0,414 billion and $1,687 billion. For general service fluorescent lamps, DOE estimates that energy savings will be 0.85 quads over 30 years and the net benefit to the nation will be between $4.4 billion and $9.1 billion. For manufactured housing, DOE estimates that energy savings will be 0.884 quads (Single-section) and 1.428 quads (Multi-section) over 30 years and the net benefit to the Nation will be between $1.26 billion (Single-section) and $2.18 billion (Multi-section) and $4.03 billion (Single-section) and $6.75 billion (Multi-section). For dedicated purpose pool pumps, DOE has not yet proposed candidate standard levels and therefore, cannot provide an estimate of combined aggregate costs and benefits for this action. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum improvement in energy efficiency that is technologically feasible and economically justified. Estimates of energy savings will be provided when DOE issues the notice of proposed rulemaking for dedicated purpose pool pumps.

DOE—ENERGY EFFICIENCY AND RENEWABLE ENERGY (EE)

Proposed Rule Stage

26. Energy Conservation Standards for General Service Lamps

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 6295(i)(6)(A) and (B)

CFR Citation: 10 CFR 429; 10 CFR 430.

Legal Deadline: Final, Statutory, January 1, 2017.

Abstract: Amendments to Energy Policy and Conservation Act (EPCA) in the Energy Independence and Security Act of 2007 direct DOE to conduct two rulemaking cycles to evaluate energy conservation standards for GSLs, the first of which must be initiated no later than January 1, 2014 (42 U.S.C. 6295(i)(6)(A)–(B)). EPCA specifically states that the scope of the rulemaking is not limited to incandescent lamp technologies. EPCA also states that DOE must consider in the first rulemaking cycle the minimum backstop requirement of 45 lumens per watt for general service lamps (GSLs) effective January 1, 2020. This rulemaking constitutes DOE's first rulemaking cycle.

Statement of Need: DOE is directed under EPCA to establish standards for GSL's, and that DOE complete the rulemaking by January 1, 2017.

Summary of Legal Basis: Amendments to EPCA in the Energy Independence and Security Act of 2007 (EISA) directed DOE to conduct two rulemaking cycles to evaluate energy conservation standards got GSL's (42 U.S.C. 6295(i)(6)(A)–(B)). Furthermore, pursuant to EPCA, any new or amended energy conservation standard that the Department of Energy (DOE) prescribes for certain products, such as general service lamps, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)) and result in a significant conservation of energy (42 U.S.C. 6295(o)(3)(B)).

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified in the statute.

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy standards for General Service Lamps outweigh the burdens. DOE estimates that energy savings will be .85 quads over 30 years and the net benefit to the Nation will be between $4.4 billion and $9.1 billion.

Risks:

Timetable:

Action	Date	FR Cite
Framework Document Availability; Notice of Public Meeting.	12/09/13	78 FR 73737
Framework Document Comment Period End.	01/23/14	
Framework Document Comment Period Extended.	01/23/14	79 FR 3742
Framework Document Comment Period Extended End.	02/07/14	
Preliminary Analysis; Notice of Public Meeting.	12/11/14	79 FR 73503
Preliminary Analysis Comment Period End.	02/09/15	
Preliminary Analysis Comment Period Extended.	01/30/15	80 FR 5052
Preliminary Analysis Comment Period Extended End.	02/23/15	
Notice of Public Meeting; Webinar.	03/15/16	81 FR 13763
NPRM	03/17/16	81 FR 14528
NPRM Comment Period End.	05/16/16	
Notice of Public Meeting; Webinar.	10/05/16	81 FR 69009
Proposed Definition and Data Availability.	10/18/16	81 FR 71794
Proposed Definition and Data Availability Comment Period End.	11/08/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=83.*

URL for Public Comments: *www.regulations.gov/#!docketDetail;D=EERE-2013-BT-STD-0051.*

Agency Contact: Lucy DeButts, Office of Buildings Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1604, *Email: lucy.debutts@ee.doe.gov.*

RIN: 1904–AD09

DOE—EE

27. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 6295(f)(4)(C); 42 U.S.C. 6295(m)(1); 42 U.S.C. 6295(gg)(3)

CFR Citation: 10 CFR 430.

Legal Deadline: NPRM, Judicial, April 24, 2015, The later of 4/24/2016 or one year after the issuance of the proposed rule. Final, Judicial, April 24, 2016.

Abstract: The Energy Policy and Conservation Act of 1975 (EPCA), as amended, prescribes energy conservation standards for various consumer products and certain commercial and industrial equipment, including residential furnaces. EPCA also requires the DOE to periodically determine every six years whether more-stringent amended standards would be technologically feasible and economically justified and would save a significant amount of energy. DOE is considering amendments to its energy conservation standards for residential non-weatherized gas furnaces and mobile home gas furnaces in partial fulfillment of a court-ordered remand of DOE's 2011 rulemaking for these products.

Statement of Need: EPCA requires minimum energy efficiency standards for certain appliances and commercial equipment, including residential furnaces

Summary of Legal Basis: Title III of the Energy Policy and Conservation Act of 1975 (EPCA), Public Law 94–163 (42 U.S.C. 6291–6300, as codified), established the Energy Conservation Program for Consumer Products Other Than Automobiles. Pursuant to EPCA, any new or amended energy conservation standard that the U.S. Department of Energy (DOE) prescribes

for certain products, such as residential furnaces, shall be designed to achieve the maximum improvement in energy efficiency that is technologically feasible and economically justified (42 U.S.C. 6295(o)(2)(A)) and result in a significant conservation of energy (42 U.S.C. 6295(o)(3)(B)).

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified in the statute.

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). For non-weatherized gas furnaces and mobile home gas furnaces, DOE estimates that energy savings will be 2.78 quads over 30 years and the net benefit to the Nation will be between $3.1 billion and $16.1 billion.

Risks:

Timetable:

Action	Date	FR Cite
Notice of Public Meeting.	10/30/14	79 FR 64517
NPRM and Notice of Public Meeting.	03/12/15	80 FR 13120
NPRM Comment Period Extended.	05/20/15	80 FR 28851
NPRM Comment Period Extended End.	07/10/15	
Notice of Data Availability (NODA).	09/14/15	80 FR 55038
NODA Comment Period End.	10/14/15	
NODA Comment Period Reopened.	10/23/15	80 FR 64370
NODA Comment Period Reopened End.	11/23/15	
Supplemental NPRM and Notice of Public Meeting.	09/23/16	81 FR 65720
Supplemental NPRM Comment Period End.	11/22/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/72.

URL for Public Comments: www.regulations.gov/#!docketDetail;D=EERE-2014-BT-STD-0031.

Agency Contact: John Cymbalsky, Office of Building Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AD20

DOE—EE

28. Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 6311; 42 U.S.C. 6313(f)

CFR Citation: 10 CFR 431.306.

Legal Deadline: Final, Judicial, Best efforts to complete the rulemaking by 12/01/2016.

Abstract: In 2014, the Department of Energy (DOE) issued a rule setting performance-based energy conservation standards for a variety of walk-in cooler and freezer (walk-in) components. See 79 FR 32050 (June 3, 2014). That rule was challenged by a group of walk-in refrigeration system manufacturers and walk-in installers, which led to a settlement agreement regarding certain refrigeration equipment classes addressed in that 2014 rule and certain aspects related to that rule's analysis. See *Lennox Int'l* v. *DOE,* Case No. 14–60535 (5th Cir. 2014). Consistent with the settlement agreement, and in accordance with the Federal Advisory Committee Act, a working group was established under the Appliance Standards and Rulemaking Advisory Committee (ASRAC) to engage in a negotiated rulemaking to develop energy conservation standards to replace those that had been vacated by the U.S. Court of Appeals for the Fifth Circuit. As a result of those negotiations, a Term Sheet was produced containing a series of recommendations to ASRAC for its approval and submission to DOE for the agency's further consideration. Using the Term Sheet's recommendations, DOE is proposing to establish energy conservation standards for the six equipment classes of walk-in coolers and walk-in freezers that were vacated by the Fifth Circuit and remanded to DOE for further action. Those standards at issue involve: (1) The two standards applicable to multiplex condensing refrigeration systems operating at medium and low temperatures; and (2) the four standards applicable to dedicated condensing refrigeration systems operating at low temperatures. Also consistent with the settlement agreement, DOE will consider any comments (including any accompanying data) regarding any potential impacts of these six standards on installers. DOE will also consider and substantively address any potential impacts of these six standards on installers in its Manufacturer Impact Analysis, consistent with its regulatory definition of ''manufacturer,'' and, as appropriate, in its analysis of impacts on small entities under the Regulatory Flexibility Act. As part of this rulemaking (and consistent with its obligations under the settlement agreement), DOE will provide an opportunity for all interested parties to submit comments concerning any proposed standards. DOE will use its best efforts to issue a final rule establishing the remanded standards by December 1, 2016.

Statement of Need: DOE is required under 42 U.S.C. 6313(f) to establish performance-based energy conservation standards for walk-in coolers and freezers. This rulemaking is being conducted to satisfy that requirement by setting standards related to certain classes of refrigeration systems used in walk-in applications.

Summary of Legal Basis: This rulemaking is being conducted under DOE's authority pursuant to 42 U.S.C. 6311, which establishes the agency's legal authority over walk-in coolers and freezers as one type of covered equipment that DOE may regulate, and 42 U.S.C. 6313(f), which requires DOE to conduct a rulemaking to establish performance-based energy conservation standards for this equipment.

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible

and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by statute.

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy standards for walk-in coolers and freezers (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings from electricity will be 0.90 quads over 30 years and the net benefit to the Nation will be between $1.8 billion to $4.3 billion.

Risks:

Timetable:

Action	Date	FR Cite
NPRM and Notice of Public Meeting.	09/13/16	81 FR 62980
NPRM Comment Period End.	11/14/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=56&action=viewlive.*

Agency Contact: John Cymbalsky, Office of Building Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AD59

DOE—EE

Final Rule Stage

29. Energy Conservation Standards for Manufactured Housing

Priority: Other Significant.

Legal Authority: 42 U.S.C. 17071

CFR Citation: 10 CFR 460.

Legal Deadline: Final, Statutory, December 19, 2011.

Abstract: Section 413 of EISA requires that DOE establish energy conservation standards for manufactured housing. See 42 U.S.C. 17071(a)(1). DOE is directed to base the energy efficiency standards on the most recent version of the International Energy Conservation Code (IECC), except where DOE finds that the IECC is not cost effective, or a more stringent standard would be more cost effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs. DOE undertook a successful negotiated rulemaking under the Appliance Standards and Rulemaking Federal Advisory Committee in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act to negotiate proposed Federal standards for the energy efficiency of manufactured homes. As part of the consensus reached, the negotiating group recommended that DOE conduct additional analysis to inform the selection of solar heat gain coefficient requirements in certain climate zones and seek information regarding window fenestration pertaining to manufactured housing. A request for information was issued on these topics.

Statement of Need: Section 413 of EISA requires that DOE establish energy conservation standards for manufactured housing.

Summary of Legal Basis: Section 413 of EISA requires that DOE establish energy conservation standards for manufactured housing. See 42 U.S.C. 17071(a)(1).

Alternatives: DOE is directed to base the energy conservation standards on the most recent version of the International Energy Conservation Code (IECC), except where DOE finds that the IECC is not cost effective, or a more stringent standard would be more cost effective, based on the impact of the IECC on the purchase price of manufactured housing and on total life-cycle construction and operating costs.

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy conservation standards for manufactured housing outweigh the burdens. For manufactured housing, DOE estimates that energy savings will be 0.884 quads (Single-section) and 1.428 quads (Multi-section) over 30 years and the net benefit to the Nation will be between $1.26 billion (Single-section) and $2.18 billion (Multi-section) and $4.03 billion (Single-section) and $6.75 billion (Multi-section).

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	02/22/10	75 FR 7556
ANPRM Comment Period End.	03/24/10	
Request for Information.	06/25/13	78 FR 37995
RFI Comment Period End.	07/25/13	
Extension of Term; Notice of Public Meeting.	10/01/14	79 FR 59154
Request for Information.	02/11/15	80 FR 7550
RFI Comment Period End.	03/13/15	
NPRM	06/17/16	81 FR 39756
NPRM Comment Period End.	08/16/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx?ruleid=97.*

URL for Public Comments: *www.regulations.gov/#!docketDetail;D=EERE-2009-BT-BC-0021.*

Agency Contact: Joseph Hagerman, Office of Building Technologies, EE–2J, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–4549, *Email: joseph.hagerman@ee.doe.gov.*

RIN: 1904–AC11

DOE—EE

30. Energy Conservation Standards for Commercial Packaged Boilers

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 6313(a)(6)(C); 42 U.S.C. 6311(11)(B)

CFR Citation: 10 CFR 431.87(B).

Legal Deadline: NPRM, Statutory, July 22, 2015, Either propose rule or determination.

Abstract: EPCA, as amended by AEMTCA, requires the Secretary to determine whether updating the statutory energy conservation standards for commercial packaged boilers is technically feasible and economically justified and would save a significant amount of energy. If justified, the Secretary will issue amended energy conservation standards for such equipment.

Statement of Need: DOE is required to conduct an evaluation of its standards for commercial packaged boilers every 6 years and to publish either a notice of determination that such standards do not need to be amended or a NOPR including proposed amended standards,

42 U.S.C. 6313(a)(6)(C)(i). This rulemaking fulfills that requirement. Accordingly, DOE is proposing amended energy conservation standards for commercial packaged boilers.

Summary of Legal Basis: This rulemaking is being conducted pursuant to DOE's authority under 42 U.S.C. 6313(a)(6)(C)(i).

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to amend standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE conducts a thorough analysis of the alternative standard levels, including the existing standard, based on the criteria specified by statute.

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy conservation standards for commercial packaged boilers (such as energy savings, consumer average lifecycle cost savings, an increase in national net present value, and emission reductions) outweigh the burdens (such as loss of industry net present value). DOE estimates that energy savings will be 0.39 quads over 30 years and the net benefits to the Nation will be between $0.414 billion and $1.687 billion.

Risks:

Timetable:

Action	Date	FR Cite
Notice of Proposed Determination (NOPD).	08/13/13	78 FR 49202
NOPD Comment Period End.	09/12/13	
Notice of Public Meeting and Framework Document Availability.	09/03/13	78 FR 54197
Framework Document Comment Period End.	10/18/13	
Notice of Public Meeting and Preliminary Analysis.	11/20/14	79 FR 69066
Preliminary Analysis Comment Period End.	01/20/15	
Withdrawal of NOPD.	08/25/15	80 FR 51487
NPRM	03/24/16	81 FR 15836
NPRM Comment Period End.	05/23/16	
NPRM Comment Period Extended.	05/04/16	81 FR 26747
NPRM Comment Period Extended End.	06/22/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/79.*

Agency Contact: James Raba, Office of Building Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–8654, *Email: jim.raba@ee.doe.gov.*

RIN: 1904–AD01

DOE—EE

31. Energy Conservation Standards for Commercial Water Heating Equipment

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 6313(a)(6)(C)(i) and (vi)

CFR Citation: 10 CFR 431.

Legal Deadline: NPRM, Statutory, December 31, 2013, Either proposed rule or determination not to amend standards.

Abstract: Once completed, this rulemaking will fulfill DOE's statutory obligation under EPCA to either propose amended energy conservation standards for commercial water heaters, hot water supply boilers, and unfired hot water storage tanks or determine that the existing standards do not need to be amended. DOE must determine whether national standards more stringent than those that are currently in place would result in a significant additional amount of energy savings and whether such amended national standards would be technologically feasible and economically justified.

Statement of Need: DOE is required under 42 U.S.C. 6313(a)(6)(C) to establish performance-based energy conservation standards for commercial water heaters. This rulemaking is being conducted to satisfy that requirement by setting standards related to certain classes of commercial water heating equipment.

Summary of Legal Basis: This rulemaking is being conducted under DOE's authority pursuant to 42 U.S.C. 6311, which establishes the agency's legal authority over water heaters as one type of covered equipment that DOE may regulate, and 42 U.S.C. 6313(a)(6)(C), which requires DOE to conduct a rulemaking to establish performance-based energy conservation Standards for this equipment.

Alternatives: Under EPCA, DOE shall either establish an amended uniform national standard for this equipment at the minimum level specified in the amended ASHRAE/IES Standard 90.1, unless the Secretary determines, by rule published in the **Federal Register**, and supported by clear and convincing evidence, that adoption of a uniform national standard more stringent than the amended ASHRAE/IES Standard 90.1 for this equipment would result in significant additional conservation of energy and is technologically feasible and economically justified (42 U.S.C. 6313(a)(6)(A)–(C)).

Anticipated Cost and Benefits: DOE finds that the benefits to the Nation of the proposed energy conservation standards for commercial water heating equipment outweighs the burdens. DOE estimates that energy savings for combined natural gas and electricity will be 1.8 quads over 30 years and the net benefit to the Nation will be between $2.26 billion and $6.75 billion.

Risks:

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	10/21/14	79 FR 62899
RFI Comment Period End.	11/20/14	
NPRM	05/31/16	81 FR 34440
NPRM Comment Period End.	08/01/16	
NPRM Comment Period Reopened.	08/05/16	81 FR 51812
Comment Period End.	08/30/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/51.*

URL for Public Comments: *www.regulations.gov/#!docketDetail;D=EERE–2014-BT-STD-0042.*

Agency Contact: Ashley Armstrong, General Engineer, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–6590, *Email: ashley.armstrong@ee.doe.gov.*

RIN: 1904–AD34

DOE—EE

32. Energy Conservation Standards for Dedicated-Purpose Pool Pumps

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 6311(1)(A)

CFR Citation: 10 CFR 431.

Legal Deadline: None.

Abstract: Under the Energy Policy and Conservation Act, DOE may set energy conservation standards for types of pumps, including dedicated-purpose pool pumps (42 U.S.C. 3211(1)(A)). On August 8, 2015, DOE announced its intention to establish a negotiated rulemaking working group to negotiate proposed federal standards for dedicated-purpose pool pumps. The working group presented a final term sheet to the Appliance Standards and Rulemaking Advisory Committee (ASRAC) on December 8, 2015.

Statement of Need: Under 42 U.S.C. 6311(a), DOE has established performance-based energy conservation standards for general-purpose pumps and created a separate category for dedicated-purpose pool pumps. DOE is now conducting this rulemaking to set energy conservation standards for dedicated-purpose pool pumps.

Summary of Legal Basis: This rulemaking is being conducted under DOE's authority pursuant to 42 U.S.C. 6311, which establishes the agency's legal authority over pumps as one type of covered equipment that DOE may regulate, and 42 U.S.C. 6311(a), which allows DOE to conduct a rulemaking to establish performance-based energy conservation standards for this equipment.

Alternatives: The statute requires DOE to conduct rulemakings to review standards and to revise standards to achieve the maximum improvement in energy efficiency that the Secretary determines is technologically feasible and economically justified. In making this determination, DOE is conducting a full analysis by evaluating a range of standard levels to determine whether potential standards for dedicated-purpose pool pumps would save energy and whether such standards would be technologically feasible and economically justified.

Anticipated Cost and Benefits: DOE has not yet proposed candidate standard levels for dedicated purpose pool pumps and therefore, cannot provide an estimate of combined aggregated costs and benefits for this action. DOE will, however, in compliance with all applicable law, issue standards that provide the maximum improvement in energy efficiency that is technologically feasible and economically justified.

Risks:

Timetable:

Action	Date	FR Cite
Request for information (RFI).	05/08/15	80 FR 26475
RFI Comment Period End.	06/22/15	
RFI Comment Period Reopened.	07/02/15	80 FR 38032
RFI Comment Period Reopened End.	08/17/15	
Notice of Intent to Start Negotiated Rulemaking Working Group.	08/25/15	80 FR 51483
Notice of Public Meetings for DPPP Working Group.	10/15/15	80 FR 61996
Notice of Public Meetings for DPPP Working Group.	02/29/16	81 FR 10152
Notice of Public Meetings for DPPP Working Group.	04/18/16	81 FR 22548
Direct Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

URL for More Information: www1.eere.energy.gov/buildings/appliance_standards/standards.aspx?productid=41&action=viewlive.

Agency Contact: John Cymbalsky, Office of Building Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AD52

BILLING CODE 6450–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Regulatory Priorities for Fiscal Year 2017

As the Federal agency with principal responsibility for protecting the health of all Americans and for providing essential human services, especially to those least able to help themselves, the Department of Health and Human Services (HHS) implements programs that strengthen the health care system; advance scientific knowledge and innovation; and improve the health, safety, and well-being of the American people.

The Department's regulatory priorities for Fiscal Year 2017 reflect this complex mission through planned rulemakings structured to implement the Department's six arcs for implementation of its strategic plan: Leaving the Department Stronger; Keeping People Healthy and Safe; Reducing the Number of Uninsured and Providing Access to Affordable Quality Care; Leading in Science and Innovation; Delivering High Quality Care and Spending Our Health Care Dollars More Wisely; and, Ensuring the Building Blocks for Success at Every Stage of Life. This overview highlights forthcoming rulemakings exemplifying these priorities.

I. Leaving the Department Stronger

The Department's work to improve its efficiency and accountability includes its innovation agenda, program integrity and key human resources initiatives. In particular, the Department plans to issue a final regulation revising administrative appeal procedures for Medicare claims appeals to increase efficiency in the Medicare claims review and appeals process. Additionally, consistent with the President's Executive Order 13563, ''Improving Regulation and Regulatory Review,'' the Department remains committed to reducing regulatory burden on States, health care providers and suppliers, and other regulated entities by updating current rules to align them with emerging health and safety standards, and by eliminating outdated procedural provisions. A full listing of HHS's retrospective review initiatives can be found at *http://www.hhs.gov/retrospectivereview*.

II. Keeping People Healthy and Safe

This HHS strategic priority encompasses the Department's work to enhance health, wellness and prevention; detect and respond to a potential disease outbreak or public health emergency; and prevent the spread of disease across borders.

Preventing and Reducing Tobacco-Related Death and Disease

In 2009, Congress enacted the Family Smoking Prevention and Tobacco Control Act, authorizing the U.S. Food & Drug Administration (FDA) to regulate the manufacture, marketing, and distribution of tobacco products, to protect the public health and to reduce tobacco use by minors. Over the past

year, FDA finalized the regulation deeming other tobacco products that meet the statutory definition of ''tobacco product'' to also be subject to the Food, Drug and Cosmetic Act (FD&C Act). This final regulation, known as the ''deeming rule,'' affords FDA the authority to regulate additional products which include hookah, electronic cigarettes, cigars, pipe tobacco, other novel tobacco products, and future tobacco products. Over the next year, FDA plans to issue further procedural and substantive augmentation of that landmark regulation, designed to both clarify the regulatory landscape for tobacco products and enhance information available to consumers on the health risks of tobacco use.

Preventing the Spread of Disease Across Borders

Over the next year, the Centers for Disease Control and Prevention (CDC) plans to finalize amendments to the foreign and interstate quarantine regulations to more efficiently and effectively respond to communicable disease threats to the public's health. The regulation adds requirements for the collection of passenger and crew information, allows for the public health screening of travelers, and revises and adds relevant definitions.

Drugs and Medical Devices

FDA plans to issue a proposed rule addressing medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by FDA for human prescription drug products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication Information development, consumer testing, and distribution. The proposed rule would require clear and concise written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively. FDA is also proposing to amend its regulations governing mammography. The amendments would update the Mammography Quality Standards Act of 1992. FDA is taking this action to address changes in mammography technology and mammography processes that have occurred since the regulations were published in 1997 and to address breast density reporting to patient and health care providers.

Improving Substance Use Treatment and Research Opportunities

The Substance Abuse and Mental Health Services Administration (SAMHSA) is working to finalize changes to 42 CFR 2, the Confidentiality of Substance Use Disorder Patient Records. The part 2 regulation protects the confidentiality of records that are maintained in connection with any federally assisted program or activity related to substance abuse education, prevention, training, treatment, rehabilitation, or research. Under the part 2 statute and current regulations, a federally assisted substance abuse program may only release patient identifying information related to substance abuse treatment services with the individual's written consent; pursuant to a court order; or under a few other limited exceptions. These protections are more stringent than most other privacy laws, including HIPAA. SAMHSA is updating the part 2 rule in order to make it more compatible with new models of integrated care, which are based on information sharing, participation of multiple healthcare providers, and the development of an electronic infrastructure for managing and exchanging patient data. Part 2 has restricted the exchange of some of this data, to the detriment of patient care and research.

III. Reducing the Number of Uninsured and Providing Access to Affordable Quality Care

The Affordable Care Act (ACA) expands access to health insurance through improvements in Medicaid, the establishment of Affordable Insurance Exchanges, and coordination between Medicaid, the Children's Health Insurance Program, and the Exchanges. In implementing the ACA over the next fiscal year, HHS will pursue regulations transforming the way our nation delivers care. This includes creating better ways to pay providers, incentivize quality of care and distribute information to build a health care system that is better, smarter and healthier with an engaged, educated, and empowered consumer at the center.

Streamlining Medicaid Eligibility Determinations

Forthcoming proposed and final rules will bring to completion regulatory provisions that support our efforts to assist states in implementing Medicaid eligibility and enrollment provisions stemming from the Affordable Care Act. These changes provide states more flexibility to coordinate Medicaid and CHIP eligibility notices, appeals, and other related administrative procedures with similar procedures used by the Exchanges.

Updating Organ Donation Authorities

The Health Resources and Services Administration (HRSA) is undertaking a regulation to improve and streamline the process for human organ donation. HRSA is proposing a final rule that clarifies that peripheral blood stem cells are included in the definition of bone marrow under section 30 of the National Organ Transplantation Act of 1984.

IV. Leading in Science and Innovation

HHS continues to expand on early successes of a number of initiatives, including the Precision Medicine Initiative, BRAIN Initiative, and the Vice President's Cancer Moonshot, specifically by updating the rules that govern research with human participants. In particular, HHS plans to finalize revisions to existing rules governing research with human subjects, often referred to as the Common Rule. This rule would apply to institutions and researchers supported by HHS as well as researchers throughout much of the Federal government who are conducting research involving human subjects. The final rule will aim to better protect human subjects while facilitating research, and also reducing burden, delay, and ambiguity for investigators.

Patient-Centered Improvements to Health Technology

HHS plans to undertake regulations designed to enhance both security and interoperability of electronic and other health records to improve access to care. These initiatives include an update to the regulations regarding confidentiality of substance abuse treatment records to align with advances in health information technology (health IT) while maintaining appropriate patient privacy protections.

V. Delivering High Quality Care and Spending Our Health Care Dollars More Wisely

HHS continues work to build a health care delivery system that results in better care, smarter spending, and healthier people by finding better ways to pay providers, deliver care, and distribute information all while keeping the individual patient at the center. In the coming fiscal year, the department will complete a number of regulations to accomplish this strategic objective:

Medicare Payment Rules

Nine Medicare payment rules will be updated to better reflect the current

state of medical practice and to respond to feedback from providers seeking financial predictability and flexibility to better serve patients. In particular, the annual Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2018 Rates proposed rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

Improving the 340B Program

HRSA plans to issue two regulations intended to improve transparency and operation of its 340B Drug Pricing Program. These regulations include:

- 340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation: HRSA plans to finalize this rule, which defines standards and methodology for the calculation of ceiling process for purposes of the 340B Program and imposes monetary sanctions on drug manufacturers who intentionally charge a covered entity a price above the ceiling price established for the 340B Program; and

- 340B Drug Pricing Program Omnibus Guidance: This guidance, when finalized, sets forth the responsibilities of 340B covered entities and drug manufacturers to ensure compliance with the statute establishing the 340B Program.

VI. Ensuring the Building Blocks for Success at Every Stage of Life

Over the coming year, the Department will continue its support at critical stages of people's lives, from infancy to old age, and its support of topics including early learning, Alzheimer's and dementia. ACF plans to finalize a regulation making child support program operations and enforcement procedures more efficient by recognizing advancements in technology and the move toward electronic communications and document management. An additional Administration for Children and Families rule, when finalized, amends the Adoption and Foster Care Analysis and Reporting Systems by modifying requirements for foster care agencies to collect and report data on children in out-of-home care and children under adoption or guardianship agreements with child welfare agencies.

HHS—SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)

Final Rule Stage

33. Confidentiality of Substance Use Disorder Patient Records

Priority: Other Significant.
Legal Authority: 42 U.S.C. 290dd–2
CFR Citation: 42 CFR 2.
Legal Deadline: None.
Abstract: The final rule will amend 42 CFR part 2 to update the regulations for the modern health care context with respect to health information technology and new health care models. The goal of this rule is to balance the need for information exchange in new health care models and applications with appropriate privacy protections for those undergoing treatment for substance use disorders. The revisions to the regulations would remain consistent with 42 U.S.C. 290dd–2 (confidentiality of records).

Statement of Need: The last substantive update to these regulations was in 1987. Over the last 29 years, significant changes have occurred within the U.S. health care system that were not envisioned by the current regulations, including new models of integrated care that are built on a foundation of information sharing to support coordination of patient care, the development of an electronic infrastructure for managing and exchanging patient information, and a new focus on performance measurement within the health care system. SAMHSA wants to ensure that patients with substance use disorders have the ability to participate in, and benefit from new integrated health care models without fear of putting themselves at risk of adverse consequences. These new integrated models are foundational to HHS's triple aim of improving health care quality, improving population health, and reducing unnecessary health care costs.

Summary of Legal Basis: The statutory authority for the part 2 regulation is based on 42 U.S.C. 290dd–2, which protects the confidentiality of records with respect to the identity, diagnosis, prognosis, or treatment of any patient records that are maintained in connection with the performance of any federally assisted program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation, or research.[1] Under the part 2 statute and current regulations, a federally assisted substance abuse program may only release patient identifying information related to substance abuse treatment services with the individual's written consent; pursuant to a court order; or under a few other limited exceptions.

Alternatives: Failure to finalize the rule would result in the existing regulations staying in place, with none of the changes proposed being adopted.

Anticipated Cost and Benefits: Over the 10-year period of 2016–2025, the total undiscounted cost of the part 2 changes will be about $241 million in 2016 dollars. When future costs are discounted at 3 percent or 7 percent per year, the total costs become approximately $217,586,000 or $193,098,000, respectively. The benefits would be improvements in the integration and coordination of substance use disorder treatment with the broader health system and improved use of data to inform the development improvement of the substance use disorder treatment system.

Risks: If this rule is not finalized, it will result in significant scrutiny from a variety of stakeholders, who have been pushing for an update to the rule. It would also inhibit integrated care for substance use disorders and prevent the use of some data in research related to substance use disorder treatment at a time when the issue is a key priority to the Department as a result of the opioid crisis.

Timetable:

Action	Date	FR Cite
NPRM	02/09/16	81 FR 6987
NPRM Comment Period End.	04/11/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Agency Contact: Kate Tipping, Public Health Advisor, Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, 1 Choke Cherry Road, Rockville, MD 20850, *Phone:* 240 276–1652.
RIN: 0930–AA21

HHS—CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC)

Final Rule Stage

34. Control of Communicable Diseases

Priority: Other Significant. Major under 5 U.S.C. 801.
Legal Authority: Sec. 361 of the Public Health Service Act (42 U.S.C. 264 to 265)
CFR Citation: 42 CFR 70; 42 CFR 71.

Legal Deadline: None.

Abstract: This rule clarifies data collection requirements for airline passengers and crew, codifies current practice, clarifies HHS/CDC's authority to implement non-invasive public health screenings at U.S. ports of entry and other U.S. locations; and adds appeal provisions for persons served with a Federal public health order (*e.g.,* quarantine) with due process, including clarification of reasons, processes, and reassessments.

Statement of Need: The need for this proposed rulemaking was reinforced during HHS/CDC's response to the largest outbreak of Ebola virus disease (Ebola) on record, followed by the recent outbreak of Middle East Respiratory Syndrome (MERS) in South Korea, both quarantinable communicable diseases, and repeated outbreaks and responses to measles, a non-quarantinable communicable disease of public health concern, in the United States. The provisions contained within this proposal will enhance HHS/CDC's ability to prevent the further importation and spread of communicable diseases into the United States and interstate by clarifying and providing greater transparency regarding its response capabilities and practices.

Summary of Legal Basis: The primary legal authority supporting this rulemaking is sections 361 and 362 of the Public Health Service Act (42 U.S.C. 264, 265).

Alternatives: None. The main impact of the proposals within this rule is to strengthen our regulations by codifying statutory language to describe HHS/CDC's authority to prevent the introduction, transmission, and spread of communicable diseases. The intent of these proposed updates is to best protect U.S. public health and to inform the regulated community of these updates.

Anticipated Cost and Benefits: The analysis of estimated costs and benefits of this rule has 4 components: (1) Costs and benefits for submitting passenger and crew information to CDC; (2) costs and benefits associated with improved transparency of how HHS/CDC uses its regulatory authorities to protect public health; (3) transfer payments by HHS/CDC for treatment and care; and (4) the impact of the proposed provision suspending the entry of animals, articles, or things from designated foreign countries and places into the United States.

Risks: If this regulation is not published, HHS/CDC's ability to prevent the further importation and spread of communicable diseases into the United States and interstate will be limited; current regulatory language will not be clarified; and there will be less transparency to the public regarding HHS/CDC's response capabilities and practices.

Timetable:

Action	Date	FR Cite
NPRM	08/15/16	81 FR 54230
NPRM Comment Period End.	10/14/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Ashley Marrone, Public Health Analyst, Department of Health and Human Services, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–E03, Atlanta, GA 30329, *Phone:* 404 498–1600, *Email: amarrone@cdc.gov.*

RIN: 0920–AA63

HHS—FOOD AND DRUG ADMINISTRATION (FDA)

Proposed Rule Stage

35. Mammography Quality Standards Act; Regulatory Amendments

Priority: Other Significant.

Legal Authority: 21 U.S.C. 360i; 21 U.S.C. 360nn; 21 U.S.C. 374(e); 42 U.S.C. 263b

CFR Citation: 21 CFR 900.

Legal Deadline: None.

Abstract: FDA is proposing to amend its regulations governing mammography. The amendments would update the regulations issued under the Mammography Quality Standards Act of 1992 (MQSA). FDA is taking this action to address changes in mammography technology and mammography processes that have occurred since the regulations were published in 1997 and to address breast density reporting to patient and health care providers.

Statement of Need: FDA is proposing to update the mammography regulations that were issued under the Mammography Quality Standards Act of 1992 (MQSA) and the Federal Food, Drug, and Cosmetic Act (FD&C Act). FDA is taking this action to address changes in mammography technology and mammography processes, such as breast density reporting, that have occurred since the regulations were published in 1997.

FDA is also proposing updates to modernize the regulations by incorporating current science and mammography best practices. These updates are intended to improve the delivery of mammography services.

Summary of Legal Basis: Mammography is an X-ray imaging examination device that is regulated under the authority of the FD&C Act. FDA is proposing these amendments to the mammography regulations (set forth in 21 CFR part 900) under section 354 of the Public Health Service Act (42 U.S.C. 263b), and sections 519, 537, and 704(e) of the FD&C Act (21 U.S.C. 360i, 360nn, and 374(e)).

Alternatives: The Agency will consider different options so that the health benefits to patients are maximized and the economic burdens to mammography facilities are minimized.

Anticipated Cost and Benefits: The primary public health benefits of the rule will come from the potential for earlier breast cancer detection, improved morbidity and mortality, resulting in reductions in cancer treatment costs. The primary costs of the rule will come from industry labor costs and costs associated with supplemental testing and biopsies.

Risks: If a final regulation does not publish, the potential reduction in fatalities and earlier breast cancer detection, resulting in reduction in cancer treatment costs, will not materialize to the detriment of public health

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State.

Federalism: This action may have federalism implications as defined in E.O. 13132.

Agency Contact: Nancy Pirt, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4438, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: nancy.pirt@fda.hhs.gov.*

RIN: 0910–AH04

HHS—FDA

36. Patient Medication Information

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 21 U.S.C. 321 *et seq.;* 42 U.S.C. 262; 42 U.S.C. 264

CFR Citation: 21 CFR 208; 21 CFR 310.501 and 310.515; 21 CFR 201.57(a)(18); 21 CFR 201.80(f)(2); 21 CFR 314.70(b)(2)(v)(B); 21 CFR 610.60(a)(7); 21 CFR 201.100; . . .

Legal Deadline: None.

Abstract: The proposed rule would amend FDA medication guide regulations to require a new form of patient labeling, Patient Medication Information, for submission to and review by the FDA for human prescription drug products used, dispensed, or administered on an outpatient basis. The proposed rule would include requirements for Patient Medication Information development, consumer testing, and distribution. The proposed rule would require clear and concise written prescription drug product information presented in a consistent and easily understood format to help patients use their prescription drug products safely and effectively.

Statement of Need: Patients may currently receive one or more types of written patient information regarding prescription drug products. That information is frequently duplicative, incomplete, conflicting, or difficult to read and understand and is not sufficient to meet the needs of patients. Patient Medication Information is a new type of one-page Medication Guide that FDA is proposing to require for certain prescription drug products. Patient Medication Information is intended to improve public health by providing clear, concise, accessible, and useful written prescription drug product information, delivered in a consistent and easily understood format, to help patients use prescription drug products safely and effectively and potentially reduce preventable adverse drug reactions and improve health outcomes.

Summary of Legal Basis: FDA's proposed revisions to the regulations regarding format and content requirements for prescription drug labeling are authorized by the FD&C Act (21 U.S.C. 321 *et seq.*) and by the Public Health Service Act (42 U.S.C. 262 and 264).

Risks: The current system does not consistently provide patients with useful written information to help them use their prescription drug products safely and effectively. The proposed rule would require consumer-tested and FDA-approved Patient Medication Information for certain prescription drug products used, dispensed, or administered on an outpatient basis.

Alternatives: FDA evaluated various formats for patient medication information.

Anticipated Cost and Benefits: The monetary benefit of the proposed rule stems from an increase in medication adherence due to patients having more complete information about their prescription drug products. The proposed rule would impose costs that stem from developing, testing, and approving Patient Medication Information.

Risks: The current system does not consistently provide patients with useful written information to help them use their prescription drug products safely and effectively. The proposed rule would require consumer-tested and FDA-approved Patient Medication Information for certain prescription drug products used, dispensed, or administered on an outpatient basis.

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Elisabeth Walther, Health Policy Analyst, Department of Health and Human Services, Food and Drug Administration, Building 50 Room 6312, 10903 New Hampshire Ave., Silver Spring, MD 20993, *Phone:* 301 796–3913, *Fax:* 301 847–3529, *Email: elisabeth.walther@fda.hhs.gov.*

RIN: 0910–AH33

HHS—HEALTH RESOURCES AND SERVICES ADMINISTRATION (HRSA)

Final Rule Stage

37. 340(B) Civil Monetary Penalties for Manufacturers and Ceiling Price Regulations

Priority: Other Significant.

Legal Authority: Sec. 7102 of the Affordable Care Act; Pub. L. 111–148, amending subsec(d); sec. 340(B) of the PHS Act

CFR Citation: None.

Legal Deadline: Other, Statutory, September 20, 2010, ANPRM met deadline for Civil Monetary Penalties for Manufacturers.

Abstract: This final rule is required under the Affordable Care Act. It amends section 340(B) of the Public Health Service Act to impose monetary sanctions (not to exceed $5,000 per instance) on drug manufacturers who intentionally charge a covered entity a price above the ceiling price established under the procedures of the 340(B) Program and also define standards and methodology for the calculation of ceiling prices for purposes of the 340(B) Program.

Statement of Need: The final rule provides a critical enforcement mechanism for the Department when drug manufacturers intentionally charge a covered entity a price above the ceiling price established under the procedures of the 340B Program. The rule also defines the standards and methodology for the calculation of ceiling prices for purposes of the 340B Program.

Summary of Legal Basis: Sections 340B(d)(1)(B)(vi) and 340B(d)(1)(B)(i)(I) of the Public Health Service Act.

Alternatives: None. This rule implements a statutory requirement.

Anticipated Cost and Benefits: None.

Risks: This final rule enables the Department to meet its statutory obligation under the Affordable Care Act to finalize regulations in these areas, which is expected to enhance the integrity of the 340B Program.

Timetable:

Action	Date	FR Cite
ANPRM	09/20/10	75 FR 57230
ANPRM Comment Period End.	11/19/10	
NPRM	06/17/15	80 FR 34583
NPRM Comment Period End.	08/17/15	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

Agency Contact: CAPT Krista Pedley, Department of Health and Human Services, Health Resources and Services Administration, *Phone:* 301 443–5294, *Email: krista.pedley@hrsa.hhs.gov.*

Related RIN: Merged with 0906–AA92

RIN: 0906–AA89

HHS—HRSA

38. Definition of Human Organ Under Section 301 of the National Organ Transplant Act of 1984

Priority: Other Significant.

Legal Authority: Pub. L. 109–129; Stem Cell Therapeutic and Research Act of 2005, as amended in 2010 by Pub. L. 111–264

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, December 18, 2016, Congressional deadline.

On December 18, 2015, Public Law 114–104 was enacted and required the Secretary to issue a determination no later than December 18, 2016, as to whether peripheral blood stem cells and umbilical cord blood are ''human organs'' subject to NOTA section 301.

Abstract: This final rule clarifies that peripheral blood stem cells are included in the definition of bone marrow under section 301 of the National Organ Transplantation Act of 1984, as amended and codified in 42 U.S.C. 274e.

Statement of Need:

• There are currently two methods to collect hematopoietic stem cells (HSCs) from a donor: bone marrow aspiration, and apheresis following a drug regimen. In the second category, granulocyte-colony-stimulating factors are administered over 4–5 days to stimulate the donor to produce and release HSCs from the bone marrow into the peripheral (circulating) blood, where they are collected by apheresis in one or two sessions for a total of 8 hours.

• A panel of the Ninth Circuit Court of Appeals has held that HSCs collected from peripheral blood are not human organs subject to the prohibition against transfer for valuable consideration established in section 301 of the National Organ Transplant Act of 1984 (NOTA).

Should donors begin to be compensated, that decision creates the potential for disparate compensation practices for HSCs collected by bone marrow aspiration and HSCs collected from peripheral blood. The disparity could lead to fewer donations of HSCs by bone marrow aspiration, despite clear clinical preferences for such HSCs for certain patients and conditions. It could also lead to a foreclosure of access to international donor registries, which continue to provide matched donors for patients in the United States.

Summary of Legal Basis: In 2011, a panel of the Ninth Circuit Court of Appeals held that HSCs from peripheral blood are not bone marrow under the prohibition in NOTA section 301. Under this ruling, the transfer of HSCs in bone marrow would be subject to the prohibition in NOTA section 301, while HSCs obtained by mobilizing the donor to release HSCs from the bone marrow into the blood stream so that they may be recovered within days from the donor's peripheral blood would not be subject to the prohibition. The court further observed that, although NOTA section 301 authorized the Secretary to issue a regulation identifying additional human organs subject to that provision, HHS had not yet exercised its authority to identify peripheral blood stem cells as section 301 authorizes. *Flynn* v. *Holder,* 684 F.3d 852 (9th Cir. 2012). On December 18, 2015, Public Law 114–104 was enacted, which required the Secretary to issue a determination as to whether peripheral blood stem cells and umbilical cord blood are human organs subject to NOTA section 301 no later than December 18, 2016.

Alternatives:

Anticipated Cost and Benefits: This proposed rule is not expected to have significant cost implications.

Risks: Although the registry for HSC donors administered under statute as the C.W. Bill Young Cell Transplantation Program has continued to advise registrants that they will not be compensated for registering or donating their HSCs, compensation may become more common if we do not complete this rulemaking. The implementation of payment for donors of peripheral blood stem cells could adversely affect the safety of donors who may proceed with donation even when they have concerns about the risks, as well as the safety of patients, if the lure of compensation leads donors to hide information about their communicable disease risks. In addition, it may make donors less willing to donate HSCs by bone marrow aspiration, if by doing so they would forego compensation for donating of peripheral blood stem cells. It could also foreclose access to international donors. Such access is currently provided by reciprocal agreements with foreign registries, which require that donors of HSCs be uncompensated volunteers.

In addition, disapproval of this action would mean that HHS would not meet the December 18, 2016, deadline Congress set for completion. As drafted, the proposed rule elicited a few comments about the inclusion of umbilical cord blood within the scope of the proposed rule. On December 18, 2015, Public Law 114–104 was enacted, which required the Secretary to issue a determination as to whether peripheral blood stem cells and umbilical cord blood are human organs subject to NOTA section 301 no later than December 18, 2016.

Timetable:

Action	Date	FR Cite
NPRM	10/02/13	78 FR 60810
NPRM Comment Period End.	12/02/13	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Agency Contact: Dr. James Bowman, Medical Director, Division of Transplantation, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 12C–06, Rockville, MD 20857, *Phone:* 301 443–4861.

RIN: 0906–AB02

HHS—HRSA

39. 340B Program Omnibus Guidelines

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: None.

Legal Deadline: None.

Abstract: This guidance addresses key policy issues raised by stakeholders for which HHS does not have statutory rulemaking authority.

Statement of Need: The Omnibus Guidance addresses key policy issues raised by various stakeholders committed to ensuring the integrity of the 340B Program and assisted covered entities and manufacturers in their ability to satisfy 340B Program requirements and expectations.

Summary of Legal Basis: HHS is interpreting section 340B of the Public Health Service Act and issuing final guidance in critical areas.

Alternatives: None.

Anticipated Cost and Benefits: Some covered entities and manufacturers may increase spending on 340B Program compliance efforts, including assessments of patients eligible for 340B drugs. HRSA does not expect any such costs to be significant.

Risks: Not issuing the final guidance will result in a lack of clarity in some 340B areas.

Timetable:

Action	Date	FR Cite
Notice	08/28/15	80 FR 52300
Notice Comment Period End.	10/27/15	
Final Guidance Action.	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Krista Pedley, Director, Office of Pharmacy Affairs, Department of Health and Human Services, Health Resources and Services Administration, Healthcare Systems Bureau, 5600 Fishers Lane, Rockville, MD 20857, *Phone:* 301 443–5294, *Email: krista.pedley@hrsa.hhs.gov.*

RIN: 0906–AB08

HHS—OFFICE OF ASSISTANT SECRETARY FOR HEALTH (OASH)

Final Rule Stage

40. Federal Policy for the Protection of Human Subjects; Final Rules

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 21 U.S.C. 289

CFR Citation: 45 CFR 46.

Legal Deadline: None.

Abstract: The final rules would revise current human subjects regulations in order to strengthen protections for research subjects while facilitating valuable research and reducing burden, delay, and ambiguity for investigators.

Statement of Need: Since the Federal Policy for the Protection of Human Subjects (often referred to as the Common Rule) was promulgated by 15 U.S. Federal departments and agencies in 1991, the volume and landscape of research involving human subjects have changed considerably. Research with human subjects has grown in scale and become more diverse. Examples of developments include: An expansion in the number and type of clinical trials, as well as observational studies and cohort studies; a diversification of the types of social and behavioral research being used in human subjects research; increased use of sophisticated analytic techniques for use with human biospecimens; and the growing use of electronic health data and other digital records to enable very large data sets to be analyzed and combined in novel ways. Yet these developments have not been accompanied by major change in the human subjects research oversight system, which has remained largely unchanged over the last two decades. The proposed revisions are needed to modernize, strengthen, and make more effective the Federal Policy for the Protection of Human Subjects.

Summary of Legal Basis: None.

Alternatives: None.

Anticipated Cost and Benefits: The quantified and non-quantified benefits and costs of all proposed changes to the Common Rule are the following: (1) Over the 2016–2025 period, present value benefits of $2,629 million and annualized benefits of $308 million are estimated using a 3 percent discount rate; and, present value benefits of $2,047 million and annualized benefits of $291 million are estimated using a 7 percent discount rate; (2) present value costs of $13,342 million and annualized costs of $1,564 million are estimated using a 3 percent discount rate; and, present value costs of $9,605 million and annualized costs of $1,367 million are estimated using a 7 percent discount rate.

Risks: If this regulation is not published, the rules overseeing federally funded or conducted human subjects research will not be modernized, strengthened or made more effective.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/11	76 FR 44512
ANPRM Comment Period End.	10/26/11	
NPRM	09/08/15	80 FR 53931
NPRM Comment Period End.	12/07/15	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: Jerry Menikoff, Director, Office for Human Research Protections, Office of the Assistant Secretary for Health, Department of Health and Human Services, Office of Assistant Secretary for Health, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 240 453–6900, *Email: jerry.menikoff@hhs.gov.*

RIN: 0937–AA02

HHS—CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

Proposed Rule Stage

41. Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid, and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP (CMS–2334–P2)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 1302; Pub. L. 111–148

CFR Citation: 42 CFR 430; 42 CFR 431; 42 CFR 433; 42 CFR 435; 42 CFR 457.

Legal Deadline: None.

Abstract: This proposed rule proposes to implement provisions of the Medicaid statute pertaining to Medicaid eligibility and appeals. This proposed rule continues our efforts to provide guidance to assist States in implementing Medicaid and CHIP eligibility, appeals, and enrollment changes required by the Affordable Care Act.

Statement of Need: On January 22, 2013, we published a proposed rule entitled ''Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing'' that proposed changes to provide states more flexibility to coordinate Medicaid and CHIP procedures related to eligibility notices, appeals, and other related administrative actions with similar procedures used by other health coverage programs authorized under the Affordable Care Act. We received a number of public comments on the proposed rule suggesting alternatives that we had not originally considered and did not propose. To give the public the opportunity to comment on those options, we are now proposing revisions related to those comments. In addition, we propose to make other corrections and modifications related to delegations of eligibility determinations and appeals, and appeals procedures. We have developed these proposals through our experiences working with states and Exchanges, and Exchange appeals entities operationalizing fair hearings.

Summary of Legal Basis: The Affordable Care Act extends and simplifies Medicaid eligibility. The rule proposes alternatives not included in the previously published January 22, 2013 proposed rule, based on public comments received.

Alternatives: The majority of Medicaid and CHIP eligibility provisions proposed in this rule serve to implement the Affordable Care Act. Therefore, alternatives considered for this rule were constrained due to the statutory provisions.

Anticipated Cost and Benefits: While states will likely incur short-term increases in administrative costs, we do not anticipate that this proposed rule would have significant financial effects on state Medicaid programs. The extent of these initial costs will depend on current state policy and practices, as many states have already adopted the administrative simplifications addressed in the rule. In addition, the administrative simplifications proposed in this rule may lead to savings as states streamline their fair hearing processes, consistent with the processes used by the Marketplace, and implement timeliness and performance standards.

Risks: None. Delaying publication of this rule delays states from moving forward with implementing changes to Medicaid and CHIP, and aligning operations between Medicaid, CHIP and the Exchanges.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: State.

Agency Contact: Judith Cash, Division Director, Division of Eligibility, Enrollment & Outreach, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicaid and CHIP Services, Mail Stop S2–01–16, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4473, *Email: judith.cash@cms.hhs.gov.*

Related RIN: Split from 0938–AS27

RIN: 0938–AS55

HHS—CMS

42. • FY 2018 Prospective Payment System and Consolidated Billing For Skilled Nursing Facilities (SNFS) (CMS–1679–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

CFR Citation: 42 CFR 483.

Legal Deadline: Final, Statutory, July 31, 2017.

Abstract: This annual proposed rule would update the payment rates used under the prospective payment system for SNFs for fiscal year 2018.

Statement of Need: This proposed rule would update the SNF prospective payment rates as required under the Social Security Act (the Act). The Act requires the Secretary to provide, before the August 1 that precedes the start of each FY, the unadjusted federal per diem rates, the case-mix classification system, and the factors to be applied in making the area wage adjustment.

Summary of Legal Basis: In accordance with sections 1888(e)(4)(E)(ii)(IV) and 1888(e)(5) of the Act, the federal rates in this proposed rule would reflect an update to the rates that we published in the SNF PPS final rule for FY 2017, which reflects the SNF market basket index, as adjusted by the multifactor productivity (MFP) adjustment for FY 2018. These changes would be applicable to services furnished on or after October 1, 2017.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2018.

Risks: If this regulation is not published timely, SNF services will not be paid appropriately beginning October 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Bill Ullman, Technical Advisor, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–06–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–5667, *Fax:* 410 786–0765, *Email: william.ullman@cms.hhs.gov.*

RIN: 0938–AS96

HHS—CMS

43. • FY 2018 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update (CMS–1673–P)

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

CFR Citation: 42 CFR 412.

Legal Deadline: Final, Statutory, August 1, 2017.

Abstract: This annual proposed rule would update the prospective payment rates for inpatient psychiatric facilities with discharges beginning on October 1, 2017.

Statement of Need: This rule is required to update the prospective payment rates and wage index values for Medicare inpatient hospital services provided by inpatient psychiatric facilities (IPFs), which include freestanding IPFs and psychiatric units of an acute care hospital or critical access hospital.

Summary of Legal Basis: Under section 1886 of the Act, rates are adjusted based on the market basket update. These changes would be applicable to services furnished on or after October 1, 2017.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2018.

Risks: If this regulation is not published timely, IPFs will not receive accurate Medicare payments for furnishing inpatient psychiatric services to beneficiaries in IPFs in FY 2018.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, State.

Agency Contact: Jana Lindquist, Director, Division of Chronic Care Management, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–05–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–9374, *Email: jana.lindquist@cms.hhs.gov.*

RIN: 0938–AS97

HHS—CMS

44. • FY 2018 Inpatient Rehabilitation Facility (IRF) Prospective Payment System (CMS–1671–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

CFR Citation: 42 CFR 412.

Legal Deadline: Final, Statutory, August 1, 2017.

Abstract: This annual proposed rule would update the prospective payment rates for inpatient rehabilitation facilities (IRFs) for fiscal year 2018.

Statement of Need: This proposed rule would update the prospective payment rates for IRFs for as required under the Social Security Act (the Act). As required by the Act, this rule includes the classification and weighting factors for the IRF PPS's case-mix groups and a description of the methodologies and data used in computing the prospective payment rates for FY 2018. This rule also proposes revisions and updates to the quality measures and reporting requirements under the IRF QRP.

Summary of Legal Basis: The IRF prospective payment rates are updated as required under section 1886(j)(3)(C) of the Act. It responds to section 1886(j)(5) of the Act, which requires the Secretary to, on or before the August 1 that precedes the start of each fiscal year, publish the classification and weighting factors for the IRF PPS's case-mix groups and a description of the methodology and data used in computing the prospective payment rates for that fiscal year.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2018.

Risks: If this regulation is not published timely, IRF services will not be paid appropriately beginning October 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Gwendolyn Johnson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–06–27, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6954, *Email: gwendolyn.johnson@cms.hhs.gov.*

RIN: 0938–AS99

HHS—CMS

45. • FY 2018 Hospice Rate Update (CMS–1675–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 1302

CFR Citation: 42 CFR 418.

Legal Deadline: Final, Statutory, August 1, 2017.

Abstract: This annual proposed rule would update the hospice payment rates and the wage index for fiscal year 2018.

Statement of Need: We are required to annually issue the hospice wage index based on the most current available CMS hospital wage data, including any changes to the definitions of Core-Based Statistical Areas (CBSAs) or previously used Metropolitan Statistical Areas (MSAs).

Summary of Legal Basis: This rule proposes updates to the hospice payment rates for fiscal year as required under section 1814(i) of the Social Security Act (the Act). This rule also proposes new quality measures and provides an update on the hospice quality reporting program (HQRP) consistent with the requirements of section 1814(i)(5) of the Act, as added by section 3004(c) of the Affordable Care Act.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for FY 2018.

Risks: If this regulation is not published timely, Hospice services will not be paid appropriately beginning October 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Hillary Loeffler, Director, Division of Home Health and Hospice, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–07–22, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0456, *Email: hillary.loeffler@cms.hhs.gov.*

RIN: 0938–AT00

HHS—CMS

46. • CY 2018 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1678–P) (Section 610 Review)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

CFR Citation: 42 CFR 416; 42 CFR 419.

Legal Deadline: Final, Statutory, November 1, 2017.

Abstract: This annual proposed rule would revise the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The proposed rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule proposes changes to the ambulatory surgical center payment system list of services and rates.

Statement of Need: Medicare pays over 4,000 hospitals for outpatient department services under the hospital outpatient prospective payment system (OPPS). The OPPS is based on groups of clinically similar services called ambulatory payment classification groups (APCs). CMS annually revises the APC payment amounts based on the most recent claims data, proposes new payment policies, and updates the payments for inflation using the hospital operating market basket. Medicare pays roughly 5,000 Ambulatory Surgical Centers (ASCs) under the ASC payment system. CMS annually revises the payment under the ASC payment system, proposes new policies, and updates payments for inflation. CMS will issue a final rule containing the payment rates for the 2018 OPPS and ASC payment system at least 60 days before January 1, 2018.

Summary of Legal Basis: Section 1833 of the Social Security Act establishes Medicare payment for hospital outpatient services and ASC services. The rule revises the Medicare hospital OPPS and ASC payment system to implement applicable statutory requirements. In addition, the rule describes changes to the outpatient APC system, relative payment weights, outlier adjustments, and other amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system as well as changes to the rates and services paid under the ASC payment system. These changes would be applicable to services furnished on or after January 1, 2018.

Alternatives: None. This is a statutory requirement.

Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2018.

Risks: If this regulation is not published timely, outpatient hospital and ASC services will not be paid appropriately beginning January 1, 2018.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Agency Contact: Lela Strong, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–05–13, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3213, *Email: lela.strong@cms.hhs.gov.*

RIN: 0938–AT03

HHS—CMS

47. • CY 2018 Changes to the End-Stage Renal Disease (ESRD) Prospective Payment System, Quality Incentive Program, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) (CMS–1674–P)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395d(d); 42 U.S.C. 1395f(b); 42 U.S.C. 1395g; . . .

CFR Citation: 42 CFR 413.
Legal Deadline: Final, Statutory, November 1, 2017.
Abstract: This annual proposed rule would update the bundled payment system for ESRD facilities by January 1, 2018. The rule would also update the quality incentives in the ESRD program and implement changes to the DMEPOS competitive bidding program.
Statement of Need: On January 1, 2011, CMS implemented the ESRD prospective payment system (PPS), a case-mix adjusted, bundled prospective payment system for renal dialysis services furnished by ESRD facilities. Annually, we update and make revisions to the ESRD PPS and requirements for the ESRD Quality Incentive Program (QIP). The ESRD QIP is the most recent step in fostering improved patient outcomes by establishing incentives for dialysis facilities to meet or exceed performance standards established by CMS. Additionally, we annually adjust the methodology for adjusting DMEPOS fee schedule amounts.
Summary of Legal Basis: Section 1881(b)(14) of the Social Security Act (the Act), as added by section 153(b) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Public Law 110–275), and section 1881(b)(14)(F) of the Act, as added by section 153(b) of MIPPA and amended by section 3401(h) of the Affordable Care Act Public Law 111–148), established that beginning CY 2012, and each subsequent year, the Secretary will annually increase payment amounts by an ESRD market basket increase factor, reduced by the productivity adjustment described in section 1886(b)(3)(B)(xi)(II) of the Act. Additionally, the QIP program is authorized under section 1881(h) of the Social Security Act (the Act).
Alternatives: None. This is a statutory requirement.
Anticipated Cost and Benefits: Total expenditures will be adjusted for CY 2018.
Risks: If this regulation is not published timely, ESRD facilities will not receive accurate Medicare payment amounts for furnishing outpatient maintenance dialysis treatments beginning January 1, 2018.
Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: Undetermined.
Government Levels Affected: Undetermined.
Agency Contact: Michelle Cruse, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–05–27, 7500 Security Boulevard, Baltimore, MD 21244.
Phone: 410 786–7540.
Email: michelle.cruse@cms.hhs.gov.
RIN: 0938–AT04

HHS—CMS

Final Rule Stage

48. Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid, and Other Provisions Related to Eligibility and Enrollment for Medicaid and CHIP (CMS–2334–F2)

Priority: Economically Significant. Major under 5 U.S.C. 801.
Legal Authority: Pub. L. 111–148, secs 1411, 1413, 1557, 1943, 2102, 2201, 2004, 2303, et al.
CFR Citation: 42 CFR 430; 42 CFR 431; 42 CFR 433; 42 CFR 435; 42 CFR 457.
Legal Deadline: None.
Abstract: This final rule implements provisions of the Affordable Care Act that expand access to health coverage through improvements in Medicaid and coordination between Medicaid, Children's Health Insurance Program (CHIP), and Exchanges. This rule finalizes the remaining provisions from the Medicaid, Children's Health Insurance Programs, and Exchanges: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes for Medicaid and Exchange Eligibility Appeals and Other Provisions Related to Eligibility and Enrollment for Exchanges, Medicaid and CHIP, and Medicaid Premiums and Cost Sharing; Proposed Rule that we published in the January 22, 2013, **Federal Register**. This final rule continues our efforts to provide guidance to assist States in implementing Medicaid and CHIP eligibility, appeals, and enrollment changes required by the Affordable Care Act.
Statement of Need: This final rule will implement provisions of the Affordable Care Act and the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). This rule reflects new statutory eligibility provisions; changes to provide States more flexibility to coordinate Medicaid and CHIP eligibility notices, appeals, and other related administrative procedures with similar procedures used by other health coverage programs authorized under the Affordable Care Act; modernizes and streamlines existing rules, eliminates obsolete rules, and updates provisions to reflect Medicaid eligibility pathways; implements other CHIPRA eligibility-related provisions, including eligibility for newborns whose mothers were eligible for and receiving Medicaid or CHIP coverage at the time of birth. With publication of this final rule, we desire to make our implementing regulations available to States and the public as soon as possible to facilitate continued efficient operation of the State flexibility authorized under section 1937 of the Act.
Summary of Legal Basis: The Affordable Care Act extends and simplifies Medicaid eligibility. In the July 15, 2013, **Federal Register**, we issued the ''Medicaid and Children's Health Insurance Programs: Essential Health Benefits in Alternative Benefit Plans, Eligibility Notices, Fair Hearing and Appeal Processes, and Premiums and Cost Sharing; Exchanges: Eligibility and Enrollment'' final rule that finalized certain key Medicaid and CHIP eligibility provisions included in the January 22, 2013, proposed rule. In this final rule, we are addressing the remaining provisions of the January 22, 2013, proposed rule.
Alternatives: The majority of Medicaid and CHIP eligibility provisions proposed in this rule serve to implement the Affordable Care Act. All of the provisions in this final rule are a result of the passage of the Affordable Care Act and are largely self-implementing. Therefore, alternatives considered for this final rule were constrained due to the statutory provisions.
Anticipated Cost and Benefits: The March 23, 2012, Medicaid eligibility final rule detailed the impact of the Medicaid eligibility changes related to implementation of the Affordable Care Act. The majority of provisions included in this final rule were described in detail in that rule, but in summary, we estimate a total savings of $465 million over 5 years, including $280 million in cost savings to the Federal Government and $185 million in savings to States.
Risks: None. Delaying publication of this final rule delays States from moving forward with implementing changes to Medicaid and CHIP, and aligning operations between Medicaid, CHIP, and the Exchanges.
Timetable:

Action	Date	FR Cite
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Agency Contact: Sarah DeLone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Mail Stop S2–01–16, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0615, *Email: sarah.delone@cms.hhs.gov*.

Related RIN: Related to 0938–AR04

RIN: 0938–AS27

HHS—CMS

49. CY 2017 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts (CMS–8062–N)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 1395e–2(b)(2); Social Security Act, sec. 1813(b)(2)

CFR Citation: None.

Legal Deadline: Final, Statutory, September 15, 2016.

Abstract: This annual notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 2017 under Medicare's Hospital Insurance program (Medicare Part A). The Medicare statute specifies the formula used to determine these amounts.

Statement of Need: The Social Security Act (the Act) requires the Secretary to publish annually the amounts of the inpatient hospital deductible and hospital and extended care services coinsurance applicable for services furnished in the following CY.

Summary of Legal Basis: Section 1813 of the Act provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires us to determine and publish each year the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year (CY).

Alternatives: None. This notice implements a statutory requirement.

Anticipated Cost and Benefits: Total costs will be adjusted for CY 2017.

Risks: None. Notice informs the public of the 2017 premium.

Timetable:

Action	Date	FR Cite
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Clare McFarland, Deputy Director, Medicare and Medicaid Cost Estimates Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of the Actuary, MS: N3–26–00, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6390, *Email: clare.mcfarland@cms.hhs.gov*.

RIN: 0938–AS70

HHS—CMS

50. • CY 2018 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts (CMS–8065–N)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 1395e–2(b)(2); Social Security Act, sec. 1813 (b)(2)

CFR Citation: None.

Legal Deadline: Final, Statutory, September 15, 2017.

Abstract: This annual notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 2018 under Medicare's Hospital Insurance program (Medicare Part A). The Medicare statute specifies the formula used to determine these amounts.

Statement of Need: The Social Security Act (the Act) requires the Secretary to publish, in September each year, the amounts of the inpatient hospital deductible and hospital and extended care services coinsurance applicable for services furnished in the following CY.

Summary of Legal Basis: Section 1813 of the Act provides for an inpatient hospital deductible to be subtracted from the amount payable by Medicare for inpatient hospital services furnished to a beneficiary. It also provides for certain coinsurance amounts to be subtracted from the amounts payable by Medicare for inpatient hospital and extended care services. Section 1813(b)(2) of the Act requires us to determine and publish each year the amount of the inpatient hospital deductible and the hospital and extended care services coinsurance amounts applicable for services furnished in the following calendar year (CY).

Alternatives: None. This notice implements a statutory requirement.

Anticipated Cost and Benefits: Total costs will be adjusted for CY 2018.

Risks: None. Notice informs the public of the 2018 premium.

Timetable:

Action	Date	FR Cite
Final Action	09/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Clare McFarland, Deputy Director, Medicare and Medicaid Cost Estimates Group, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Office of the Actuary, MS: N3–26–00, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6390, *Email: clare.mcfarland@cms.hhs.gov*.

RIN: 0938–AT05

HHS—ADMINISTRATION FOR CHILDREN AND FAMILIES (ACF)

Final Rule Stage

51. Adoption and Foster Care Analysis and Reporting System (AFCARS)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 620 *et seq.;* 42 U.S.C. 670 *et seq.;* 42 U.S.C. 1302

CFR Citation: 45 CFR 1355.

Legal Deadline: None.

Abstract: This rule will amend the Adoption and Foster Care Analysis and Reporting Systems (AFCARS). It will modify requirements for title IV–E foster care agencies to collect and report data on children in out-of-home care and children under title IV–E adoption or guardianship agreements with the title IV–E agency.

Statement of Need: This rule will amend the Adoption and Foster Care Analysis and Reporting Systems (AFCARS). It will modify requirements for title IV–E foster care agencies to collect and report data on children in out-of-home care and children under title IV–E adoption or guardianship agreements with the title IV–E agency.

Summary of Legal Basis: Section 479 of the Social Security Act (the Act) mandates HHS regulate a data collection

system for national adoption and foster care data. Section 474(f) of the Act requires HHS to impose penalties for non-compliant AFCARS data. Section 1102 of the Act instructs the Secretary to promulgate regulations necessary for the effective administration of the functions for which HHS is responsible under the Act.

Alternatives:

1. ACF considered whether other existing data sets could yield similar information. ACF determined that AFCARS is the only comprehensive case-level data set on the incidence and experiences of children who are in out-of-home care under the placement and care of the title IV–E agency or who are adopted under a title IV–E adoption assistance agreement.

2. We also received state comments to the 2016 SNPRM citing they have few Indian children in foster care, if any. ACF considered alternatives to collecting ICWA-related data through AFCARS, such as providing an exemption from reporting but alternative approaches are not feasible due to:

- AFCARS data must be comprehensive per section 479(c)(3) of the Act and exempting some states from reporting the ICWA-related data elements is not consistent with this statutory mandate, and would render it difficult to use this data for development of national policies.
- Section 474(f) of the Act provides for mandatory penalties on the title IVE agency for non-compliance on AFCARS data that is based on the total amount expended by the title IV–E agency for administration of foster care activities. Therefore, we are not authorized to permit some states to be subject to a penalty and not others. In addition, allowing states an alternate submission process would complicate and/or prevent the assessment of penalties per 1355.47, including penalties for failure to submit data files free of cross-file errors, missing, invalid, or internally inconsistent data, or tardy transactions for each data element of applicable records.

Anticipated Cost and Benefits: We estimate that costs for the final rule will be approximately $36 million. Benefits are that we will have an updated AFCARS regulation for the first time since 1993 and we will have national data on Indian children as defined in ICWA.

Risks: If we do not implement this final rule, agencies will continue to report information to AFCARS that is not up to date with revisions to the statute over the years. Further, without regulations, we are unable to implement the statutory penalty provisions. In addition, we will not collect comprehensive national data on the status of American Indian/Alaska Native children to whom the Indian Child Welfare Act (ICWA) applies and historical data on children in foster care. We can expect criticisms from federally recognized Indian tribes and other stakeholders that the absence of ICWA data prevents understanding both how ICWA is implemented and how to address and reduce the disproportionate number of American Indian/Alaska Native children in foster care nationally.

Timetable:

Action	Date	FR Cite
NPRM	02/09/15	80 FR 7131
NPRM Comment Period End.	04/10/15	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Tribal.

Agency Contact: Joe Bock, Deputy Associate Commissioner, CB, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20201, *Phone:* 202 205–8618, *Email: jbock@acf.hhs.gov*.

RIN: 0970–AC47

HHS—ACF

52. Flexibility, Efficiency, and Modernization of Child Support Enforcement Programs

Priority: Other Significant.

Legal Authority: Sec. 1102 of the Social Security Act

CFR Citation: 45 CFR 301 to 305; 45 CFR 307.

Legal Deadline: None.

Abstract: This regulation will make child support program operations and enforcement procedures more flexible and more efficient by recognizing advancements in technology and the move toward electronic communications and document management. The regulation will improve and simplify program operations, remove outmoded limitations to program innovation to better serve families, and clarify and correct technical provisions in existing regulations.

Statement of Need: This regulation will make child support program operations and enforcement procedures more flexible and more efficient by recognizing advancements in technology and the move toward electronic communications and document management. The regulation will improve and simplify program operations, remove outmoded limitations to program innovation to better serve families, and clarify and correct technical provisions in existing regulations.

Summary of Legal Basis: This final rule is published under the authority granted to the Secretary of the Department of Health and Human Services by section 1102 of the Social Security Act (Act), 42 U.S.C. 1302. Section 1102 of the Act authorizes the Secretary to publish regulations, not inconsistent with the Act, which may be necessary for the efficient administration of the functions for which the Secretary is responsible under the Act.

Additionally, the Secretary has authority under section 452(a)(1) of the Act to establish such standards for State programs for locating noncustodial parents, establishing paternity, and obtaining child support as he[she] determines to be necessary to assure that such programs will be effective. Rules promulgated under section 452(a)(1) must meet two conditions. First, the Secretary's designee must find that the rule meets one of the statutory objectives of locating noncustodial parents, establishing paternity, and obtaining child support. Second, the Secretary's designee must determine that the rule is necessary to assure that such programs will be effective.

Section 454(13) requires a State plan to provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating noncustodial parents, establishing paternity, obtaining support orders, and collecting support payments and provide that information requests by parents who are residents of other States be treated with the same priority as requests by parents who are residents of the State submitting the plan.

Alternatives: None.

Anticipated Cost and Benefits: While there are some costs associated with these regulations, they are not economically significant as defined under E.O. 12866. However, the regulation is significant and has been reviewed by OMB.

An area with associated Federal costs is modifying the child support statewide automated system for onetime system enhancements to accommodate new requirements such as notices, applications, and identifying noncustodial parents receiving SSI. This

has a cost of approximate $26,484,000. There is a cost of $26,460,000 to modify statewide IVD systems for the 54 States or Territories at a cost of $100 an hour (with an assumption that 27 States will implement the optional requirements). A cost of $35,044 is designated to CMS' costs for State plan amendments and cooperative agreements. Another area associated with Federal costs is that of job services. We allow FFP for certain job services for noncustodial parents responsible for paying child support. The estimated total average annual net cost (over the first five years) of the job services proposal is $26,096,596 with $18,592,939 as the Federal cost. Thus, the total net cost of the final rule is $52,591,640, and the total Federal costs is $36,074,061. These regulations will improve the delivery of child support services, support the efforts of noncustodial parents to provide for their children, and improve the efficiency of operations.

Risks:

Timetable:

Action	Date	FR Cite
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Includes Retrospective Review under E.O. 13563.

Agency Contact: Yvette Riddick, Director, Division of Policy, OCSE, Department of Health and Human Services, Administration for Children and Families, 330 C Street SW., Washington, DC 20201, *Phone:* 202 401–4885, *Email: yvette.riddick@acf.hhs.gov.*

RIN: 0970–AC50.

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DEPARTMENT OF HOMELAND SECURITY (DHS)

Fall 2016 Statement of Regulatory Priorities

The Department of Homeland Security (DHS or Department) was created in 2003 pursuant to the Homeland Security Act of 2002, Public Law 107–296. The DHS mission statement provides the following: ''With honor and integrity, we will safeguard the American people, our homeland, and our values.'' Fulfilling this mission requires the dedication of more than 225,000 employees in jobs that range from aviation and border security to emergency response, from cybersecurity analyst to chemical facility inspector. Our duties are wide-ranging, but our goal is clear—keeping America safe.

Leading a unified national effort, DHS has five core missions: (1) Prevent terrorism and enhance security, (2) secure and manage our borders, (3) enforce *and administer our immigration laws,* (4) safeguard and secure cyberspace, and (5) ensure resilience to disasters. In addition, we must specifically focus on maturing and strengthening the homeland security enterprise itself.

In achieving these goals, we are continually strengthening our partnerships with communities, first responders, law enforcement, and Government agencies—at the State, local, tribal, Federal, and international levels. We are accelerating the deployment of science, technology, and innovation in order to make America more secure, and we are becoming leaner, smarter, and more efficient, ensuring that every security resource is used as effectively as possible. For a further discussion of our mission, see the DHS Web site at *http://www.dhs.gov/our-mission.*

The regulations we have summarized below in the Department's fall 2016 regulatory plan and agenda support the Department's responsibility areas. These regulations will improve the Department's ability to accomplish its mission. Also, the regulations we have identified in this year's regulatory plan continue to address legislative initiatives such as the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), Public Law 110–53 (Aug. 3, 2007).

DHS strives for organizational excellence and uses a centralized and unified approach in managing its regulatory resources. The Office of the General Counsel manages the Department's regulatory program, including the agenda and regulatory plan. In addition, DHS senior leadership reviews each significant regulatory project to ensure that the project fosters and supports the Department's mission.

The Department is committed to ensuring that all of its regulatory initiatives are aligned with its guiding principles to protect civil rights and civil liberties, integrate our actions, build coalitions and partnerships, develop human resources, innovate, and be accountable to the American public.

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

Finally, the Department values public involvement in the development of its regulatory plan, agenda, and regulations, and takes particular concern with the impact its regulations have on small businesses. DHS and its components continue to emphasize the use of plain language in our regulatory documents to promote a better understanding of regulations and to promote increased public participation in the Department's regulations.

Retrospective Review of Existing Regulations

Pursuant to Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), DHS identified the following regulatory actions as associated with retrospective review and analysis. Some of the regulatory actions on the below list may be completed actions, which do not appear in the regulatory plan. You can find more information about these completed rulemakings in past publications of the agenda (search the Completed Actions sections) on *www.reginfo.gov.* Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov.*

RIN	Rule
1615–AB95	Immigration Benefits Business Transformation, Increment II; Nonimmigrants Classes.
1615–AC00	Enhancing Opportunities for H–1B1, CW–1, and E–3 Nonimmigrants and EB–1 Immigrants.
1615–AC03	Expansion of Provisional Unlawful Presence Waivers of Inadmissibility.
1625–AB80	Revision to Transportation Worker Identification Credential (TWIC) Requirements for Mariners.
1625–AC15	Seafarers' Access to Maritime Facilities.
1651–AA96	Definition of Form I–94 to Include Electronic Format.

RIN	Rule
1651–AB05	Freedom of Information Act (FOIA) Procedures.

Promoting International Regulatory Cooperation

Pursuant to sections 3 and 4(b) of Executive Order 13609 ''Promoting International Regulatory Cooperation'' (May 1, 2012), DHS identified the following regulatory actions that have significant international impacts. Some of the regulatory actions on the below list may be completed actions. You can find more information about these completed rulemakings in past publications of the agenda (search the Completed Actions sections) on *www.reginfo.gov*. Some of the entries on this list, however, are active rulemakings. You can find entries for these rulemakings on *www.regulations.gov*.

RIN	Rule
1625–AB38	Updates to Maritime Security.
1651–AA70	Importer Security Filing and Additional Carrier Requirements.
1651–AA98	Amendments to Importer Security Filing and Additional Carrier Requirements.
1651–AA96	Definition of Form I–94 to Include Electronic Format.

DHS participates in some international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations. For example, the U.S. Coast Guard is the primary U.S. representative to the International Maritime Organization (IMO) and plays a major leadership role in establishing international standards in the global maritime community. IMO's work to establish international standards for maritime safety, security, and environmental protection closely aligns with the U.S. Coast Guard regulations. As an IMO member nation, the U.S. is obliged to incorporate IMO treaty provisions not already part of U.S. domestic policy into regulations for those vessels affected by the international standards. Consequently, the U.S. Coast Guard initiates rulemakings to harmonize with IMO international standards such as treaty provisions and the codes, conventions, resolutions, and circulars that supplement them.

Also, President Obama and Prime Minister Harper created the Canada-U.S. Regulatory Cooperation Council (RCC) in February 2011. The RCC is an initiative between both Federal Governments aimed at pursuing greater alignment in regulation, increasing mutual recognition of regulatory practices and establishing smarter, more effective, and less burdensome regulations in specific sectors. The Canada-U.S. RCC initiative arose out of the recognition that high level, focused, and sustained effort would be required to reach a more substantive level of regulatory cooperation. Since its creation in early 2011, the U.S. Coast Guard has participated in stakeholder consultations with their Transport Canada counterparts and the public, drafted items for inclusion in the RCC Action Plan, and detailed work plans for each included Action Plan item.

The fall 2016 regulatory plan for DHS includes regulations from several DHS components, including U.S. Citizenship and Immigration Services (USCIS), the U.S. Coast Guard (Coast Guard), U.S. Customs and Border Protection (CBP), the U.S. Immigration and Customs Enforcement (ICE), the Federal Emergency Management Agency, the National Protection and Programs Directorate (NPPD), and the Transportation Security Administration (TSA). Below is a discussion of the regulations that comprise the DHS fall 2016 regulatory plan.

United States Citizenship and Immigration Services

U.S. Citizenship and Immigration Services (USCIS) administers immigration benefits and services while protecting and securing our homeland. USCIS has a strong commitment to welcoming individuals who seek entry through the U.S. immigration system, providing clear and useful information regarding the immigration process, promoting the values of citizenship, and assisting those in need of humanitarian protection. In the coming year, USCIS will promulgate several regulations that directly support these commitments and goals.

Regulations To Facilitate Innovation and Employment Creation

International Entrepreneurs. USCIS has proposed to establish a program that would allow for consideration of parole into the United States, on case-by-case basis, of certain inventors, researchers, and entrepreneurs who will establish a U.S. start-up entity, and who have been awarded substantial U.S. investor financing or otherwise hold the promise of innovation and job creation through the development of new technologies or the pursuit of cutting edge research. Based on investment, job-creation, and other factors, the entrepreneur may be eligible for temporary parole. Upon reviewing the public comments received in response to the notice of proposed rulemaking (NPRM), USCIS will develop a final rule.

Employment Creation (EB–5) Immigrant Regulations DHS will propose to amend its regulations governing the employment-based, fifth preference (EB–5) immigrant investor category and EB–5 regional centers to modernize the EB–5 program based on current economic realities and to reflect statutory changes made to the program. DHS will propose to update the regulations to include the following areas: Priority date retention, increases to the required investment amounts, revision of the Targeted Employment Area requirements, clarification of the regional center designation and continued program participation requirements, and further definition of grounds for terminating regional centers.

Improvements to the Immigration System

Requirements for Filing Motions and Administrative Appeals. USCIS will propose to revise the procedural regulations governing appeals and motions to reopen or reconsider before its Administrative Appeals Office. The rule will also propose to require that applicants and petitioners exhaust administrative remedies before seeking judicial review of an unfavorable decision. This rule will streamline the procedures before the Administrative Appeals Office and improve the efficiency of the adjudication process.

Regulatory Changes Involving Humanitarian Benefits

''T'' and ''U'' Nonimmigrants. USCIS is working on regulatory initiatives related to T nonimmigrants (victims of trafficking) and U nonimmigrants (victims of criminal activity). Through these initiatives, USCIS hopes to provide greater consistency in eligibility, application, and procedural requirements for these vulnerable groups, their advocates, and the community. These regulations will contain provisions to adjust documentary requirements for this vulnerable population and provide greater clarity to the law enforcement community.

Special Immigrant Juvenile Petitions. This final rule makes procedural changes and resolves interpretive issues following the amendments mandated by Congress. It will enable child aliens who have been abused, neglected, or abandoned and placed under the jurisdiction of a juvenile court or placed with an individual or entity, to obtain classification as Special Immigrant Juvenile. Such classification can regularize immigration status for these aliens and allow for adjustment of status to lawful permanent resident.

United States Coast Guard

The U.S. Coast Guard (Coast Guard) is a military, multi-mission, maritime service of the United States and the only military organization within DHS. It is the principal Federal agency responsible for maritime safety, security, and stewardship and delivers daily value to the nation through multi-mission resources, authorities, and capabilities.

Effective governance in the maritime domain hinges upon an integrated approach to safety, security, and stewardship. The Coast Guard's policies and capabilities are integrated and interdependent, delivering results through a network of enduring partnerships. The Coast Guard's ability to field versatile capabilities and highly-trained personnel is one of the U.S. Government's most significant and important strengths in the maritime environment.

America is a maritime nation, and our security, resilience, and economic prosperity are intrinsically linked to the oceans. Safety, efficient waterways, and freedom of transit on the high seas are essential to our well-being. The Coast Guard is leaning forward, poised to meet the demands of the modern maritime environment. The Coast Guard creates value for the public through solid prevention and response efforts. Activities involving oversight and regulation, enforcement, maritime presence, and public and private partnership foster increased maritime safety, security, and stewardship.

The statutory responsibilities of the Coast Guard include ensuring marine safety and security, preserving maritime mobility, protecting the marine environment, enforcing U.S. laws and international treaties, and performing search and rescue. The Coast Guard supports the Department's overarching goals of mobilizing and organizing our Nation to secure the homeland from terrorist attacks, natural disasters, and other emergencies. The regulatory projects in this fall 2016 regulatory plan and in the agenda contribute to the fulfillment of those responsibilities.

Seafarers' Access to Maritime Facilities. This regulatory action is necessary to implement section 811 of the Coast Guard Authorization Act of 2010, which requires facility owners and operators to ensure shore access for seafarers and other individuals. This regulation applies to owners and operators of facilities regulated by the Coast Guard under the Maritime Transportation Safety Act of 2002. This regulation helps ensure that owners and operators provide seafarers assigned to vessels moored at the facility, pilots, and representatives of seamen's welfare and labor organizations with the ability to board and depart vessels to access the shore through the facility in a timely manner and at no cost to the seafarer.

Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation. The Coast Guard is working to improve safety in the commercial fishing industry, which remains one of the most hazardous occupations in the United States. In 2016, the Coast Guard withdrew a rulemaking effort that had been superseded by statute, and instead proposed a rule to implement relevant mandatory provisions of the Coast Guard Authorization Act of 2010 and Coast Guard and Maritime Transportation Act of 2012. The proposed rule would add new requirements for safety equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. These requirements would affect an estimated 36,115 existing commercial fishing vessels. This rule is intended to reduce the risk of future fishing vessel casualties and, if a casualty does occur, to minimize the adverse impacts to crew and enable them to have the maximum opportunity to survive and to be rescued. he Coast Guard provided a public comment period of 180 days, ending in December 2016, and will consider all comments when developing the final rule.

United States Customs and Border Protection

U.S. Customs and Border Protection (CBP) is the Federal agency principally responsible for the security of our Nation's borders, both at and between the ports of entry and at official crossings into the United States. CBP must accomplish its border security and enforcement mission without stifling the flow of legitimate trade and travel. The primary mission of CBP is its homeland security mission, that is, to prevent terrorists and terrorist weapons from entering the United States. An important aspect of this priority mission involves improving security at our borders and ports of entry, but it also means extending our zone of security beyond our physical borders.

CBP is also responsible for administering laws concerning the importation into the United States of goods, and enforcing the laws concerning the entry of persons into the United States. This includes regulating and facilitating international trade; collecting import duties; enforcing U.S. trade, immigration and other laws of the United States at our borders; inspecting imports, overseeing the activities of persons and businesses engaged in importing; enforcing the laws concerning smuggling and trafficking in contraband; apprehending individuals attempting to enter the United States illegally; protecting our agriculture and economic interests from harmful pests and diseases; servicing all people, vehicles, and cargo entering the United States; maintaining export controls; and protecting U.S. businesses from theft of their intellectual property.

In carrying out its priority mission, CBP's goal is to facilitate the processing of legitimate trade and people efficiently without compromising security. Consistent with its primary mission of homeland security, CBP intends to issue several regulations during the next fiscal year that are intended to improve security at our borders and ports of entry. CBP is also automating some procedures that increase efficiencies and reduce the costs and burdens to travelers. We have highlighted two of these regulations below.

Air Cargo Advance Screening (ACAS). The Trade Act of 2002, as amended, authorizes the Secretary of Homeland Security to promulgate regulations providing for the transmission, through an electronic data interchange system, of information to CBP pertaining to cargo to be brought into the United States or to be sent from the United

States prior to the arrival or departure of the cargo. The cargo information required is that which the Secretary determines to be reasonably necessary to ensure cargo safety and security. CBP's current Trade Act regulations pertaining to air cargo require the electronic submission of various advance data to CBP no later than either the time of departure of the aircraft for the United States (from specified locations) or four hours prior to arrival in the United States for all other locations. CBP intends to propose amendments to these regulations to implement the Air Cargo Advance Screening (ACAS) program. To improve CBP's risk assessment and targeting capabilities and to enable CBP to target, and identify, risky cargo prior to departure of the aircraft to the United States, ACAS would require the submission of certain of the advance electronic information for air cargo earlier in the process. In most cases, the information would have to be submitted as early as practicable but no later than prior to the loading of cargo onto an aircraft at the last foreign port of departure to the United States. CBP, in conjunction with TSA, has been operating ACAS as a voluntary pilot program since 2010 and intends to publish a notice of proposed rulemaking in the next fiscal year to implement ACAS as a regulatory program.

Definition of Form I–94 to Include Electronic Format. DHS issues the Form I–94 to certain aliens and uses the Form I–94 for various purposes such as documenting status in the United States, the approved length of stay, and departure. DHS generally issues the Form I–94 to aliens at the time they lawfully enter the United States. On March 27, 2013, CBP published an interim final rule amending existing regulations to add a new definition of the term ''Form I–94.'' The new definition includes the collection of arrival/departure and admission or parole information by DHS, whether in paper or electronic format. The definition also clarified various terms that are associated with the use of the Form I–94 to accommodate an electronic version of the Form I–94. The rule also added a valid, unexpired nonimmigrant DHS admission or parole stamp in a foreign passport to the list of documents designated as evidence of alien registration. These revisions enabled DHS to transition to an automated process whereby DHS creates a Form I–94 in an electronic format based on passenger, passport and visa information that DHS obtains electronically from air and sea carriers and the Department of State as well as through the inspection process. CBP intends to publish a final rule during the next fiscal year.

In addition to the regulations that CBP issues to promote DHS's mission, CBP also issues regulations related to the mission of the Department of the Treasury. Under section 403(1) of the Homeland Security Act of 2002, the former-U.S. Customs Service, including functions of the Secretary of the Treasury relating thereto, transferred to the Secretary of Homeland Security. As part of the initial organization of DHS, the Customs Service inspection and trade functions were combined with the immigration and agricultural inspection functions and the Border Patrol and transferred into CBP. The Department of the Treasury retained certain regulatory authority of the U.S. Customs Service relating to customs revenue function (see the Department of the Treasury Regulatory Plan). In addition to its plans to continue issuing regulations to enhance border security, CBP, in the coming year, expects to continue to issue regulatory documents that will facilitate legitimate trade and implement trade benefit programs. For a discussion of CBP regulations regarding the customs revenue function, see the regulatory plan of the Department of the Treasury.

Federal Emergency Management Agency

The Federal Emergency Management Agency's (FEMA's) mission is to support our citizens and first responders to ensure that as a Nation we work together to build, sustain, and improve our capability to prepare for, protect against, respond to, recover from and mitigate all hazards. FEMA's ethos is to serve the Nation by helping its people and first responders, especially when they are most in need. FEMA will promulgate several rulemakings to support its mission, one of which we highlight below.

Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard (FFRMS). The rule proposes to amend existing FEMA regulations to implement Executive Order 13690, ''Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input.'' FEMA is also proposing a supplementary policy that would further clarify how FEMA applies the FFRMS. FEMA published a notice of proposed rulemaking on August 22, 2016 and will work on finalizing that rule in the coming fiscal year.

Federal Law Enforcement Training Center

The Federal Law Enforcement Training Center (FLETC) does not have any significant regulatory actions planned for fiscal year 2017.

United States Immigration and Customs Enforcement

U.S. Immigration and Customs Enforcement (ICE) is the principal criminal investigative arm of DHS and one of the three Department components charged with the civil enforcement of the Nation's immigration laws. Its primary mission is to protect national security, public safety, and the integrity of our borders through the criminal and civil enforcement of Federal law governing border control, customs, trade, and immigration. During the coming year, ICE will focus its rulemaking efforts on increasing security in the area of student and exchange visitor programs.

Eligibility Checks of Nominated and Current Designated School Officials of Schools That Enroll F and M Nonimmigrant Students and of Exchange Visitor Program-Designated Sponsors of J Nonimmigrants

DHS will issue a rule proposing to strengthen the mechanism for approving user access to one of its data-management systems, the Student and Exchange Visitor Information System (SEVIS). DHS and the Department of State, rely on principal designated school officials, designated school officials, responsible officers, and alternate responsible officers (collectively, P/DSOs, DSOs and ROs/AROs) as key links in the process to mitigate potential threats to national security and to ensure compliance with immigration law by aliens admitted into the United States in F, J, or M nonimmigrant status. Through this rule, DHS would require that anyone nominated to serve as a P/DSO, DSO, or RO/ARO receive a favorable SEVIS Access Approval Process assessment prior to their appointment and subsequent approval for access to SEVIS. The primary benefit of this rule would be to reduce the potential for fraud.

National Protection and Programs Directorate

The National Protection and Programs Directorate's (NPPD) vision is a safe, secure, and resilient infrastructure where the American way of life can thrive. NPPD leads the national effort to

protect and enhance the resilience of the Nation's physical and cyber infrastructure.

Chemical Facility Anti-Terrorism Standards. Recognizing both the importance of the Nation's chemical facilities to the American way of life and the need to secure high-risk chemical facilities against terrorist attacks, in December 2014 Congress passed, and the President signed into law, the Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014, Pub. L. 113–254. This legislation provides the Department continuing authority to implement the Chemical Facility Anti-Terrorism Standards (CFATS) regulatory program, a program mandating that high-risk chemical facilities in the United States develop and implement security plans satisfying risk-based performance standards established by DHS.

The CFATS regulations have been in effect since 2007. On August 18, 2014, the Department published an advance notice of proposed rulemaking (ANPRM) seeking public comment on ways to make the program more effective. The Department will continue this rulemaking effort and intends to publish a notice of proposed rulemaking (NPRM). The NPRM will propose modifications to CFATS based on the public comments received in response to the ANPRM and on program implementation experience. The NPRM will also propose modifications to CFATS in order to align the existing regulation with the requirements of the 2014 legislation. Through the rule, NPPD seeks to harmonize the regulation with its statutory authority and to make the CFATS program more efficient and effective.

Transportation Security Administration

The Transportation Security Administration (TSA) protects the Nation's transportation systems to ensure freedom of movement for people and commerce. TSA is committed to continuously setting the standard for excellence in transportation security through its people, processes, and technology as we work to meet the immediate and long-term needs of the transportation sector.

For the coming fiscal year, TSA is prioritizing regulations related to requirements for surface transportation included in the 9/11 Act. These rulemakings will include the following ones:

Security Training for Surface Transportation Employees. TSA will propose regulations requiring higher-risk public transportation agencies (including rail mass transit and bus systems), railroad carriers (freight and passenger), and over-the-road bus (OTRB) owner/operators to conduct security training for frontline employees. This regulation will implement sections 1408 (public transportation), 1517 (railroads), and 1531(e) and 1534 (OTRBs) of the 9/11 Act. In compliance with the definitions of frontline employees in the pertinent provisions of the 9/11 Act, the notice of proposed rulemaking (NPRM) will include identification of which employees are required to receive security training and the content of that training. The NPRM will also propose definitions for transportation security-sensitive materials, as required by section 1501 of the 9/11 Act.

Surface Transportation Vulnerability Assessments and Security Plans. TSA will publish an advance notice of proposed rulemaking (ANPRM) regarding a future rulemaking that will propose requiring higher-risk public transportation agencies (including rail mass transit and bus systems), railroads (freight and passenger), and OTRB owner/operators to conduct vulnerability assessments and develop/implement security plans. This regulation will propose to implement sections 1405 (public transportation), 1512 (railroads), and 1531 (OTRBs) of the 9/11 Act.

Vetting of Certain Surface Transportation Employees. TSA will propose regulations requiring security threat assessments for security coordinators and other frontline employees of certain public transportation agencies (including rail mass transit and bus systems), railroads (freight and passenger), and OTRB owner/operators. The NPRM will also include proposed provisions to implement TSA's statutory requirement to recover its cost of vetting through user fees. This regulation will implement sections 1414 (public transportation), 1522 (railroads), and 1531(e)(2) (over-the-road buses) of the 9/11 Act.

United States Secret Service

The United States Secret Service does not have any significant regulatory actions planned for fiscal year 2017.

DHS Regulatory Plan for Fiscal Year 2017

A more detailed description of the priority regulations that comprise the DHS fall regulatory plan follows.

DHS—OFFICE OF THE SECRETARY (OS)

Proposed Rule Stage

53. Chemical Facility Anti-Terrorism Standards (CFATS)

Priority: Other Significant.

Legal Authority: Sec. 550 of the Department of Homeland Security Appropriations Act of 2007 Pub. L. 109–295, as amended

CFR Citation: 6 CFR 27.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) previously invited public comment on an advance notice of proposed rulemaking (ANPRM) for potential revisions to the Chemical Facility Anti-Terrorism Standards (CFATS) regulations. The ANPRM provided an opportunity for the public to provide recommendations for possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking.

Statement of Need: DHS intends to propose several potential program changes to the CFATS regulation. These changes have been identified in the nine years since program implementation. In addition, in December 2014, a new law (the Protecting and Securing Chemical Facilities From Terrorist Attacks Act of 2014) was enacted which provides DHS continuing authority to implement CFATS. DHS must make several modifications and additions to conform the CFATS regulation with the new law.

Summary of Legal Basis: The Protecting and Securing Chemical Facilities from Terrorist Attacks Act of 2014 (Pub. L. 113–254) added Title XXI to the Homeland Security Act of 2002 (HSA) to authorize in permanent law a Chemical Facility Anti-terrorism Standards (CFATS) program. *See* 6 U.S.C. 621 *et seq.* Title XXI supersedes section 550 of the Department of Homeland Security Appropriations Act of 2007, Pub. L. 109–295, under which the CFATS program was originally established in April 2007. Section 2107(a) of the HSA specifically authorizes DHS to ''promulgate regulations or amend existing CFATS regulations to implement the provisions under [Title XXI]. 6 U.S.C. 627(a). In addition, section 2107(b)(2) of the HSA requires DHS to repeal any existing CFATS regulation that [DHS] determines is duplicative of, or conflicts with, [Title XXI]. 6 U.S.C. 627(b)(2).

Alternatives:

Anticipated Cost and Benefits: The ANPRM provided an opportunity for the public to provide recommendations for

possible program changes. DHS is reviewing the public comments received in response to the ANPRM, after which DHS intends to publish a Notice of Proposed Rulemaking (NPRM).

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	08/18/14	79 FR 48693
ANPRM Comment Period End.	10/17/14	
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal, Local, State.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Jon MacLaren, Chief, Rulemaking Section, Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division (NPPD/ISCD), 245 Murray Lane, Mail Stop 0610, Arlington, VA 20528–0610, *Phone:* 703 235–5263, *Fax:* 703 603–4935, *Email: jon.m.maclaren@hq.dhs.gov.*

RIN: 1601–AA69

DHS—U.S. CITIZENSHIP AND IMMIGRATION SERVICES (USCIS)

Proposed Rule Stage

54. New Classification for Victims of Criminal Activity; Eligibility for the U Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1101 (note); 8 U.S.C. 1102; Pub. L. 113–4

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 212; 8 CFR 214; 8 CFR 299.

Legal Deadline: None.

Abstract: This rule proposes new application and eligibility requirements for U nonimmigrant status. The U classification is for non-U.S. citizen/lawful permanent resident victims of certain crimes who cooperate with an investigation or prosecution of those crimes. There is a limit of 10,000 principals per fiscal year. This rule would propose to establish new procedures to be followed to petition for the U nonimmigrant classifications. Specifically, the rule would address the essential elements that must be demonstrated to receive the nonimmigrant classification, procedures that must be followed to file a petition and evidentiary guidance to assist in the petitioning process. Eligible victims would be allowed to remain in the United States if granted U nonimmigrant status. The Trafficking Victims Protection Reauthorization Act of 2008, Public Law 110–457, and the Violence Against Women Reauthorization Act (VAWA) of 2013, Public Law 113–4, made amendments to the U nonimmigrant status provisions of the Immigration and Nationality Act. The Department of Homeland Security had issued an interim final rule in 2007.

Statement of Need: This regulation is necessary to allow alien victims of certain crimes to petition for U nonimmigrant status. U nonimmigrant status is available to eligible victims of certain qualifying criminal activity who: (1) Have suffered substantial physical or mental abuse as a result of the qualifying criminal activity; (2) the alien possesses information about the crime; (3) the alien has been, is being, or is likely to be helpful in the investigation or prosecution of the crime; and (4) the criminal activity took place in the United States, including military installations and Indian country, or the territories or possessions of the United States. This rule addresses the eligibility requirements that must be met for classification as a U nonimmigrant alien and implements statutory amendments to these requirements, streamlines the procedures to petition for U nonimmigrant status, and provides evidentiary guidance to assist in the petition process.

Summary of Legal Basis: Congress created the U nonimmigrant classification in the Battered Immigrant Women Protection Act of 2000 (BIWPA) to provide immigration relief for alien victims of certain qualifying criminal activity and who are helpful to law enforcement in the investigation or prosecution of these crimes.

Alternatives: To provide victims with immigration benefits and services and keeping in mind the purpose of the U visa as a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment from the 2007 interim final rule as well as USCIS' six years of experience with the U nonimmigrant status program, including regular meetings and outreach events with stakeholders and law enforcement.

Anticipated Cost and Benefits: DHS estimated the total annual cost of the interim rule to petitioners to be $6.2 million in the interim final rule published in 2007. This cost included the biometric services fee, the opportunity cost of time needed to submit the required forms, the opportunity cost of time required and cost of traveling to visit a USCIS Application Support Center. DHS is currently in the process of updating our cost estimates since U nonimmigrant visa petitioners are no longer required to pay the biometric services fee. The anticipated benefits of these expenditures include assistance to victims of qualifying criminal activity and their families and increases in arrests and prosecutions of criminals nationwide. Additional benefits include heightened awareness by law enforcement of victimization of aliens in their community, and streamlining the petitioning process so that victims may benefit from this immigration relief.

Risks: There is a statutory cap of 10,000 principal U nonimmigrant visas that may be granted per fiscal year at 8 U.S.C. 1184(p)(2). Eligible petitioners who are not granted principal U–1 nonimmigrant status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS). To protect U–1 petitioners and their families, USCIS will use various means to prevent the removal of U–1 petitioners and their eligible family members on the waiting list, including exercising its authority to allow deferred action, parole, and stays of removal, in cooperation with other DHS components.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/17/07	72 FR 53013
Interim Final Rule Effective.	10/17/07	
Interim Final Rule Comment Period End.	11/17/07	
NPRM	08/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG39.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov.*

RIN: 1615–AA67

DHS—USCIS

55. Requirements for Filing Motions and Administrative Appeals

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1304; 6 U.S.C. 112

CFR Citation: 8 CFR 103; 8 CFR 204; 8 CFR 205; 8 CFR 210; 8 CFR 214; 8 CFR 245a; 8 CFR 320; 8 CFR 105 (new); . . .

Legal Deadline: None.

Abstract: This proposed rule proposes to revise the requirements and procedures for the filing of motions and appeals before the Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS), and its Administrative Appeals Office (AAO). The proposed changes are intended to streamline the existing processes for filing motions and appeals and will reduce delays in the review and appellate process. This rule also proposes additional changes necessitated by the establishment of DHS and its components. The proposed changes are intended to promote simplicity, accessibility, and efficiency in the administration of USCIS appeals. The Department also solicits public comment on proposed changes to the AAO's appellate jurisdiction.

Statement of Need: This rule proposes to make numerous changes to streamline the current appeal and motion processes which: (1) Will result in cost savings to the Government, applicants, and petitioners; and (2) will provide for a more efficient use of USCIS officer and clerical staff time, as well as more uniformity with Board of Immigration Appeals appeal and motion processes.

Summary of Legal Basis: 5 U.S.C. 301; 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 and notes 1102, 1103, 1151, 1153, 1154, 1182, 1184, 1185 note (sec. 7209 of Pub. L. 108–458; title VII of Pub. L. 110–229), 1186a, 1187, 1221, 1223, 1225 to 1227, 1255a, and 1255a note, 1281, 1282, 1301 to 1305, 1324a, 1356, 1372, 1379, 1409(c), 1443 to 1444, 1448, 1452, 1455, 1641, 1731 to 1732; 31 U.S.C. 9701; 48 U.S.C. 1901, 1931 note; section 643, Public Law 104–208, 110, Stat. 3009–708; section 141 of the Compacts of Free Association with the Federated States of Micronesia and the Republic of the Marshall Islands, and with the Government of Palau; title VII of Public Law 110–229; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*); Public Law 82–414, 66 Stat. 173, 238, 254, 264; title VII of Public Law 110–229; Executive Order 12356.

Alternatives: The alternative to this rule would be to continue under the current process without change.

Anticipated Cost and Benefits: As a result of streamlining the appeal and motion process, DHS anticipates quantitative and qualitative benefits to DHS and the public. We also anticipate cost savings to DHS and applicants as a result of the proposed changes.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: None.

Additional Information: Previously 1615–AB29 (CIS 2311–04), which was withdrawn in 2007.

Agency Contact: Charles ''Locky'' Nimick, Deputy Chief, Department of Homeland Security, U.S. Citizenship and Immigration Services, Administrative Appeals Office, 20 Massachusetts Avenue NW., Washington, DC 20529–2090, *Phone:* 703 224–4501, *Email: charles.nimick@usics.dhs.gov.*

Related RIN: Duplicate of 1615–AB29

RIN: 1615–AB98

DHS—USCIS

56. Improvement of the Employment Creation Immigrant Regulations

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 8 U.S.C. 1153(b)(5)

CFR Citation: 8 CFR 204.6.

Legal Deadline: None.

Abstract: DHS proposes to amend its regulations governing the employment-based, fifth preference (EB–5) immigrant entrepreneur category and EB–5 regional centers to modernize the EB–5 program based on current economic realities and to reflect statutory changes made to the program. DHS is proposing to update the regulations to include the following areas: Priority date retention, increases to the required investment amounts, revision of the Targeted Employment Area requirements, clarification of the regional center designation and continued program participation requirements, and further definition of grounds for terminating regional centers.

Statement of Need: The proposed regulatory changes are necessary to reflect statutory changes and codify existing policies, more accurately reflect existing and future economic realities, improve operational efficiencies to provide stakeholders with a higher level of predictability and transparency in the adjudication process, and enhance program integrity by clarifying key eligibility requirements for program participation and further detailing the processes required. Given the complexities involved in adjudicating benefit requests in the EB–5 program, along with continued program integrity concerns and increasing adjudication processing times, DHS has decided to revise the existing regulations to modernize key areas of the program.

Summary of Legal Basis: The Immigration Act (INA) authorizes the Secretary of Homeland Security (Secretary) to administer and enforce the immigration and nationality laws including establishing regulations deemed necessary to carry out his authority, and section 102 of the Homeland Security Act, 6 U.S.C. 112, authorizes the Secretary to issue regulations. 8 U.S.C. 1103(a), INA section 103(a). INA section 203(b)(5), 8 U.S.C. 1153(b)(5), also provides the Secretary with authority to make visas available to immigrants seeking to engage in a new commercial enterprise in which the immigrant has invested and which will benefit the United States economy and create full-time employment for not fewer than 10 U.S. workers. Further, section 610 of Public Law 102–395 (8 U.S.C. 1153 note) created the Immigrant Investor Pilot Program and authorized the Secretary to set aside visas for individuals who invest in regional centers created for the purpose of concentrating pooled investment in defined economic zones, and was last amended by Public Law 107–273.

Alternatives:

Anticipated Cost and Benefits: As a result of these amendments and resulting modernized program, DHS believes that regional centers, entrepreneurs, and the Federal each benefit. This rule would benefit regional centers by clarifying the requirements for designation and continued participation in the EB–5 program, making the application process more transparent for regional centers and streamlined to improve DHS operational efficiencies. The rule would benefit entrepreneurs seeking to participate in the program by providing the opportunity to mitigate the harsh consequences of unexpected changes to business conditions through priority date retention in limited circumstances. This rule would also provide a more transparent process for entrepreneurs

seeking to participate in the regional center program by providing increased consistency and predictability of adjudications through the clarified regional center continued program participation requirements. These changes will also streamline the adjudication process and improve DHS operational efficiencies, resulting in improved adjudication times. Finally, the Federal Government will benefit from clarifications and enhancements to the EB–5 program to strengthen program integrity, reducing the risk of fraud and national security concerns in the program, as well as improving operational efficiencies to reduce overall program costs.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Lori S. MacKenzie, Division Chief, Operations Policy & Performance, Immigrant Investor Program, Department of Homeland Security, U.S. Citizenship and Immigration Services, 131 M Street NE., Washington, DC 20529–2200, *Phone:* 202 357–9214, *Email: lori.s.mackenzie@uscis.dhs.gov*.

Related RIN: Related to 1205–AB69

RIN: 1615–AC07

DHS—USCIS

Final Rule Stage

57. Classification for Victims of Severe Forms of Trafficking in Persons; Eligibility for T Nonimmigrant Status

Priority: Other Significant.

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 552a; 8 U.S.C. 1101 to 1104; 8 U.S.C. 1182; 8 U.S.C. 1184; 8 U.S.C. 1187; 8 U.S.C. 1201; 8 U.S.C. 1224 to 1227; 8 U.S.C. 1252 to 1252a; 22 U.S.C. 7101; 22 U.S.C. 7105; Pub. L. 113–4

CFR Citation: 8 CFR 103; 8 CFR 212; 8 CFR 214; 8 CFR 274a; 8 CFR 299.

Legal Deadline: None.

Abstract: The T nonimmigrant classification was created by the Victims of Trafficking and Violence Protection Act of 2000, Public Law 106–386. The classification was designed for eligible victims of severe forms of trafficking in persons who aid law enforcement with their investigation or prosecution of the traffickers, and who can establish that they would suffer extreme hardship involving unusual and severe harm if they were removed from the United States. The rule streamlines application procedures and responsibilities for the Department of Homeland Security (DHS) and provides guidance to the public on how to meet certain requirements to obtain T nonimmigrant status. Several reauthorizations, including the Violence Against Women Reauthorization Act of 2013, Public Law 113–4, have made amendments to the T nonimmigrant status provisions in the Immigration and Nationality Act. This rule implements those amendments.

Statement of Need: This rule addresses the essential elements that must be demonstrated for classification as a T nonimmigrant alien and implements statutory amendments to these elements, streamlines the procedures to be followed by applicants to apply for T nonimmigrant status, and provides evidentiary guidance to assist in the application process.

Summary of Legal Basis: Section 107(e) of the Victims of Trafficking and Violence Protection Act of 2000 Public Law 106–386, as amended, established the T classification to provide immigration relief for certain eligible victims of severe forms of trafficking in persons who assist law enforcement authorities in investigating and prosecuting the perpetrators of these crimes.

Alternatives: To provide victims with immigration benefits and services, keeping in mind the purpose of the T visa to also serve as a law enforcement tool, DHS is considering and using suggestions from stakeholders in developing this regulation. These suggestions came in the form of public comment to the 2002 interim final rule, as well as from over 10 years of experience with the T nonimmigrant status program, including regular meetings with stakeholders and regular outreach events.

Anticipated Cost and Benefits: Applicants for T nonimmigrant status do not pay application or biometric fees. The anticipated benefits of this rule include: Assistance to trafficked victims and their families; an increase in the number of cases brought forward for investigation and/or prosecution of traffickers in persons; heightened awareness by the law enforcement community of trafficking in persons; and streamlining the application process for victims.

Risks: There is a 5,000-person limit to the number of individuals who can be granted T–1 status per fiscal year. Eligible applicants who are not granted T–1 status due solely to the numerical limit will be placed on a waiting list maintained by U.S. Citizenship and Immigration Services (USCIS). To protect T–1 applicants and their families, USCIS will use various means to prevent the removal of T–1 applicants on the waiting list, and their family members who are eligible for derivative T status, including its existing authority to grant deferred action, parole, and stays of removal, in cooperation with other DHS components.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/02	67 FR 4784
Interim Final Rule Effective.	03/04/02	
Interim Final Rule Comment Period End.	04/01/02	
Interim Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State.

Additional Information: Transferred from RIN 1115–AG19.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov.*

RIN: 1615–AA59

DHS—USCIS

58. Special Immigrant Juvenile Petitions

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1151; 8 U.S.C. 1153; 8 U.S.C. 1154

CFR Citation: 8 CFR 204; 8 CFR 205; 8 CFR 245.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) is amending its regulations governing the Special Immigrant Juvenile (SIJ) classification and related applications for adjustment of status to permanent resident. Special Immigrant Juvenile classification is a humanitarian-based immigration protection for children who cannot be reunified with one or both parents because of abuse, neglect, abandonment,

or a similar basis found under State law. This final rule implements updates to eligibility requirements and other changes made by the Trafficking Victims Protection Reauthorization Act of 2008, Pub. L. 110–457. DHS received comments on the proposed rule in 2011 and intends to issue a final rule in the coming year.

Statement of Need: This rule would address the eligibility requirements that must be met for SIJ classification and related adjustment of status, implement statutory amendments to these requirements, and provide procedural and evidentiary guidance to assist in the petition process.

Summary of Legal Basis: Congress established the SIJ classification in the Immigration Act of 1990 (IMMACT). The 1998 Appropriations Act amended the SIJ classification by limiting eligibility to children declared dependent on a juvenile court because of abuse, abandonment, or neglect and creating consent functions. The Trafficking Victims Protection Reauthorization Act of 2008 made many changes to the SIJ classification including: (1) Creating a requirement that the petitioner's reunification with one or both parents not be viable due to abuse, abandonment, neglect, or a similar basis under State law; (2) expanding the population of children who may be eligible to include those placed by a juvenile court with an individual or entity; (3) modifying the consent functions; (4) providing age-out protection; and (5) creating a timeframe for adjudications.

Alternatives: DHS is considering and using suggestions from stakeholders to keep in mind the vulnerable nature of abused, abandoned and neglected children in developing this regulation. These suggestions came in the form of public comment from the 2011 proposed rule.

Anticipated Cost and Benefits: In the 2011 proposed rule, DHS estimated there would be no additional regulatory compliance costs for petitioning individuals or any program costs for the Government as a result of the proposed amendments. Qualitatively, DHS estimated that the proposed rule would codify the practices and procedures currently implemented via internal policy directives issued by USCIS, thereby establishing clear guidance for petitioners. DHS is currently in the process of updating our final cost and benefit estimates.

Risks: The failure to promulgate a final rule in this area presents significant risk of further inconsistency and confusion in the law. The Government's interests in fair, efficient, and consistent adjudications would be compromised.

Timetable:

Action	Date	FR Cite
NPRM	09/06/11	76 FR 54978
NPRM Comment Period End.	11/07/11	
Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Maureen A. Dunn, Chief, Family Immigration and Victim Protection Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Suite 1200, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1470, *Fax:* 202 272–1480, *Email: maureen.a.dunn@uscis.dhs.gov.*

RIN: 1615–AB81

DHS—USCIS

59. International Entrepreneur

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1182(d)(5)(A)

CFR Citation: 8 CFR 212.5.

Legal Deadline: None.

Abstract: The Department of Homeland Security (DHS) proposed to amend its regulations implementing the Secretary of Homeland Security's discretionary parole authority to increase and enhance entrepreneurship, innovation, and job creation in the United States. The rule would add new regulatory provisions guiding the use of parole on a case-by-case basis with respect to entrepreneurs of start-up entities whose entry into the United States would provide a significant public benefit through the substantial and demonstrated potential for rapid business growth and job creation. Such potential would be indicated by, among other things, the receipt of significant capital investment from U.S. investors with established records of successful investments, or obtaining significant awards or grants from certain Federal, State or local government entities.

Statement of Need: The Immigration and Nationality Act (INA) authorizes the Secretary, in the exercise of discretion, to parole arriving aliens into the United States on a case-by-case basis for urgent humanitarian reasons or significant public benefit. INA section 212(d)(5), 8 U.S.C. 1182(d)(5). This regulation explains and clarifies how DHS determines what provides, per the INA, a significant public benefit to the U.S. economy with respect to entrepreneur parolees.

This regulation focuses specifically on the significant economic public benefit provided by foreign entrepreneurs because of the particular benefit they bring to the U.S. economy. However, the full potential of foreign entrepreneurs to benefit the U.S. economy is limited by the fact that many foreign entrepreneurs do not qualify under existing nonimmigrant and immigrant classifications. Given the technical nature of entrepreneurship, and the limited guidance to date on what constitutes a significant public benefit, DHS believes that it is necessary to establish the conditions of such an economically-based significant public benefit parole by regulation. Combined with a unique application process, the goal is to ensure that the high standard set by the statute authorizing significant public benefit parole is uniformly met across adjudications.

In this rule, DHS is proposing to establish the conditions for significant public benefit parole with respect to certain entrepreneurs and start-up founders backed by U.S. investors or grants. DHS believes that this proposal, once implemented, would encourage entrepreneurs to create and develop start-up entities in the United States with high growth potential to create jobs for U.S. workers and benefit the U.S. economy. U.S. competitiveness would increase by attracting more entrepreneurs to the United States. This proposal provides a fair, transparent, and predictable framework by which DHS will exercise its discretion to adjudicate, on a case-by-case basis, such parole requests under the existing statutory authority at INA section 212(d)(5), 8 U.S.C. 1182(d)(5).

Lastly, this proposed rule provides a pathway, based on authority currently provided to the Secretary, for entrepreneurs to develop businesses in the United States, create jobs for U.S. workers, and, at the same time, establish a track record of experience and/or accomplishments. Such a track record may lead to meeting eligibility requirements for existing nonimmigrant or immigrant classifications.

Summary of Legal Basis: The Secretary's authority for this proposed regulatory amendment can be found in the Homeland Security Act of 2002, Public Law 107–296, section 102, 116 Stat. 2135, 6 U.S.C. 112, and INA

section 103, 8 U.S.C. 1103, which give the Secretary the authority to administer and enforce the immigration and nationality laws, as well as INA section 212(d)(5), 8 U.S.C. 1182(d)(5), which refers to the Secretary's discretionary authority to grant parole and provides DHS with regulatory authority to establish terms and conditions for parole once authorized.

Alternatives:

Anticipated Cost and Benefits: DHS estimates the costs of the rule are directly linked to the application fee and opportunity costs associated with requesting significant public benefit parole. DHS does not estimate there will be any negative impacts to the U.S. economy as a result of this rule. Economic benefits can be expected from this rule, because some number of new ventures and research endeavors will be conducted in the United States that otherwise would not. It is reasonable to assume that investment and research spending on new firms associated with this proposed rule will directly and indirectly benefit the U.S. economy and job creation. In addition, innovation and research and development spending are likely to generate new patents and new technologies, further enhancing innovation. Some portion of the immigrant entrepreneurs likely to be attracted to this parole program may develop high impact firms that can be expected to contribute disproportionately to job creation.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	08/31/16	81 FR 60129
NPRM Comment Period End.	10/17/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Kevin Cummings, Division Chief, Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov.*

RIN: 1615–AC04

DHS—USCIS

60. Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Nonimmigrant Workers

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 6 U.S.C. 112; 8 U.S.C. 1154 and 1155; 8 U.S.C. 1184; 8 U.S.C. 1255; 8 U.S.C. 1324a

CFR Citation: 8 CFR 204 to 205; 8 U.S.C. 214; 8 CFR 245; 8 CFR 274a.

Legal Deadline: None.

Abstract: In December 2015, the Department of Homeland Security (DHS) proposed to amend its regulations affecting certain employment-based immigrant and nonimmigrant classifications. This rule proposes to amend current regulations to provide stability and job flexibility for the beneficiaries of approved employment-based immigrant visa petitions while they wait to become lawful permanent residents. DHS is also proposing to conform its regulations with the American Competitiveness in the Twenty-First Century Act of 2000 (AC21) as amended by the Twenty-First Century Department of Justice Appropriations Authorization Act (the 21st Century DOJ Appropriations Act), as well as the American Competitiveness and Workforce Improvement Act of 1998 (ACWIA). The rule also seeks to clarify several interpretive questions raised by ACWIA and AC21 regarding H–1B petitions, and incorporate relevant AC21 policy memoranda and an Administrative Appeals Office precedent decision, and would ensure that DHS practice is consistent with them.

Statement of Need: This rule provides needed stability and flexibility to certain employment-based immigrants while they wait to become lawful permanent residents. These amendments would support U.S. employers by better enabling them to hire and retain highly skilled and other foreign workers. DHS proposes to accomplish this, in part, by implementing certain provisions of ACWIA and AC21, as amended by the 21st Century DOJ Appropriations Act. The 21st Century DOJ Appropriations Authorization Act, which will impact certain foreign nationals seeking permanent residency in the United States, as well as H–1B workers. Further, by clarifying interpretive questions related to these provisions, this rulemaking would ensure that DHS practice is consistent with statute.

Summary of Legal Basis: The authority of the Secretary of Homeland Security (Secretary) for these regulatory amendments can be found in section 102 of the Homeland Security Act of 2002, Public Law 107–296, 116 Stat. 2135, 6 U.S.C. 112, and section 103(a) of the Immigration and Nationality Act (INA), 8 U.S.C. 1103(a), which authorize the Secretary to administer and enforce the immigration and nationality laws. In pertinent part, ACWIA authorized the Secretary to impose a fee on certain H–1B petitioners which would be used to train American workers, and AC21 provides authority to increase access to foreign workers as well as to train U.S. workers. In addition, section 274A(h)(3)(B) of the INA, 8 U.S.C. 1324a(h)(3)(B), recognizes the Secretary's authority to extend employment to noncitizens in the United States, and section 205 of the INA, 8 U.S.C. 1155, recognizes the Secretary's authority to exercise discretion in determining the revocability of any petition approved by him under section 204 of the INA.

Alternatives: The alternative would be to continue under current procedures without change.

Anticipated Cost and Benefits: The proposed amendments would increase the incentive of highly-skilled and other foreign workers who have begun the immigration process to remain in and contribute to the U.S. economy as they complete the process to adjust status to or otherwise acquire lawful permanent resident status, thereby minimizing disruptions to petitioning U.S. employers. Attracting and retaining highly-skilled persons is important when considering the contributions of these individuals to the U.S. economy, including advances in entrepreneurial and research and development endeavors, which are highly correlated with overall economic growth and job creation.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/31/15	80 FR 81900
NPRM Comment Period End.	02/29/16	
Final Rule	11/00/16	
Final Rule Effective.	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Organizations.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: 1615–AB97 will be merged under this rule, 1615–AC05.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Kevin Cummings, Division Chief, Business and Foreign Workers Division, Department of Homeland Security, U.S. Citizenship and Immigration Services, Office of Policy and Strategy, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–8377, *Fax:* 202 272–1480, *Email: kevin.j.cummings@uscis.dhs.gov.*

Related RIN: Related to 1615–AB97

RIN: 1615–AC05

DHS—U.S. COAST GUARD (USCG)

Proposed Rule Stage

61. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

Priority: Other Significant.

Legal Authority: Pub. L. 111–281

CFR Citation: 46 CFR 28; 46 CFR 42.

Legal Deadline: Other, Statutory, CGAA 2010 Requirements in effect since 10/15/2010.

Abstract: The Coast Guard proposes to implement those requirements of 2010 and 2012 legislation that pertain to uninspected commercial fishing industry vessels and that took effect upon enactment of the legislation but that, to be implemented, require amendments to Coast Guard regulations affecting those vessels. The applicability of the regulations is being changed, and new requirements are being added to safety training, equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rulemaking promotes the Coast Guard's maritime safety mission.

Statement of Need: The Coast Guard proposes to align its commercial fishing industry vessel regulations with the mandatory provisions of 2010 and 2012 legislation passed by Congress that took effect upon enactment. The alignments would change the applicability of current regulations, and add new requirements for safety equipment, vessel examinations, vessel safety standards, the documentation of maintenance, and the termination of unsafe operations. This rule only proposes to implement these legislative mandates, would exercise no Coast Guard regulatory discretion, and would promote the Coast Guard's maritime safety mission.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: We estimate that, as a result of this rulemaking, owners and operators of certain commercial fishing vessels would incur additional annualized costs, discounted at 7 percent, of $34.2 million. We estimate the annualized cost, discounted at 7 percent, to government of $5.4 million, for a total annualized cost of $39.7 million. For commercial fishing vessels that operate beyond 3 nautical miles, the cost of this rulemaking would involve provisions for carriage of survival craft, recordkeeping of lifesaving and fire equipment maintenance, and dockside safety examinations once every 5 years. Also, certain newly built commercial fishing vessels would have to undergo survey and classification. We believe that the rule based on Congressional mandates will address a wide range of causes of commercial fishing vessel accidents and supports the main goal of improving safety and survivability in the commercial fishing industry. The primary benefit of the proposed rule is an increase in safety and a resulting decrease in the risk of accidents and their consequences, primarily fatalities. We estimate an annualized benefit of $7.1 to $9.4 million from this rule, discounted at 7 percent.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	06/21/16	81 FR 40437
NPRM Comment Period Extended.	08/15/16	81 FR 53986
NPRM Comment Period End.	10/19/16	
Second NPRM Comment Period End.	12/18/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Docket ID USCG–2012–0025.

Agency Contact: Jack Kemerer, Project Manager, CG–CVC–3, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1249, *Email: jack.a.kemerer@uscg.mil.*

Related RIN: Related to 1625–AA77

RIN: 1625–AB85

DHS—USCG

Final Rule Stage

62. Seafarers' Access to Maritime Facilities

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; Pub. L. 111–281, sec. 811

CFR Citation: 33 CFR 101.112(b); 33 CFR 105.200; 33 CFR 105.237; 33 CFR 105.405.

Legal Deadline: None.

Abstract: This regulatory action will implement section 811 of the Coast Guard Authorization Act of 2010 (Pub. L. 111–281), which requires the owner/operator of a facility regulated by the Coast Guard under the Maritime Transportation Security Act of 2002 (Pub. L. 107–295) (MTSA) to provide a system that enables seafarers and certain other individuals to transit between vessels moored at the facility and the facility gate in a timely manner at no cost to the seafarer or other individual. Ensuring that such access through a facility is consistent with the security requirements in MTSA is part of the Coast Guard's Ports, Waterways, and Coastal Security (PWCS) mission.

Statement of Need: The Coast Guard's final rule would require each owner or operator of a facility regulated by the Coast Guard to implement a system that provides seafarers and other individuals with access between vessels moored at the facility and the facility gate, in a timely manner and at no cost to the seafarer or other individual. Generally, transiting through a facility is the only way that a seafarer or other individual can egress to shore beyond the facility to access basic shoreside businesses and services, and meet with family members and other personnel that do not hold a Transportation Worker Identification Credential. This proposed rule would help to ensure that no facility owner or operator denies or makes it impractical for seafarers or other individuals to transit through the facility, and would require them to document their access procedures in their Facility Security Plans. This final rule would implement section 811 of the Coast Guard Authorization Act of 2010.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: We estimate that, as a result of this rulemaking, owners or operators of a facility regulated by the Coast Guard would incur additional annualized costs, discounted at 7 percent, of $2.82 million. We estimate the annualized cost, discounted at 7 percent, to government of $8,000 for a total annualized cost of $2.83 million.

Owners and operators of a facility regulated by the Coast Guard will incur costs to implement a system that provides seafarers and other individuals with access between the shore and vessels moored at the facility. We believe that the rule based on Congressional mandates will provide access through facilities for an average of 907 seafarers and other covered individuals that were otherwise denied access annually, thus ensuring the safety, health and welfare of seafarers. The rule will also reduce regulatory uncertainty by harmonizing regulations with Sec. 811 of Pub. L. 111281 and conforms to the intent of the ISPS Code.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/29/14	79 FR 77981
NPRM Comment Period Re-opened.	05/27/15	80 FR 30189
NPRM Comment Period End.	07/01/15	
Final Rule	08/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under Executive Order 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: LCDR Kevin McDonald, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King, Jr. Avenue SE., Commandant (CG–FAC–2), STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1168, *Email:* *kevin.j.mcdonald@uscg.mil.*

RIN: 1625–AC15

DHS—U.S. CUSTOMS AND BORDER PROTECTION (USCBP)

Proposed Rule Stage

63. Air Cargo Advance Screening (ACAS)

Priority: Other Significant.

Legal Authority: 19 U.S.C. 2071 note

CFR Citation: 19 CFR 122.

Legal Deadline: None.

Abstract: U.S. Customs and Border Protection (CBP) is proposing to amend the implementing regulations of the Trade Act of 2002 regarding the submission of advance electronic information for air cargo and other provisions to provide for the Air Cargo Advance Screening (ACAS) program. ACAS would require the submission of certain advance electronic information for air cargo. This will allow CBP to better target and identify dangerous cargo and ensure that any risk associated with such cargo is mitigated before the aircraft departs for the United States. CBP, in conjunction with Transportation Security Administration, has been operating ACAS as a voluntary pilot program since 2010 and would like to implement ACAS as a regulatory program.

Statement of Need: DHS has identified an elevated risk associated with cargo being transported to the United States by air. This rule will help address this risk by giving DHS the data it needs to improve targeting of the cargo prior to takeoff.

Summary of Legal Basis: The Trade Act of 2002 authorizes CBP to promulgate regulations providing for the mandatory transmission of electronic cargo information by way of a CBP-approved electronic data interchange (EDI) system before the cargo is brought into or departs the United States by any mode of commercial transportation. Under the Trade Act, the required cargo information is that which is reasonably necessary to ensure cargo safety and security pursuant to the laws enforced and administered by CBP.

Alternatives: In addition to the proposed rule, CBP analyzed two alternatives—Requiring the data elements to be transmitted to CBP further in advance than the proposed rule requires; and requiring fewer data elements. CBP concluded that the proposal rule provides the most favorable balance between security outcomes and impacts to air transportation.

Anticipated Cost and Benefits: To improve CBP's risk assessment and targeting capabilities and to enable CBP to target and identify risk cargo prior to departure of the aircraft to the United States, ACAS would require the submission of certain of the advance electronic information for air cargo earlier in the process. In most cases, the information would have to be submitted as early as practicable, but no later than prior to the loading of cargo onto an aircraft at the last foreign port of departure to the United States. CBP, in conjunction with TSA, has been operating ACAS as a voluntary pilot program since 2010. CBP believes this pilot program has proven successful by not only mitigating risks to the United States, but also minimizing costs to the private sector. As such, CBP is proposing to transition the ACAS pilot program into a permanent program. Costs of this program to carriers include one-time costs to upgrade systems to facilitate transmission of these data to CBP and recurring per transmission costs. Benefits of the program include improved security that will result from having these data further in advance.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Craig Clark, Program Manager, Vessel Manifest & Importer Security Filing, Office of Cargo and Conveyance Security, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–3052, *Email:* *craig.clark@cbp.dhs.gov.*

RIN: 1651–AB04

DHS—USCBP

Final Rule Stage

64. Definition of Form I–94 To Include Electronic Format

Priority: Other Significant.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1201; 8 U.S.C. 1301; 8 U.S.C. 1303 to 1305; 5 U.S.C. 301; Pub. L. 107–296, 116 stat 2135; 6 U.S.C. 1 *et seq.*

CFR Citation: 8 CFR 1.4; 8 CFR 264.1(b).

Legal Deadline: None.

Abstract: The Form I–94 is issued to certain aliens upon arrival in the United States or when changing status in the United States. The Form I–94 is used to document arrival and departure and provides evidence of the terms of admission or parole. Customs and Border Protection (CBP) is transitioning to an automated process whereby it will create a Form I–94 in an electronic format based on passenger, passport, and visa information currently obtained electronically from air and sea carriers and the Department of State as well as through the inspection process. Prior to this rule, the Form I–94 was solely a paper form that was completed by the alien upon arrival. After the implementation of the Advance

Passenger Information System (APIS) following 9/11, CBP began collecting information on aliens traveling by air or sea to the United States electronically from carriers in advance of arrival. For aliens arriving in the United States by air or sea, CBP obtains almost all of the information contained on the paper Form I–94 electronically and in advance via APIS. The few fields on the Form I–94 that are not collected via APIS are either already collected by the Department of State and transmitted to CBP or can be collected by the CBP officer from the individual at the time of inspection. This means that CBP no longer needs to collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. At this time, the automated process will apply only to aliens arriving at air and sea ports of entry.

Statement of Need: This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process whereby CBP will create an electronic Form I–94 based on the information in its databases.

Summary of Legal Basis: Section 103(a) of the Immigration and Nationality Act (INA) generally authorizes the Secretary of Homeland Security to establish such regulations and prescribe such forms of reports, entries, and other papers necessary to carry out his or her authority to administer and enforce the immigration and nationality laws and to guard the borders of the United States against illegal entry of aliens.

Alternatives: CBP considered two alternatives to this rule: Eliminating the paper Form I–94 in the air and sea environments entirely and providing the paper Form I–94 to all travelers who are not B–1/B–2 travelers. Eliminating the paper Form I–94 option for refugees, applicants for asylum, parolees, and those travelers who request one would not result in a significant cost savings to CBP and would harm travelers who have an immediate need for an electronic Form I–94 or who face obstacles to accessing their electronic Form I–94. A second alternative to the rule is to provide a paper Form I–94 to any travelers who are not B–1/B–2 travelers. Under this alternative, travelers would receive and complete the paper Form I–94 during their inspection when they arrive in the United States. The electronic Form I–94 would still be automatically created during the inspection, but the CBP officer would need to verify that the information appearing on the form matches the information in CBP's systems. In addition, CBP would need to write the Form I–94 number on each paper Form I–94 so that their paper form matches the electronic record. As noted in the analysis, 25.1 percent of aliens are non-B–1/B–2 travelers. Filling out and processing this many paper Forms I–94 at airports and seaports would increase processing times considerably. At the same time, it would only provide a small savings to the individual traveler.

Anticipated Cost and Benefits: With the implementation of this rule, CBP will no longer collect Form I–94 information as a matter of course directly from aliens traveling to the United States by air or sea. Instead, CBP will create an electronic Form I–94 for foreign travelers based on the information in its databases. This rule makes the necessary changes to the regulations to enable CBP to transition to an automated process. Both CBP and aliens would bear costs as a result of this rule. CBP would bear costs to link its data systems and to build a Web site so aliens can access their electronic Forms I–94. CBP estimates that the total cost for CBP to link data systems, develop a secure Web site, and fully automate the Form I–94 fully will equal about $1.3 million in calendar year 2012. CBP will incur costs of $0.09 million in subsequent years to operate and maintain these systems. Aliens arriving as diplomats and students would bear costs when logging into the Web site and printing electronic I–94s. The temporary workers and aliens in the ''Other/Unknown'' category bear costs when logging into the Web site, traveling to a location with public Internet access, and printing a paper copy of their electronic Form I–94. Using the primary estimate for a traveler's value of time, aliens would bear costs between $36.6 million and $46.4 million from 2013 to 2016. Total costs for this rule for 2013 would range from $34.2 million to $40.1 million, with a primary estimate of costs equal to $36.7 million. CBP, carriers, and foreign travelers would accrue benefits as a result of this rule. CBP would save contract and printing costs of $15.6 million per year of our analysis. Carriers would save a total of $1.3 million in printing costs per year. All aliens would save the eight-minute time burden for filling out the paper Form I–94 and certain aliens who lose the Form I–94 would save the $330 fee and 25-minute time burden for filling out the Form I–102. Using the primary estimate for a traveler's value of time, aliens would obtain benefits between $112.6 million and $141.6 million from 2013 to 2016. Total benefits for this rule for 2013 would range from $110.7 million to $155.6 million, with a primary estimate of benefits equal to $129.5 million. Overall, this rule results in substantial cost savings (benefits) for foreign travelers, carriers, and CBP. CBP anticipates a net benefit in 2013 of between $59.7 million and $98.7 million for foreign travelers, $1.3 million for carriers, and $15.5 million for CBP. Net benefits to U.S. entities (carriers and CBP) in 2013 total $16.8 million. CBP anticipates the total net benefits to both domestic and foreign entities in 2013 range from $76.5 million to $115.5 million. In our primary analysis, the total net benefits are $92.8 million in 2013. For the primary estimate, annualized net benefits range from $78.1 million to $80.0 million, depending on the discount rate used. More information on costs and benefits can be found in the interim final rule.

Risks: N/A.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/27/13	78 FR 18457
Interim Final Rule Comment Period End.	04/26/13	
Interim Final Rule Effective.	04/26/13	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Suzanne Shepherd, Director, Electronic System for Travel Authorization, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–2073, *Email:* *suzanne.m.shepherd@cbp.dhs.gov.*

RIN: 1651–AA96

DHS—TRANSPORTATION SECURITY ADMINISTRATION (TSA)

Prerule Stage

65. Surface Transportation Vulnerability Assessments and Security Plans

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs. 1405, 1512, and 1531

CFR Citation: 49 CFR 1520; 49 CFR 1570; 49 CFR 1580; 49 CFR 1582 (new); 49 CFR 1584 (new); . . .

Legal Deadline: Final, Statutory, August 3, 2008, Rule for freight railroads and passenger railroads is due no later than 12 months after date of enactment.

Final, Statutory, February 3, 2009, Rule for over-the-road buses is due no later than 18 months after the date of enactment of the 9/11 Act.

According to sec. 1512 of Pub. L. 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), (121 Stat. 266, Aug. 3, 2007), a final regulation for freight railroads and passenger railroads is due no later than 12 months after the date of enactment. According to sec. 1531 of the 9/11 Act, a final regulation for over-the-road buses is due no later than 18 months after the date of enactment.

Abstract: The Transportation Security Administration (TSA) will propose a new regulation to address the security of higher-risk freight railroads, public transportation agencies, passenger railroads, and over-the-road buses in accordance with requirements of the Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act). The regulation will take into consideration any current security assessment and planning requirements or best practices.

Statement of Need: Vulnerability assessments and security planning are important and effective tools for averting or mitigating potential attacks by those with malicious intent that may target surface transportation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption.

Summary of Legal Basis: 49 U.S.C. 114; sections 1405, 1512, and 1531 of Pub. L. 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (121 Stat. 266, Aug. 3, 2007).

Alternatives:

Anticipated Cost and Benefits: TSA is in the process of determining the costs and benefits of this rulemaking.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for vulnerability assessments and security planning of higher-risk surface transportation operations, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Small Entities Affected: Businesses.

Government Levels Affected: Local.

Federalism: Undetermined.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Chandru (Jack) Kalro, Deputy Director, Surface Division, Office of Security Policy and Industry Engagement, Department of Homeland Security, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *Fax:* 571 227–2935, *Email: surfacefrontoffice@tsa.dhs.gov.*

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Related RIN: Related to 1652–AA55, Merged with 1652–AA58, Merged with 1652–AA60

RIN: 1652–AA56

DHS—TSA

Proposed Rule Stage

66. Security Training for Surface Transportation Employees

Priority: Other Significant.

Legal Authority: 49 U.S.C. 114; Pub. L. 110–53, secs. 1402, 1408, 1501, 1517, 1531, and 1534

CFR Citation: 49 CFR 1500; 49 CFR 1520; 49 CFR 1570; 49 CFR 1580; 49 CFR 1582 (new); 49 CFR 1584 (new).

Legal Deadline: Final, Statutory, November 1, 2007, Interim Rule for public transportation agencies is due 90 days after date of enactment.

Final, Statutory, August 3, 2008, Rule for public transportation agencies is due one year after date of enactment.

Final, Statutory, February 3, 2008, Rule for railroads and over-the-road buses is due six months after date of enactment.

According to sec. 1408 of Pub. L. 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), (121 Stat. 266, Aug. 3, 2007), interim final regulations for public transportation agencies are due 90 days after the date of enactment (Nov. 1, 2007), and final regulations are due 1 year after the date of enactment. According to sec. 1517 of the 9/11 Act, final regulations for railroads and over-the-road buses are due no later than 6 months after the date of enactment.

Abstract: This rule would require security awareness training for front-line employees for potential terrorism-related security threats and conditions pursuant to the 9/11 Act. This rule would apply to higher-risk public transportation, freight rail, and over-the-road bus owner/operators and take into consideration the many actions higher-risk owner/operators have already taken since 9/11 to enhance the baseline of security through training of their employees. The rulemaking will also propose extending security coordinator and reporting security incident requirements applicable to rail operators under current 49 CFR part 1580 to the non-rail transportation components of covered public transportation agencies and over-the-road buses.

Statement of Need: Employee training is an important and effective tool for averting or mitigating potential attacks by those with malicious intent who may target surface transportation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption.

Summary of Legal Basis: 49 U.S.C. 114; sections 1402, 1408, 1501, 1517, 1531, and 1534 of Pub. L. 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (Aug. 3, 2007; 121 Stat. 266).

Alternatives: TSA is required by statute to publish regulations requiring security training programs for these owner/operators. As part of its notice of proposed rulemaking, TSA will seek public comment on the alternative ways in which the final rule could carry out the requirements of the statute.

Anticipated Cost and Benefits: Owner/operators would incur costs training their employees, developing a

training plan, maintaining training records, and participating in inspections for compliance. Some owner/operators would also incur additional costs associated with assigning security coordinators and reporting significant security incidents to TSA. TSA would incur costs associated with reviewing owner/operators' training plans, registering owner/operators' security coordinators, responding to owner/operators' reported significant security incidents, and conducting inspection for compliance with this rule. As part of TSA's risk-based security, benefits include mitigating potential attacks by heightening awareness of employees on the frontline. In addition, by designating security coordinators and reporting significant security concerns to TSA, TSA has a direct line for communicating threats and receiving information necessary to analyze trends and potential threats across all modes of transportation.

Risks: The Department of Homeland Security aims to prevent terrorist attacks within the United States and to reduce the vulnerability of the United States to terrorism. By providing for security training for personnel, TSA intends in this rulemaking to reduce the risk of a terrorist attack on this transportation sector.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
NPRM Comment Period End.	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Local.

Agency Contact: Chandru (Jack) Kalro, Deputy Director, Surface Division, Office of Security Policy and Industry Engagement, Department of Homeland Security, Transportation Security Administration, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–1145, *Fax:* 571 227–2935, *Email: surfacefrontoffice@tsa.dhs.gov.*

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Related RIN: Related to 1652–AA56, Merged with 1652–AA57, Merged with 1652–AA59

RIN: 1652–AA55

DHS—TSA

67. • Vetting of Certain Surface Transportation Employees

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: Pub. L. 110–53, secs 1411, 1414, 1512, 1520, 1522, and 1531

CFR Citation: Not Yet Determined.

Legal Deadline: Other, Statutory, August 3, 2008, Background and immigration status check for all public transportation frontline employees is due no later than 12 months after date of enactment.

Other, Statutory, August 3, 2008, Background and immigration status check for all railroad frontline employees is due no later than 12 months after date of enactment.

Sections 1411 and 1520 of Pub. L. 110–53, Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act), (121 Stat. 266, Aug. 3, 2007), require background checks of frontline public transportation and railroad employees not later than 1 year from the date of enactment. Requirement will be met through regulatory action.

Abstract: The Implementing Recommendations of the 9/11 Commission Act of 2007 (9/11 Act) requires vetting of certain railroad, public transportation, and over-the-road bus employees. Through this rulemaking, the Transportation Security Administration (TSA) intends to propose the mechanisms and procedures to conduct this required vetting. TSA previously intended to include vetting requirements for these populations in a related rulemaking called Standardized Vetting, Adjudication, and Redress Services (SVAR). However, TSA now plans to proceed with a separate rulemaking in order to provide vetting more expediently for these populations. This regulation is related to 1652–AA55, Security Training for Surface Transportation Employees.

Statement of Need: Employee vetting is an important and effective tool for averting or mitigating potential attacks by those with malicious intent who may target surface transportation and plan or perpetrate actions that may cause significant injuries, loss of life, or economic disruption.

Summary of Legal Basis:

Alternatives:

Anticipated Cost and Benefits: TSA is in the process of determining the costs and benefits of this rulemaking.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	09/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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Related RIN: Split from 1652–AA61, Related to 1652–AA55

RIN: 1652–AA69

DHS—U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (USICE)

Proposed Rule Stage

68. Eligibility Checks of Nominated and Current Designated School Officials of Schools That Enroll F and M Nonimmigrant Students and of Exchange Visitor Program-Designated Sponsors of J Nonimmigrants

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 8 U.S.C. 1101; 8 U.S.C. 1102; 8 U.S.C. 1003

CFR Citation: 8 CFR 214.3.

Legal Deadline: None.

Abstract: The rule would improve the capability of the Student and Exchange Visitor Program (SEVP) to oversee access to the Student and Exchange Visitor Information System (SEVIS) for designated school officials (DSOs) at schools certified to enroll F and M nonimmigrant students and for responsible officers (ROs) and alternate responsible officers (AROs) that oversee designated sponsors' J nonimmigrant participants in exchange programs. Establishment of an eligibility check process for certain officials would improve oversight prior to permitting access to SEVIS and prior to appointment or continued eligibility as such an official. This rule would better position DHS to identify, intervene and prevent possible criminal activities or threats to national security that could result from non-compliance.

Statement of Need: The rule would strengthen the mechanism for approving user access to SEVIS. DHS, as well as the Department of State (DOS), rely on principal designated school officials, designated school officials, responsible officers, and alternate responsible officers (collectively, P/DSOs P/DSOs and ROs/AROs) as key links in the process to mitigate potential threats to national security and ensure compliance with immigration law from aliens admitted into the United States in F, J, or M nonimmigrant status. Through this rule, DHS would require that anyone nominated to serve as a P/DSO or RO/ARO receive a favorable SEVIS Access Approval Process (SAAP) assessment prior to their appointment and subsequent approval for access to SEVIS.

Summary of Legal Basis:

- Sections 101(a)(15)(F), (J) and (M), of the Immigration and Nationality Act of 1952, as amended (INA) 8 U.S.C. 1101(a)(15)(F), (J) and (M), which establish the F–1, J–1, and M–1 classifications (and associated derivative classifications).
- Section 641 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1372, which authorized the following:
- Creation of a program to collect current and ongoing information provided by schools and EVP sponsors regarding F, J, or M nonimmigrants during their stays in the United States;
- Use of electronic reporting technology where practicable; and
- DHS certification of schools to participate in F–1 or M–1 student enrollment.
- Homeland Security Presidential Directive No. 2 (HSPD–2), Combating Terrorism Through Immigration Policies, which, following the USA PATRIOT Act, requires DHS to conduct periodic reviews of all institutions certified to receive nonimmigrant students and exchange visitor program students that include checks for compliance with recordkeeping and reporting requirements, and authorizes termination of certification for institutions that fail to comply. See 37 Weekly Comp. Pres. Docs. 1570, 1571–72 (October 29, 2001).
- Section 502 of the Enhanced Border Security and Visa Entry Reform Act of 2002, 8 U.S.C. 1762, which directs DHS to review compliance with recordkeeping and reporting requirements under 8 U.S.C. 1372 and INA section 101(a)(15)(F), (J) and (M), 8 U.S.C. 1101(a)(15)(F), (J) and (M), of all schools approved to receive F, J or M nonimmigrants within two years of enactment and every two years thereafter.

Alternatives:

Anticipated Cost and Benefits: DHS is in the process of determining the costs and benefits which would be incurred by regulated individuals with access to SEVIS, as well as the costs and benefits to DHS and DOS, to comply with the requirements of this rule. The rule would impose new vetting requirements for individuals prior to permitting access to SEVIS or continued eligibility for such access, which include an application process for the individuals and an approval process for DHS and DOS. The primary benefit of this rule would be to reduce the potential for fraud.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

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RIN: 1653–AA71

DHS—FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Final Rule Stage

69. Updates to Floodplain Management and Protection of Wetlands Regulations To Implement Executive Order 13690 and the Federal Flood Risk Management Standard

Priority: Other Significant.

Legal Authority: E.O. 11988, as amended; E.O. 13690

CFR Citation: 44 CFR 9.

Legal Deadline: None.

Abstract: The Federal Emergency Management Agency (FEMA) proposes to amend its regulations at 44 CFR part 9 ''Floodplain Management and Protection of Wetlands'' to implement Executive Order 13690, which establishes the Federal Flood Risk Management Standard (FFRMS). 44 CFR part 9 describes FEMA's process for determining whether the proposed location for an action falls within a floodplain. In addition, for those projects that would fall within a floodplain, part 9 describes FEMA's framework for deciding whether and how to complete the action in the floodplain, in light of the risk of flooding. Consistent with Executive Order 13690 and the FFRMS, the proposed rule would change how FEMA defines a ''floodplain'' with respect to certain actions. Additionally, under the proposed rule, FEMA would use natural systems, ecosystem process, and nature-based approaches, where practicable, when developing alternatives to locating a proposed action in the floodplain.

Statement of Need: It is the policy of the United States to improve the resilience of communities and Federal assets against the impacts of flooding. These impacts are anticipated to increase over time due to the effects of climate change and other threats. Losses caused by flooding affect the environment, our economic prosperity, and public health and safety, each of which affects our national security.

The Federal Government must take action, informed by the best-available and actionable science, to improve the Nation's preparedness and resilience against flooding. Executive Order 11988 of May 24, 1977, Floodplain Management; requires executive departments and agencies (agencies) to avoid, to the extent possible, the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative. FEMA has implemented Executive Order 11988 through its regulations in 44 CFR part 9.

On January 30, 2015, the President issued Executive Order 13690, Establishing a Federal Flood Risk Management Standard (FFRMS) and a Process for Further Soliciting and Considering Stakeholder Input. Executive Order 13690 amended Executive Order 11988 and established the FFRMS. The FFRMS is a flexible framework to increase resilience against flooding and help preserve the natural values of floodplains. Under the FFRMS, an agency may establish the floodplain for Federally Funded Projects using any of the following approaches: (1) Climate-Informed Science Approach (CISA): Utilizing the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science; (2) Freeboard Value Approach (FVA): Freeboard (base flood elevation + X, where X is 3 feet for critical actions and 2 feet for other actions); (3) 0.2 percent annual chance Flood Approach (0.2 PFA): 0.2 percent annual chance flood (also known as the 500-year flood); or (4) the elevation and flood hazard area that result from using any other method identified in an update to the FFRMS.

When Executive Order 13690 was issued, FEMA evaluated the application of Executive Order 13690 and the FFRMS with respect to its existing authorities and programs. The FFRMS establishes a flexible standard to improve resilience against the impact of flooding to design for the intended life of the Federal investment. FEMA supports this principle. With more than $260 billion in flood damages across the Nation since 1980, it is necessary to take action to responsibly use Federal funds, and FEMA must ensure it does not needlessly make repeated Federal investments in the same structures after flooding events. In addition, the FFRMS will help support the thousands of communities across the Country that have strengthened their State and local floodplain management codes and standards to ensure that infrastructure and other community assets are resilient to flood risk. FEMA recognizes that the need to make structures resilient also requires a flexible approach to adapt for the needs of the Federal agency, local community, and the circumstances surrounding each project or action.

Summary of Legal Basis:

Alternatives: FEMA proposes to use the FFRMS–FVA to establish the floodplain for non-critical actions. For critical actions, FEMA would allow the use of the FFRMS–FVA floodplain or the FFRMS–CISA, but only if the elevation established under the FFRMS–CISA is higher than the elevation established under the FFRMS–FVA.

FEMA considered proposing the use of the FFRMS–CISA instead of FFRMS–FVA to reflect the FFRMS's designation of the FFRMS–CISA as the preferred approach and to reflect that the FFRMS–FVA sets a general level of protection, whereas FFRMS–CISA uses a more site-specific approach to predict flood risk based on future conditions.

FEMA also considered whether it should alter its proposal for use of the FFRMS–CISA in relation to the FFRMS–FVA (or FFRMS–0.2PFA). FEMA could choose a more protective approach in which it would determine the elevations established under FFRMS–CISA, FFRMS–FVA and the FFRMS–0.2PFA for critical actions and only allow the applicant to use the highest of the three elevations. This approach would ensure that applicants were building to the most protective level, would avoid potential inconsistencies with FEMA's policy to encourage adoption of freeboard standards by local communities, and would prevent a scenario where an applicant was allowed to build to a lower elevation than previously required for critical actions under FEMA's implementation of Executive Order 11988.

Also alternatively, FEMA could choose to allow use of the FFRMS–CISA, even if the resulting elevation is lower than the application of the FFRMS–FVA. This approach would give FEMA and its grantees more flexibility in implementing the standard, would enable FEMA and its grantees to build to an elevation based on the best available science taking criticality into account, and would provide a pathway to relief for those areas that experience declining flood risks.

Anticipated Cost and Benefits: The anticipated costs of the proposed rule would be from FEMA's Individual Assistance, Public Assistance, and Hazard Mitigation Assistance grant programs, as well as administrative costs. FEMA expects minimal costs associated with its Grants Program Directorate and Integrated Public Alert Warning System programs because these programs do not fund new construction or substantial improvement projects as defined in 44 CFR part 9. These projects are also by nature, typically resilient from flooding. FEMA facilities may also be subject to additional requirements due to the implementation of the proposed rule.

FEMA estimates that the total additional grants costs as a result of the proposed rule would be between $906,696 and $7.8 million per year for FEMA and between $301,906 and $2.6 million per year for grant recipients due to the increased elevation or floodproofing requirements of FEMA Federally Funded Projects.

In addition, FEMA expects to incur some administrative costs as a result of this proposed rule. FEMA estimates initial training costs of around $100,000 the first two years after the rule is implemented, and administrative and training costs of around $16,000 per year thereafter.

FEMA estimates that the total annual cost of this rule after year two would be between $6.1 million and $39.5 million.

FEMA estimates the quantified cost of this proposed rule over the next 10 years would range between $60.1 million and $394.7 million. The present value (PV) of these estimated costs using a 7 percent discount rate would range between $42.9 million and $277.3 million. The PV using a 3 percent discount rate would range between $52.0 million and $336.7 million. These costs would be split between FEMA (75 percent) and recipients (25 percent) of FEMA grants in the floodplain.

FEMA anticipates that the benefits of the proposed rule would justify the costs. FEMA is has provided qualitative benefits, including the reduction in damage to properties and contents from future floods, potential lives saved, public health and safety benefits, reduced recovery time from floods, and increased community resilience to flooding.

FEMA believes this proposed rule would result in savings in time and money from a reduced recovery period after a flood and increased safety of

individuals. Generally, if properties are protected, there would be less damage, resulting in less cleanup time. In addition, higher elevations help to protect people, leading to increased safety. FEMA is unable to quantify these benefits, but improving the resiliency of bridges has significant qualitative benefits, including: Protecting evacuation and escape routes; limiting blockages of floodwaters passing under the bridge that may lead to more severe flooding upstream; and, avoiding the cost of replacing the bridge again if it is damaged during a subsequent flood. Any estimates of these savings would be dependent on the specific circumstances and FEMA is not able to provide a numeric value on these savings.

Risks:

Timetable:

Action	Date	FR Cite
NPRM	08/22/16	81 FR 57401
NPRM Comment Period End.	10/21/16	
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions, Organizations.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket ID FEMA–2015–0006.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

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RIN: 1660–AA85

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Fall 2016 Statement of Regulatory Priorities for Fiscal Year 2017

Introduction

As the nation's housing agency, HUD is committed to promoting decent affordable housing and addressing housing conditions that threaten the health of residents. There are still too many homes in the U.S. with hazards that endanger the health and safety of occupants—hazards within a home and hazards outside of a home.[1] HUD's Regulatory Plan for Fiscal Year (FY 2017) focuses on two regulatory actions; one to address lead-based paint hazards within homes subsidized by HUD and a second to require that building or substantially rehabilitating HUD subsidized homes be at new Federal Flood Risk Management Standards.

In 2012, the Centers for Disease Control and Prevention (CDC) revised its guidance on childhood lead poisoning in response to recommendations by CDC's Advisory Committee on Childhood Lead Poisoning Prevention (ACCLPP), which concluded that a growing number of scientific studies show that even low blood lead levels can cause lifelong health effects. CDC accepted this recommendation. The elevated blood lead level, established in 2012 as part of CDC's response to ACCLPP, is lower than CDC's former blood lead level of concern. HUD's lead-based paint hazard control regulations, which address lead-based paint hazards in pre-1978 homes subsidized by HUD are based on the CDC's former blood lead level of concern. With CDC's issuance of new guidelines, HUD recognized that it was necessary to update HUD's lead-based paint regulations. HUD commenced working to update its regulations, but in the meantime, HUD revised its own guidelines for evaluation and control of lead-based paint hazards in housing. HUD also implemented CDC's recommended revised elevated blood lead level in its lead hazard control programs—the Lead-Based Paint Hazard Control grant program and the Lead Hazard Reduction Demonstration grant program—in the annual notices of funding availability (NOFAs) issued for these programs commencing in fiscal year 2013.

On September 1, 2016, (81 FR 60304), HUD issued its proposed rule that would formally adopt the approach used by CDC in its definition of elevated blood lead level, and provides for more comprehensive testing and evaluation where for housing where children under the age of 6 with an elevated blood lead level reside.

On January 30, 2015, President Obama issued an Executive Order (Executive Order 12690) establishing a flood management standard (the Federal Flood Risk-Management Standard) that will reduce the risk and cost of future flood disasters by requiring all Federal investments in and affecting floodplains to meet higher flood risk standards. In the United States, floods caused 4,586 deaths from 1959 to 2005. With climate change and associated sea-level rise, flooding risks have increased over time, and are anticipated to continue increasing. The National Climate Assessment (May 2014), for example, projects that extreme weather events, such as severe flooding, will persist throughout the 21st century. Severe flooding can cause significant damage to infrastructure, including buildings, roads, ports, industrial facilities, and even coastal military installations. With more than $260 billion in flood damage across the Nation since 1980, it is necessary to take action to responsibly use Federal funds, and HUD must ensure it does not wastefully make Federal investments in the same structures after repeated flooding events.

In response to the President's Executive Order, HUD commenced work on a proposed rule to revise its regulations governing floodplain management to require, as part of the decision making process established to ensure compliance with applicable Executive Orders 11988 and 13690, that HUD assisted or financed (including mortgage insurance) project involving new construction or substantial improvement that is situated in an area subject to floods be elevated or floodproofed between 2 and 3 feet above the base flood elevation (BFE), as determined by best available information. The proposed rule would also revise HUD's Minimum Property Standards for one-to-four unit housing under HUD mortgage insurance and low-rent public housing programs to require that the lowest floor in both newly constructed and substantially improved structures be built at least 2 feet above the BFE base flood elevation as determined by best available information. Building to these standards will, consistent with the executive orders, increase resiliency to flooding, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of flood risk that takes into account possible sea level rise and increased development associated with population growth.

On October 28, 2016 (81 FR 74967), HUD issued its proposed rule that would revises its regulations governing floodplain management to implement the Federal Flood Risk Management Standard.

This Statement of Regulatory Priorities highlights these two rules,

[1] Language modeled on language from page 4 of HUD's 2009 Healthy Homes Strategic Plan. *http://www.hud.gov/offices/lead/library/hhi/hh_strategic_plan.pdf.*

which are HUD priority actions to complete during FY 2017.

Regulatory Priority: Responding To Elevated Blood Lead Levels in Children Under the Age of 6

Childhood lead poisoning has long been recognized as causing reduced intelligence, low attention span, reading and learning disabilities, and has been linked to juvenile delinquency, behavioral problems, and many other adverse health effects. Current reviews by the U.S. Department of Health and Human Services (HHS), including by its Agency for Toxic Substances and Disease Registry (ATSDR) and National Institute of Environmental Health Sciences (NIEHS) and by the U.S. Environmental Protection Agency (EPA) Office of Research and Development have described these effects in detail. The removal of lead-based gasoline and paint from commerce has drastically reduced the number of children exposed to levels of lead associated with the most significant among these problems. Data from the CDC's National Center for Health Statistics show that mean blood lead levels among children ages 1 to 5 have dropped over the years. However, national statistics mask the fact that blood lead monitoring continues to find some children exposed to elevated blood lead levels due to their specific housing environment

Continued progress in lead paint abatement and interim control over the last decade, such as through HUD's Lead Hazard Control Grant programs, and HUD's enforcement of the Lead Disclosure statute has meant further significant decreases in lead exposure among children. Even so, there are a considerable number of assisted housing units that have lead-based paint in which children under age 6 reside. In 2012, the CDC issued guidance revising its definition of elevated blood lead level in children under age 6 to be a blood lead level based on the distribution of blood lead levels in the national population. Since CDC's revision of its definition, HUD has applied the revised definition to funds awarded under its Lead-Based Paint Hazard Control grant program and its Lead Hazard Reduction Demonstration grant program, and has updated its Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing to reflect this definition.

To further address this issue, as noted above, HUD issued a proposed rule on September 1, 2016 that would amend HUD's lead-based paint regulations on reducing blood lead levels in children under age 6 who reside in federally-owned or -assisted pre-1978 housing and formally adopt the revised definition of ''elevated blood lead levels'' in children under the age of 6 in accordance with guidance of CDC, and establish more comprehensive testing and evaluation procedures for the housing where such children with an elevated blood lead level reside.

HUD intends to complete this rulemaking in Fiscal Year 2017.

Aggregate Costs and Benefits

Executive Order 12866, as amended, requires the agency to provide its best estimate of the combined aggregate costs and benefits of all regulations included in the agency's Regulatory Plan that will be made pursued in FY 2016. HUD expects that the neither the total economic costs nor the total efficiency gains will exceed $100 million.

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response to Elevated Blood Lead Levels

HUD Office: Office of Lead Hazard Control and Healthy Homes.

Rulemaking Stage: Final Rule.

Priority: Significant.

Legal Authority: 42 U.S.C. 3535(d), 4821, and 4851

CFR Citation: 24 CFR 35.

Legal Deadline: None.

Abstract: This rule will amend HUD's lead-based paint regulations on reducing blood lead levels in children under age 6 who reside in federally-owned or -assisted pre-1978 housing and formally adopt the revised definition of ''elevated blood lead levels'' in children under the age of 6 in accordance with 2012 CDC guidance, and establish more comprehensive testing and evaluation procedures for the housing where such children with an elevated blood lead level reside. Since CDC's 2012 revision of its definition of elevated blood lead level in children under the age of 6, and pending HUD's commencement and completion of rulemaking to formally adopt CDC's revised definition, HUD applied the revised definition to funds awarded under its Lead-Based Paint Hazard Control grant program and its Lead Hazard Reduction Demonstration grant program, and HUD updated its own Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing to reflect this definition. CDC is continuing to consider, with respect to evolution of scientific and medical understanding, how best to identify childhood blood lead levels for which environmental interventions are recommended.

Through this rulemaking, HUD intends to formally adopt, through regulation, the CDC's approach to the definition of ''elevated blood lead levels'' in children under the age of 6 and addresses the additional elements of the CDC guidance pertaining to assisted housing. The final rule takes into consideration public comments received on HUD's September 2016 proposed rule.

Statement of Need: Although HUD is already applying the CDC's 2012 revised definition of elevated blood level in its lead hazard control notices of funding availability and in HUD guidelines, HUD's Lead Safe Housing rule has not yet been updated to reflect the CDC's revised definition of elevated blood lead levels, and to mandate adherence to this definition by owners and managers of federally-owned or -assisted pre-1978 housing requires rulemaking.

Alternatives: Title X of the Housing and Community Development Act of 1992, also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), prescribes specific lead-based paint hazard evaluation and reduction activities for federally-supported housing. To mandate compliance with revised elevated blood lead levels procedures requires rulemaking. While HUD issued updated guidelines in 2012 to encourage compliance with CDC's revised guidelines on elevated blood lead levels, it takes rulemaking to require compliance with CDC's revised definition of elevated blood lead levels in federally-supported housing.

Anticipated Costs and Benefits: The costs and benefits associated with the units affected during the first year of hazard evaluation and reduction activities under the final rule include the present value of future benefits associated with first year hazard reduction activities. For example, the benefits from costs expended for first year activities include the present value of lifetime earnings benefits for children living in the affected unit during the first year, whether that child continues living in that unit during the second and subsequent years after hazard reduction activities does not affect the benefit calculation, because the lowered lead exposure benefits all children under age 6 who reside there during the effective period of the hazard control measures (as noted above, typically 6 or 12 or more years). The costs of ongoing lead-based paint maintenance in units covered by this rulemaking are not considered in this analysis, because it is already required by the original Lead Safe Housing Rule for housing covered by this rulemaking.

Although many benefits of lead-based pain hazard reduction cannot be quantified or monetized, such as quality of life considerations such as adolescents' and adults' dissatisfaction with lower intelligence, fewer skills, reduced education and job potential, criminal behavior, unwed pregnancies, etc., HUD does not address monetized estimates of the cognitive benefits of preventing children under age 6 from developing elevated blood lead levels. Such benefits include avoiding the costs of medical treatment for children with elevated blood lead levels as well as increasing lifetime earnings associated with higher IQs for children with lower blood lead levels. In addition, blood lead levels of older children and adults living in the affected housing units would be expected to fall as a result of this rulemaking, although quantifying their blood lead changes is outside the scope of analysis for this rulemaking. Thus, the estimates of benefits represent a lower bound on the economic benefits of LBP hazard reduction because there are many other health impacts for both adults and children from lead exposure that are not quantified or monetized here. The analysis of net benefits reflects benefits over time associated with the costs incurred in the first year of hazard evaluation and reduction activities under the final rule. For example, the benefits of costs incurred in first year activities include the present value of lifetime earnings benefits for children living in the affected unit during that first year, and for children living in that unit during the second and subsequent years after hazard reduction activities.

HUD's regulatory impact analysis published with its September 2016 proposed rule more fully addresses the costs and benefits of this rulemaking, as of the proposed rulemaking stage.

Risks: While this rule addresses a public health issue, but poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/01/16	81 FR 60304
Final	12/00/2016	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Local.

Federalism Affected: No.

Energy Affected: No.

International Impacts: No.

Agency Contact: Warren Friedman, Office of Lead Hazard Control and Healthy Homes, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 402–7698.

RIN: 2501–AD77

Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard

HUD Office: Office of the Secretary.

Rulemaking Stage: Final Rule.

Priority: Significant.

Legal Authority: 42 U.S.C. 3535(d) and 4332; and Executive Order 11991, 3 CFR, 1977 Comp., p.123

CFR Citation: 24 CFR 50, 58, and 200.

Legal Deadline: None.

Abstract: This rule will revise HUD's regulations governing floodplain management to require, as part of the decision making process established to ensure compliance with Executive Order 11988 (Floodplain Management) as amended by Executive Order 13690 (Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input), that a HUD assisted or financed (including mortgage insurance) project involving new construction or substantial improvement that is situated in an area subject to floods be elevated or floodproofed between 2 and 3 feet above the base flood elevation (BFE), as determined by best available information. The revision to 24 CFR part 55 uses the framework of E.O. 11988 which HUD has implemented for almost 40 years and does not change the requirements and guidance specifying which actions require elevation and floodproofing of structures. Specifically, the rule would require that non-critical actions be elevated 2 feet above the BFE. In addition, the rule would require that critical actions be elevated above the greater of the 500-year floodplain or 3 feet above the BFE. This rule also would enlarge the horizontal area of interest commensurate with the vertical increase, but the rule does not change the scope of actions to which the floodplain review process or elevation requirements in 24 CFR part 55 apply. The rule would also revise HUD's Minimum Property Standards for one-to-four unit housing under HUD mortgage insurance and low-rent public housing programs to require that the lowest floor in both newly constructed and substantially improved structures be built at least 2 feet above the BFE as determined by best available information. Building to these standards will, consistent with the executive orders, increase resiliency to flooding, reduce the risk of flood loss, minimize the impact of floods on human safety, health, and welfare, and promote sound, sustainable, long-term planning informed by a more accurate evaluation of flood risk that takes into account possible sea level rise and increased development associated with population growth. This rule also would revise a categorical exclusion available when HUD performs the environmental review under the National Environmental Policy Act and related Federal laws by making it consistent with changes to a similar categorical exclusion that is available to HUD grantees or other responsible entities when they perform these environmental reviews. This change will make the review standard identical regardless of whether HUD or a grantee is performing the review. Elevation standards for manufactured housing receiving mortgage insurance are not covered in this rule.

Statement of Need: This rule revises HUD's floodplain management regulations in response to Executive Order 13690 and recommendations of the Mitigation Framework Leadership Group (MitFLG). Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, called for a new floodplain standard established with stakeholder input. In addition to addressing risks identified by MitFLG associated with the predicted sea level rise, the standards presented in this rule also address a market failure of information regarding flood risk and moral hazard associated with flood insurance and federal disaster assistance. HUD is promulgating these new standards, which it must do through rulemaking, in order to protect HUD's investments and ensure uninterrupted provision of affordable housing.

Executive Order 13690 directed Federal agencies to avoid, to the extent possible, adverse impacts associated with floodplain development. Based on evidence from the National Climate Assessment and the Intergovernmental Panel on Climate Change, MitFLG, consisting of representatives from various federal agencies, proposed the establishment of the Federal Flood Risk Management Standard (FFRMS). These standards, at least two feet of freeboard above base flood elevation for non-critical actions and three feet of freeboard for critical actions, address the Executive Order's directive of reducing adverse impact development in floodplains which, as many studies indicate, are expanding fairly rapidly.

The explicit standards provided in this rule are needed because developers, homeowners and renters do not fully internalize the risk and costs of potential flooding. There is evidence that many homeowners are either not fully aware of the risk of a flood occurring or that they discount the cost of a flood if it occurs. In some cases, owners simply underestimate the risk of flooding.

Alternatives: In developing new floodplain management standards, HUD considered several alternative approaches to establishing the standard: Climate-informed science approach (CISA); freeboard value approach (FVA); and the 0.2 percent annual chance flood approach (0.2PFA). HUD chose the FVA over the CISA and 0.2PFA for a variety of reasons. First, the FVA can be applied consistently to any area participating in the NFIP. The FVA can be calculated using existing flood maps. This is not true for the CISA standard unless HUD were to establish criteria for every community regarding the application of particular climate and greenhouse gas scenarios and associated impacts. Rather than requiring this level of review and analysis, HUD chose the more direct FVA. Second, the two alternative approaches to FVA require expertise that may not be available to all communities. The 0.2 Percent Flood is not mapped in all communities and requires a significant degree of expertise to map over an area or for an individual site. The same is also true for the CISA standard, which requires not just historical analysis but a greater anticipation of trends and future conditions. Third, HUD determined that it is not practicable to establish the CISA or the 0.2 Percent Flood for all projects. HUD funds or assists tens of thousands of small projects each year. For example, repaving a road or rehabilitating a single family home may not necessitate the extra amounts of cost required by the CISA and 0.2 Percent Flood approaches. Fourth, many states and communities already have success applying a freeboard approach to floodplains. Due to the familiarity that many communities have with freeboard, the FVA was seen as a very practical approach with documented history of application.

In addition, HUD, as part of MitFLG working group, considered varying levels of elevation above base flood elevation, specifically 1, 2 and 3 feet above BFE. Based on expected sea level rise and the cost of elevation, HUD is providing the standard recommended by MitFLG, which requires at least 2 feet above freeboard, or for critical actions, at least 3 feet above freeboard.

Anticipated Costs and Benefits: The standards provided under this rule, requiring at least two feet of freeboard above base flood elevation, will increase the construction cost HUD's assisted and insured new construction and substantially improved properties located in the 1 percent annual chance floodplain. This rule amends HUD's current standard which requires elevation to at least the base flood elevation. Thus, the elevation standards are not new, but rather revised to an increased height. In addition, 20 states, plus the District of Columbia and Puerto Rico, already require elevation exceeding HUD's current standard of elevation to the base flood level (BFE+1). Further, four states—Indiana, Montana, New York and Wisconsin—already require residential structures elevated with a minimum of at least two of freeboard (BFE+2). Thus, the cost of compliance in these states would be less than those that have no minimum elevation requirements in the floodplain.

Developers receiving HUD assistance who are not currently building to the proposed standard of 2 feet above base flood elevation (BFE+2) can meet the proposed standards by either elevating the lowest floor of the structure or by floodproofing to the new standard and limiting the first floor to non-residential uses. Alternatively, developers could choose to locate outside of the floodplain and the affected horizontal expansion, or reduce substantial improvement projects to less than 50 percent of the market or pre-disaster value of the structure, which would no longer classify the project as ''substantial''.

The standards to be provide in this rule are intended to protect HUD-assisted and insured structures and the owners and tenants in these units. Thus, the benefits of the rule include reduced building damage and decreased costs to tenants temporarily displaced due to flooding, including avoided search costs for temporary replacement housing and lost wages. The annual reduction in insurance premiums provides an adequate measure of the reduction in expected damages, assuming that the NFIP rates are calculated in order to maintain a non-negative balance. In this case, the premiums for catastrophic insurance would be slightly higher than, but similar to, the expected value of the claim to pay for administrative costs.

HUD's regulatory impact analysis published with its September 2016 proposed rule more fully addresses the costs and benefits of this rulemaking, as of the proposed rulemaking stage.

Risks: While the rule addresses a rule, the rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR CITE
NPRM	10/28/2016	81 FR 74967
Final	12/00/2016	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Local.

Federalism Affected: No.

Energy Affected: Yes.

International Impacts: No.

Agency Contact: Danielle Schopp, Director, Office of Environment and Energy, Office of Community Planning and Development, U.S. Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, *Phone:* (202) 708–1201.

RIN: 2501–AD62

HUD—OFFICE OF THE SECRETARY (HUDSEC)

Proposed Rule Stage

70. Floodplain Management and Protection of Wetlands; Minimum Property Standards for Flood Hazard Exposure; Building to the Federal Flood Risk Management Standard (FR–5717)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 3535(d); 42 U.S.C. 3001, *et seq.,* E.O. 11990; E.O. 11988

CFR Citation: 24 CFR 50; 24 CFR 55.

Legal Deadline: None.

Abstract: As communities begin to recover from the devastating effects of Hurricane Sandy, HUD has determined that it is important to recognize lessons learned to employ mitigation actions that ensure that structures located in floodplains are built or rebuilt stronger, safer, and less vulnerable to future flooding events. This commitment to resiliency is now required of all agencies that use federal funds for construction under Executive Order 13690 (Establishing a Federal Flood Risk Management Standard) and the associated ''Guidelines for Implementing Executive Order 11988 (Floodplain Management) and Executive Order 13690.''

Based on Executive Order 13690 and the Guidelines, this proposed rule would require, as part of the decisionmaking process established to ensure compliance with Executive

Order 11988 (Floodplain Management) that new construction or substantial improvement in a floodplain be elevated or floodproofed 2 feet above the base flood elevation for non-critical actions and 3 feet above the base flood elevation for critical actions based on the Federal Emergency Management Agency's best available data. This rule also proposes to revise a categorical exclusion available when HUD performs the environmental review by making it consistent with changes to a similar categorical exclusion that is available to HUD grantees or other responsible entities when they perform the environmental review. The rule is also part of HUD's commitment under the President's Climate Action plan.

Statement of Need: This rule revises HUD's floodplain management regulations in response to Executive Order 13690 and recommendations of the Mitigation Framework Leadership Group (MitFLG). Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, called for a new floodplain standard established with stakeholder input. In addition to addressing risks identified by MitFLG associated with the predicted sea level rise, the standards presented in this rule also address a market failure of information regarding flood risk and moral hazard associated with flood insurance and federal disaster assistance. HUD is promulgating these new standards, which it must do through rulemaking, in order to protect HUD's investments and ensure uninterrupted provision of affordable housing.

Summary of Legal Basis: Executive Order 13690 directed Federal agencies to avoid, to the extent possible, adverse impacts associated with floodplain development. Based on evidence from the National Climate Assessment and the Intergovernmental Panel on Climate Change, MitFLG, consisting of representatives from various federal agencies, proposed the establishment of the Federal Flood Risk Management Standard (FFRMS). These standards, at least two feet of freeboard above base flood elevation for non-critical actions and three feet of freeboard for critical actions, address the Executive Order's directive of reducing adverse impact development in floodplains which, as many studies indicate, are expanding fairly rapidly. The explicit standards provided in this rule are needed because developers, homeowners and renters do not fully internalize the risk and costs of potential flooding. There is evidence that many homeowners are either not fully aware of the risk of a flood occurring or that they discount the cost of a flood if it occurs. In some cases, owners simply underestimate the risk of flooding.

Alternatives: In developing new floodplain management standards, HUD considered several alternative approaches to establishing the standard: Climate-informed science approach (CISA); freeboard value approach (FVA); and the 0.2 percent annual chance flood approach (0.2PFA). HUD chose the FVA over the CISA and 0.2PFA for a variety of reasons. First, the FVA can be applied consistently to any area participating in the NFIP. The FVA can be calculated using existing flood maps. This is not true for the CISA standard unless HUD were to establish criteria for every community regarding the application of particular climate and greenhouse gas scenarios and associated impacts. Rather than requiring this level of review and analysis, HUD chose the more direct FVA. Second, the two alternative approaches to FVA require expertise that may not be available to all communities. The 0.2 Percent Flood is not mapped in all communities and requires a significant degree of expertise to map over an area or for an individual site. The same is also true for the CISA standard, which requires not just historical analysis but a greater anticipation of trends and future conditions. Third, HUD determined that it is not practicable to establish the CISA or the 0.2 Percent Flood for all projects. HUD funds or assists tens of thousands of small projects each year. For example, repaving a road or rehabilitating a single family home may not necessitate the extra amounts of cost required by the CISA and 0.2 Percent Flood approaches. Fourth, many states and communities already have success applying a freeboard approach to floodplains. Due to the familiarity that many communities have with freeboard, the FVA was seen as a very practical approach with documented history of application.

In addition, HUD, as part of MitFLG working group, considered varying levels of elevation above base flood elevation, specifically 1, 2 and 3 feet above BFE. Based on expected sea level rise and the cost of elevation, HUD is providing the standard recommended by MitFLG, which requires at least 2 feet above freeboard, or for critical actions, at least 3 feet above freeboard.

Anticipated Cost and Benefits: The standards provided under this rule, requiring at least two feet of freeboard above base flood elevation, will increase the construction cost HUD's assisted and insured new construction and substantially improved properties located in the 1 percent annual chance floodplain. This rule amends HUD's current standard which requires elevation to at least the base flood elevation. Thus, the elevation standards are not new, but rather revised to an increased height. In addition, 20 states, plus the District of Columbia and Puerto Rico, already require elevation exceeding HUD's current standard of elevation to the base flood level (BFE+0). Further, four states—Indiana, Montana, New York and Wisconsin—already require residential structures elevated with a minimum of at least two of freeboard (BFE+2). Thus, the cost of compliance in these states would be less than those that have no minimum elevation requirements in the floodplain.

Developers receiving HUD assistance who are not currently building to the proposed standard of 2 feet above base flood elevation (BFE+2) can meet the proposed standards by either elevating the lowest floor of the structure or by floodproofing to the new standard and limiting the first floor to non-residential uses. Alternatively, developers could choose to locate outside of the floodplain and the affected horizontal expansion, or reduce substantial improvement projects to less than 50 percent of the market or pre-disaster value of the structure, which would no longer classify the project as substantial.

The standards to be provide in this rule are intended to protect HUD-assisted and insured structures and the owners and tenants in these units. Thus, the benefits of the rule include reduced building damage and decreased costs to tenants temporarily displaced due to flooding, including avoided search costs for temporary replacement housing and lost wages. The annual reduction in insurance premiums provides an adequate measure of the reduction in expected damages, assuming that the NFIP rates are calculated in order to maintain a non-negative balance. In this case, the premiums for catastrophic insurance would be slightly higher than, but similar to, the expected value of the claim to pay for administrative costs.

HUD's regulatory impact analysis published with its September 2016 proposed rule more fully addresses the costs and benefits of this rulemaking, as of the proposed rulemaking stage.

Risks: While the rule addresses a rule, the rule poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Danielle Schopp, Director, Office of Environment and Energy, Office of Community Planning and Development, Department of Housing and Urban Development, Office of the Secretary, 451 7th Street SW., Washington, DC 20410, *Phone:* 202 708–1201.

RIN: 2501–AD62

HUD—HUDSEC

Final Rule Stage

71. Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Response To Elevated Blood Lead Level (FR–5816)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 3535(d); 42 U.S.C. 4821; 42 U.S.C. 4851

CFR Citation: 24 CFR 35.

Legal Deadline: None.

Abstract: This proposed rule would amend HUD's lead-based paint regulations on reducing blood-lead levels in children under age 6 who reside in federally-owned or assisted housing constructed prior to 1978. Specifically, the rule would formally adopt the revised definition of elevated blood lead levels in children under the age of 6 based on the definition issued by the Centers for Disease Control and Prevention (CDC). The rule would also establish more comprehensive testing and evaluation procedures for the housing where such children reside. In 2012, the CDC issued guidance revising its definition of elevated blood lead level in children under age 6 to be a blood lead level based on the distribution of blood lead levels in the national population. Since CDC revised its definition, HUD has applied it to funds awarded under its Lead-Based Paint Hazard Control grant program and its Lead Hazard Reduction Demonstration grant program, and has updated its Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing to reflect this definition. Through this rule, HUD formally adopts in regulation the CDC's definition on elevated blood lead levels in children under the age of 6 and addresses the additional elements of the CDC guidance pertaining to assisted housing.

Statement of Need: Although HUD is already applying the CDC's 2012 revised definition of elevated blood level in its lead hazard control notices of funding availability and in HUD guidelines, HUD's Lead Safe Housing rule has not yet been updated to reflect the CDC's revised definition of elevated blood lead levels, and to mandate adherence to this definition by owners and managers of federally-owned or -assisted pre-1978 housing requires rulemaking.

Summary of Legal Basis: Codified in Title 24 of the Code of Federal Regulations (CFR) part 35, HUD's Lead-Based Paint regulation, commonly referred to as the Lead Safe Housing Rule (LSHR), is designed to reduce lead exposure in federally-owned and federally-assisted housing (or assisted housing). The LSHR implements sections 1012 and 1013 of the Residential Lead-Based Paint Hazard Reduction Act of 1992, which is Title X of the Housing and Community Development Act of 1992 (Public Law 102–550, approved October 28, 1992), codified at 42 U.S.C. 4822. Under Title X, HUD has specific authority to control lead-based paint and lead-based paint hazards in HUD-assisted target housing. The LSHR aims in part to ensure that federally-owned or federally-assisted housing that may have lead-based paint—most housing constructed prior to 1978, called target housing does not have lead-based paint hazards. Lead-based paint hazards are lead-based paint and all residential lead-containing dusts and soils, regardless of the source of the lead, which, due to their condition and location, would result in adverse human health effects. As reflected in the LSHR, and consistent with Title X, HUD's primary focus is on minimizing childhood lead exposures, rather than on waiting until children have elevated blood lead levels to undertake actions to eliminate the lead-based paint hazards. This rule continues HUD's efforts to spearhead major efforts in lead poisoning prevention by taking all actions feasible and authorized by law to reduce lead exposure in children.

Alternatives: Title X of the Housing and Community Development Act of 1992, also known as the Residential Lead-Based Paint Hazard Reduction Act of 1992 (the Act), prescribes specific lead-based paint hazard evaluation and reduction activities for federally-supported housing. To mandate compliance with revised elevated blood lead levels procedures requires rulemaking. While HUD issued updated guidelines in 2012 to encourage compliance with CDC's revised guidelines on elevated blood lead levels, it takes rulemaking to require compliance with CDC's revised definition of elevated blood lead levels in federally-supported housing.

Anticipated Cost and Benefits: The costs and benefits associated with the units affected during the first year of hazard evaluation and reduction activities under the final rule include the present value of future benefits associated with first year hazard reduction activities. For example, the benefits from costs expended for first year activities include the present value of lifetime earnings benefits for children living in the affected unit during the first year, whether that child continues living in that unit during the second and subsequent years after hazard reduction activities does not affect the benefit calculation, because the lowered lead exposure benefits all children under age 6 who reside there during the effective period of the hazard control measures (as noted above, typically 6 or 12 or more years). The costs of ongoing lead-based paint maintenance in units covered by this rulemaking are not considered in this analysis, because it is already required by the original Lead Safe Housing Rule for housing covered by this rulemaking.

Although many benefits of lead-based pain hazard reduction cannot be quantified or monetized, such as quality of life considerations such as adolescents' and adults' dissatisfaction with lower intelligence, fewer skills, reduced education and job potential, criminal behavior, unwed pregnancies, etc., HUD does not address monetized estimates of the cognitive benefits of preventing children under age 6 from developing elevated blood lead levels. Such benefits include avoiding the costs of medical treatment for children with elevated blood lead levels as well as increasing lifetime earnings associated with higher IQs for children with lower blood lead levels. In addition, blood lead levels of older children and adults living in the affected housing units would be expected to fall as a result of this rulemaking, although quantifying their blood lead changes is outside the scope of analysis for this rulemaking. Thus, the estimates of benefits represent a lower bound on the economic benefits of LBP hazard reduction because there are many other health impacts for both adults and children from lead exposure that are not quantified or monetized here. The analysis of net benefits reflects benefits over time associated with the costs incurred in the first year of hazard evaluation and reduction activities under the final rule. For example, the benefits of costs incurred in first year activities include the present value of lifetime earnings benefits for children living in the affected unit during that first year, and

for children living in that unit during the second and subsequent years after hazard reduction activities.

HUD's regulatory impact analysis published with its September 2016 proposed rule more fully addresses the costs and benefits of this rulemaking, as of the proposed rulemaking stage.

Risks: While this rule addresses a public health issue, but poses no risk to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/01/16	81 FR 60304
Comment Due Deadline.	10/31/16	
Final Rule	03/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Warren Friedman, Office of Lean Hazard Control and Healthy Homes, Department of Housing and Urban Development, Office of the Secretary, 451 Seventh Street SW., Washington, DC 20410, *Phone:* 202 402–7698, *TDD Phone:* 800 877–8339, *Fax:* 202 708–0014, *Email: warren.friedman@hud.gov.*

RIN: 2501–AD77

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Statement of Regulatory Priorities

The Department of the Interior (Interior) is the principal Federal steward of our Nation's public lands and resources, including many of our cultural treasures. Interior serves as trustee to American Indians' and Alaska Natives' trust assets and is responsible for relations with the island territories under United States jurisdiction. The Department of the Interior manages more than 500 million acres of Federal lands, including 412 park units and 563 wildlife refuges, and more than a billion submerged offshore acres. On public lands and the Outer Continental Shelf (OCS), Interior provides access for renewable and conventional energy development and manages the protection and restoration of surface-mined lands.

Interior protects and recovers endangered species; protects natural, historic, and cultural resources; manages water projects that are a lifeline and economic engine for many communities in the West; manages forests and fights wildfires; manages Federal energy resources; regulates surface coal mining operations; reclaims abandoned coal mines; educates children in Indian schools; and provides recreational opportunities for over 400 million visitors annually in the Nation's national parks, public lands, national wildlife refuges, and recreation areas.

Interior will continue to review and update its regulations and policies to ensure that they are effective and efficient, and that they promote accountability and sustainability. Interior will emphasize regulations and policies that:

- Promote environmentally responsible, safe, and balanced development of renewable and conventional energy on our public lands and the OCS;
- Use the best available science to ensure that public resources are protected, conserved, and used wisely;
- Preserve America's natural treasures for future generations;
- Improve the nation-to-nation relationship with American Indian tribes and promote tribal self-determination and self-governance;
- Promote partnerships with states, tribes, local governments, other groups, and individuals to achieve common goals; and
- Promote transparency, fairness, accountability, and the highest ethical standards while maintaining performance goals.

Major Regulatory Areas

Interior's bureaus implement congressionally mandated programs through their regulations. Some of these regulatory programs include:

- Overseeing the development of onshore and offshore energy, including renewable, mineral, oil and gas, and other energy resources;
- Regulating surface coal mining and reclamation operations on public and private lands;
- Managing migratory birds and preserving marine mammals and endangered species;
- Managing dedicated lands such as national parks, wildlife refuges, National Conservation Lands, and American Indian trust lands;
- Managing public lands open to multiple use;
- Managing revenues from American Indian and Federal minerals;
- Fulfilling trust and other responsibilities pertaining to American Indians and Alaska Natives; and
- Managing natural resource damage assessments.

Regulatory Policy

Interior's regulatory programs seek to operate programs transparently, efficiently, and cooperatively while maximizing protection of our land, resources, and environment in a fiscally responsible way by:

(1) Protecting Natural, Cultural, and Heritage Resources.

Interior's mission includes protecting and providing access to our Nation's natural and cultural heritage and honoring our trust responsibilities to Indian tribes. We are committed to this mission, and to applying laws and regulations fairly and effectively. Our priorities include protecting public health and safety, restoring and maintaining public lands, protecting threatened and endangered species, ameliorating land- and resource-management problems on public lands, and ensuring accountability and compliance with Federal laws and regulations.

(2) Sustainably Using Energy, Water, and Natural Resources.

Since the beginning of the Obama Administration, Interior has focused on renewable energy issues and has established priorities for environmentally responsible development of renewable energy on public lands and the OCS. Industry has responded by investing in the development of wind farms off the Atlantic seacoast and solar, wind, and geothermal energy facilities throughout the West. Power generation from these new energy sources produces virtually no greenhouse gases and, when done in an environmentally responsible manner, harnesses with minimum impact abundant renewable energy. Interior will continue its intra- and inter-departmental efforts to move forward with the environmentally responsible review and permitting of renewable energy projects on public lands and the Outer Continental Shelf, and will identify how its regulatory processes can be improved to facilitate the responsible development of these resources.

In implementing these priorities through its regulations, Interior will create jobs and contribute to a healthy economy while protecting our signature landscapes, natural resources, wildlife, and cultural resources.

(3) Empowering People and Communities.

Interior strongly encourages public participation in the regulatory process and will continue to actively engage the public in the implementation of priority initiatives. Throughout Interior, individual bureaus and offices are ensuring that the American people have an active role in managing our Nation's public lands and resources.

For example, every year the U.S. Fish and Wildlife Service (FWS) establishes migratory bird hunting seasons in partnership with Flyway Councils composed of state fish and wildlife agencies. The FWS also holds a series of public meetings to provide interested parties, including hunters and other groups, opportunities to participate in establishing the upcoming season's regulations. Similarly, the Bureau of Land Management (BLM) uses Resource Advisory Councils to provide advice on the management of public lands and resources. These citizen-based groups allow individuals from all backgrounds and interests to have a voice in management of public lands.

Retrospective Review of Regulations

President Obama's Executive Order 13563 directs agencies to make the regulatory system work better for the American public. Regulations should ''. . . protect public health, welfare, safety, and our environment while promoting economic growth, innovation, competitiveness, and job creation.'' Interior's plan for retrospective regulatory review identifies specific efforts to relieve regulatory burdens, add jobs to the economy, and make regulations work better for the American public while protecting our environment and resources.

Interior routinely meets with stakeholders to solicit feedback and input on ways to modernize our regulatory programs, through efforts such as incorporating performance based standards and removing outdated and unnecessary requirements. Interior bureaus continue efforts to make our regulations easier to comply with and understand. Our regulatory process ensures that bureaus share ideas to reduce regulatory burdens while meeting the requirements of the laws they enforce and improving their stewardship of the environment and resources. Results include:

- Effective stewardship of our Nation's resources that is responsive to the needs of small businesses;
- Increased benefits per dollar spent by careful evaluation of the economic effects of planned rules; and
- Improved compliance and transparency by use of plain language in our regulations and guidance documents.

The Department of the Interior's Final Plan for Retrospective Review and biannual status reports can be viewed at *http://www.doi.gov/open/regsreview*.

Bureaus and Offices Within the Department of the Interior

The following sections give an overview of some of the major regulatory priorities of DOI bureaus and offices.

Indian Affairs

Indian Affairs, including the Bureau of Indian Affairs (BIA) and the Bureau of Indian Education (BIE), provides services to approximately 1.9 million American Indians and Alaska Natives, and maintains a government-to-government relationship with the 567 federally recognized tribes. Indian Affairs also administers and manages 55 million acres of surface land and 57 million acres of subsurface minerals held in trust by the United States for American Indians and tribes. Indian Affair's mission is to enhance the quality of life, promote economic opportunity, and protect and improve the trust assets of Indian tribes, American Indians, and Alaska Natives, as well as to provide quality education opportunities to students in Indian schools.

In the coming year, BIA will continue its focus on improved management of trust responsibilities with each regulatory review and revision. The Bureau will also continue to promote economic development in Indian communities by ensuring the regulations support, rather than hinder, productive land management and businesses. In addition, Indian Affairs will focus on updating Indian education regulations and on other regulatory changes to increase transparency in support of the President's Open Government Initiative.

In the coming year, Indian Affairs regulatory priorities are to:

- Develop regulatory changes necessary for improved Indian education.

Indian Affairs is reviewing regulations that require the Bureau of Indian Education to follow adequate yearly progress standards for 23 different states. The review will determine whether a uniform standard would better meet the needs of students at BIE-funded schools. With regard to undergraduate education, the BIE plans to finalize regulations that address grants to tribally controlled community colleges and other Indian education regulations. These reviews identify provisions that need to be updated to comply with applicable statutes and ensure that the proper regulatory framework is in place to support students in BIE-funded schools.

- Revise regulations to reflect updated statutory provisions and increase transparency.

BIA is making a concentrated effort to improve the readability and precision of its regulations. Because trust beneficiaries often turn to the regulations for guidance on how a given BIA process works, BIA is ensuring that each revised regulation is written as clearly as possible and accurately reflects the current organization of the Bureau. The BIA is also simplifying language and eliminating obsolete provisions. In the past year, the BIA has finalized revisions to regulations regarding rights-of-way (25 CFR 169); Secretarial elections (25 CFR 81); the Housing Improvement Program (25 CFR 256); Indian Reservation Roads (25 CFR 170); and Indian Child Welfare Act proceedings (25 CFR 23). In the coming year, the BIA also plans to finalize revisions to regulations regarding the Tribal Transportation Program (formerly known as Indian Reservation Roads) (25 CFR 170).

- Solicit comment on potential regulatory changes to Indian trader regulations.

BIA is considering whether to propose an administrative rule that would comprehensively update 25 CFR part 140 (Licensed Indian Traders) in an effort to modernize the implementation of the Indian Trader statutes consistent with the Federal policies of tribal self-determination and self-governance. The current regulations were promulgated in 1957 and have not been comprehensively updated since 1965. BIA will solicit comments on its Indian Trader regulations including how the regulations could be improved, who should be permitted to trade on Indian land, and what may be traded on Indian land, in a manner more consistent with tribal self-governance and self-determination.

Bureau of Land Management

The Bureau of Land Management manages the 245-million-acre National System of Public Lands, located primarily in the Western States, including Alaska, and the 700 million acre subsurface mineral estate located throughout the Nation. In doing so, BLM manages such varied uses as energy and mineral development, outdoor recreation, livestock grazing, and forestry and woodlands products. BLM's complex multiple-use mission affects the lives of millions of Americans, including those who live near or visit the public lands, as well as those who benefit from the commodities, such as minerals, energy, or timber, produced from the lands' rich resources. In

undertaking its management responsibilities, BLM seeks to conserve our public lands' natural and cultural resources, and sustain the health and productivity of the public lands for the use and enjoyment of present and future generations.

The BLM is updating and improving the current versions of Onshore Oil and Gas Orders (Orders) for Site Security (Order 3), Oil Measurement (Order 4), and Gas Measurement (Order 5). These Orders were last updated in 1989. The primary purpose for these updates is to keep pace with changing industry practices, emerging and new technologies, respond to recommendations from the Government Accountability Office (GAO), the Department of the Interior Office of the Inspector General, and the Department of the Interior's Subcommittee on Royalty Management. The proposed changes address findings and recommendations that in part formed the basis for the GAO's inclusion of Interior's oil and gas program on the GAO's High Risk List in 2011 (GAO–11–278) and for its continuing to keep the program on the list in the 2013 and 2015 updates. The Orders will be published as proposed rules in 43 Code of Federal Regulations (CFR) 3173, 3174, and 3175, respectively.

• Preventing waste of produced natural gas and ensuring fair return to the taxpayer.

BLM's current requirements regarding venting and flaring of natural gas from oil and gas operations are over 3 decades old. The agency intends to finalize a rule to address emissions reductions and minimize waste through improved standards for venting, flaring, and fugitive losses of methane from oil and gas production facilities on Federal and Indian lands.

• Ensuring that taxpayers receive a fair return from energy resources developed on the public lands, those resources are diligently and responsibly developed, and that adequate financial measures exist to address the risks.

The GAO recommended that BLM take necessary steps to revise its regulations regarding onshore royalty rates to provide flexibility to change those rates. On April 21, 2015, the BLM issued an Advance Notice of Proposed Rulemaking (ANPRM) seeking public comment on potential updates to BLM rules governing oil and gas royalty rates, rental payments, lease sale minimum bids, civil penalty caps, and financial assurances. Over 82,000 comments were received during the comment period ending on June 19, 2015. Most of the comments focused on fiscal lease terms—royalty rates, rentals, and minimum bids. There were a few comments on bonding and very few on civil penalties.

With respect to royalties rates generally, based on comments received on the ANPRM, the BLM proposed an amendment to its regulations governing royalty rates as part of its ''Waste Prevention, Production Subject to Royalties, and Resource Conservation'' rulemaking, 81 FR 6616 (Feb. 8, 2016). The proposed regulatory amendment, if adopted, would give the Secretary flexibility to adjust onshore oil and gas royalty rates in response to market conditions.

Regarding financial measures to address risks, on June 28, 2016, the BLM published a rule to adjust civil monetary penalties contained in the Bureau of Land Management's regulations governing onshore oil and gas operations. This rule responded to the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The adjustments made by this interim final rule constitute the initial catch-up adjustments contemplated by the Act, and are consistent with applicable Office of Management and Budget (OMB) guidance. The initial adjustments will be followed by annual adjustments for inflation thereafter. The purpose of these adjustments is to maintain the deterrent effect of civil penalties found in existing regulations.

• Creating a competitive process for offering lands for solar and wind energy development.

The BLM will finalize a rule to establish an efficient competitive process for leasing public lands for solar and wind energy development. The regulations will establish competitive bidding procedures for lands within designated solar and wind energy development leasing areas, define qualifications for potential bidders, and structure the financial arrangements necessary for the process. The rule will enhance BLM's ability to capture fair market value for the use of public lands, ensure fair access to leasing opportunities for renewable energy development, and foster the growth and development of the renewable energy sector of the economy.

Bureau of Ocean Energy Management

The Bureau of Ocean Energy Management (BOEM) promotes energy independence, environmental protection, and economic development through responsible, science-based management of offshore conventional and renewable energy resources. It is dedicated to offering opportunities to develop the conventional and renewable energy and the underlying mineral resources of the OCS in an efficient and effective manner, balancing the need for economic growth with the protection of the environment. BOEM oversees the expansion of domestic energy production, enhancing the potential for domestic energy independence and the generation of revenue to support the economic development of the country. BOEM thoughtfully considers and balances the potential environmental impacts associated with exploring and extracting OCS resources with the critical need for domestic energy production. BOEM's near-term regulatory agenda will focus on a number of issues, including:

• Enhancing the regulatory efficiency of the offshore renewables program.

BOEM is finalizing two rules to address this goal. In consultation with stakeholders, a proposed rule would update, simplify, and clarify BOEM's current regulations for awarding renewable energy leases and grants. It would reorganize, simplify, and clarify BOEM's pre- and post-auction procedures and better describe the use of bidding credits. It also would deter bidder collusion and provide incentives to encourage a provisional winner to fulfill its obligations. The second is a final rule that reassigns current safety and environmental oversight and enforcement responsibilities for off-shore renewable energy projects from BOEM to the Bureau of Safety and Environmental Enforcement. The Secretary of the Interior and the Assistant Secretary for Land and Mineral Management mandated this administrative reassignment to ensure that safety and environmental oversight of offshore renewable energy activities is independent of program management and leasing functions. BOEM is proposing to amend the scope of an existing proposed rulemaking that remains in early development. The amended scope will incorporate changes to the offshore renewable regulatory framework suggested by the public and the regulated community and may include provisions addressing regulatory gaps and inconsistencies arising from the Title 30 reorganization.

• Updating BOEM's Air Quality Program.

BOEM's original air quality rules date largely from 1980 and have not been updated substantially since that time. From 1990 to 2011, Interior exercised jurisdiction only for OCS sources operating in the Gulf of Mexico. In Fiscal Year 2011, Congress expanded Interior's authority by transferring to it responsibility for monitoring OCS air quality off the North Slope Borough of

the State of Alaska, including the Beaufort Sea, and the Chukchi Sea. BOEM intends to finalize updated regulations to reflect changes that have occurred over the past 34 years and the new regulatory jurisdiction.

• Promoting Effective Financial Assurance and Risk Management.

BOEM has the responsibility to ensure that lessees and operators on the OCS do not engage in activities that could generate an undue risk of financial loss to the Government. BOEM formally established a program office to review these issues, and is working with industry and others to determine how to improve the regulatory regime to better align with the realities of aging offshore infrastructure, hazard risks, and increasing costs of decommissioning. In order to minimize the potential adverse impact of any proposed regulations, and in an effort to take all issues and views into proper account, BOEM published an Advance Notice of Proposed Rulemaking (ANPRM) in 2014, and has engaged with industry on the subject. BOEM has since issued a Notice to Lessees to its stakeholders, effective September 12, 2016, to address the concerns.

Bureau of Safety and Environmental Enforcement

The Bureau of Safety and Environmental Enforcement (BSEE) mission is to regulate safety, emergency preparedness, environmental responsibility and appropriate development and conservation of offshore oil and natural gas resources. BSEE's priorities in fulfillment of its mission are to: (1) Regulate, enforce, and respond to OCS development using the full range of authorities, policies, and tools to compel safety and environmental responsibility and appropriate development of offshore oil and natural gas resources; and (2) build and sustain the organizational, technical, and intellectual capacity within and across BSEE's key functions—capacity that keeps pace with OCS industry technology improvements, innovates in regulation and enforcement, and reduces risk through systemic assessment and regulatory and enforcement actions.

BSEE has identified the following areas of regulatory priorities:

• Improving Crane and Helicopter Safety on Offshore Facilities

BSEE will finalize a rule regarding crane safety on fixed offshore platforms and will propose a rule for helicopter/helideck safety.

• Improving Oil Spill Response Plans and Procedures

BSEE will update regulations for offshore oil spill response plans by incorporating requirements for improved procedures. The procedures that will be required are based on lessons learned from the Deepwater Horizon spill, as well as nearly two decades of agency oversight and applicable BSEE research.

• Updating Cost Reporting and Cost Recovery Rules

BSEE expects to finalize its proposal for expanding the existing requirements for reporting of actual decommissioning costs to include the costs of decommissioning pipelines subject to BSEE's authority. The Bureau will use that information to estimate future decommissioning costs. BSEE will also propose, and expects to finalize, updates to the existing regulations for recovery of the costs of services provided by BSEE (such as reviewing permit applications) to reflect increases in those costs.

Office of Natural Resources Revenue

The Office of Natural Resources Revenue (ONRR) will continue to collect, account for, and disburse revenues from Federal offshore energy and mineral leases and from onshore mineral leases on Federal and Indian lands. The program operates nationwide and is primarily responsible for timely and accurate collection, distribution, and accounting for revenues associated with mineral and energy production.

ONRR's regulatory plan for October 2016 through March 2017 includes proposing new regulations to implement the provisions of the Energy Policy Act of 2005 (EPAct) governing the payment of advance royalty on coal resources produced from Federal leases. ONRR is also adding information collection requirements that are applicable to all solid minerals leases and also are necessary to implement the EPAct Federal coal advance royalty provisions. Additionally, ONRR expects to issue a proposed rulemaking to amend ONRR's service of official correspondence regulations, providing necessary clarifications and a simpler process for the service of official correspondence.

Office of Surface Mining Reclamation and Enforcement

The Office of Surface Mining Reclamation and Enforcement (OSMRE) was created by the Surface Mining Control and Reclamation Act of 1977 (SMCRA). Under SMCRA, OSMRE has two principal functions—the regulation of surface coal mining and reclamation operations, and the reclamation and restoration of abandoned coal mine lands. In enacting SMCRA, Congress directed OSMRE to ''strike a balance between protection of the environment and agricultural productivity and the Nation's need for coal as an essential source of energy.'' In response to its statutory mandate, OSMRE has sought to develop and maintain a stable regulatory program that is safe, cost-effective, and environmentally sound. A stable regulatory program ensures that the coal mining industry has clear guidelines for operation and reclamation, and that citizens know how the program is being implemented.

OSMRE's Federal regulatory program sets minimum requirements for obtaining a permit for surface and underground coal mining operations, sets performance standards for those operations, requires reclamation of lands and waters disturbed by mining, and requires enforcement to ensure that the standards are met OSMRE is the primary regulatory authority for SMCRA enforcement until a State or Indian tribe develops its own regulatory program, which is no less effective than the Federal program. When a State or Indian tribe achieves ''primacy,'' it assumes direct responsibility for permitting, inspection, and enforcement activities under its federally approved regulatory program. The regulatory standards in Federal program States and in primacy States are essentially the same with only minor, non-substantive differences. Today, 24 States have primacy, including 23 of the 24 coal producing States. OSMRE's regulatory priorities for the coming year will focus on:

• Stream Protection.

Protect streams and related environmental resources from the adverse effects of surface coal mining operations. OSMRE plans to finalize regulations to improve the balance between environmental protection and the Nation's need for coal by better protecting streams from the adverse impacts of surface coal mining operations.

• Coal Combustion Residues.

Establish Federal standards for the beneficial use of coal combustion residues on active and abandoned coal mines.

• Cost Recovery.

Revise OSMRE existing permit fees and impose new fees to recover OSMRE's costs for permit administration and enforcement services provided to the coal industry. The proposed fees would be applicable to permits for mining on lands where regulatory jurisdiction has not been delegated to the States and would include OSMRE's Federal program, States, and Indian lands.

• Bond Requirements.

Update OSMRE bonding regulations to ensure there are sufficient funds to complete all of the required reclamation in the reclamation plan if the regulatory authority has to perform the work in the event of forfeiture.

U.S. Fish and Wildlife Service

The mission of the U.S. Fish and Wildlife Service (FWS) is to work with others to conserve, protect, and enhance fish, wildlife, and plants and their habitats for the continuing benefit of the American people. FWS also provides opportunities for Americans to enjoy the outdoors and our shared natural heritage.

FWS fulfills its responsibilities through a diverse array of programs that:

- Protect and recover endangered and threatened species;
- Monitor and manage migratory birds;
- Restore native aquatic populations and nationally significant fisheries;
- Enforce Federal wildlife laws and regulate international trade;
- Conserve and restore wildlife habitat such as wetlands;
- Help foreign governments conserve wildlife through international conservation efforts;
- Distribute Federal funds to States, territories, and tribes for fish and wildlife conservation projects; and
- Manage the more than 150 million acre National Wildlife Refuge System, which protects and conserves fish and wildlife and their habitats, and allows the public to engage in outdoor recreational activities.

During the next year, FWS regulatory priorities will include:

- Regulations under the Endangered Species Act (ESA).

We will issue multiple rules under the ESA to conserve both domestic and foreign animal and plant species. Accordingly, we will add species to, remove species from, and reclassify species on the Lists of Endangered and Threatened Wildlife and Plants and designate critical habitat for certain listed species. We will issue a comprehensive compensatory mitigation policy that sets standards for compensatory mitigation and minimum criteria that should provide better ecological outcomes for listed and at-risk species through effective management of the risks associated with compensatory mitigation. The policy will encourage a proactive approach that will take advantage of economies of scale and provide greater regulatory certainty and predictability for the regulated community.

- Regulations under the Migratory Bird Treaty Act (MBTA).

In carrying out our responsibility to manage migratory bird populations, we issue annual migratory bird hunting regulations, which establish the frameworks (outside limits) for States to establish season lengths, bag limits, and areas for migratory game bird hunting. Additionally, FWS is considering whether to issue a proposed rulemaking to address various approaches to regulating incidental take of migratory birds, including issuing individual permits, general permits, and Federal agency authorizations. The rulemaking would establish appropriate standards for any such regulatory approach to ensure that incidental take of migratory birds is appropriately mitigated, which may include requiring measures to avoid or minimize take or securing compensation.

The FWS is also refining its management objectives for bald eagles and golden eagles and revising the regulations pertaining to issuing permits for nonpurposeful take of eagles and eagle nest take. The revisions will add clarity to the eagle permit regulations, improve their implementation, and increase compliance, while providing strong protection for eagles.

- Regulations to administer the National Wildlife Refuge System (NWRS).

In carrying out our statutory responsibility to provide wildlife-dependent recreational opportunities on NWRS lands, we issue an annual rule to update the hunting and fishing regulations on specific refuges. To protect NWRS resources, we will issue a rule to ensure that businesses conducting oil or gas operations on NWRS lands do so in a manner that prevents or minimizes damage to the lands, visitor values, and management objectives.

- Regulations to carry out the Pittman-Robertson Wildlife Restoration and Dingell-Johnson Sport Fish Restoration Acts (Acts).

Under the Acts, the FWS distributes annual apportionments to States from trust funds derived from excise tax revenues and fuel taxes. We continue to direct state fish and wildlife agencies on how to use these funds to implement conservation projects. To strengthen our partnership with State conservation organizations, we are working on several rules to update and clarify our regulations. Planned regulatory revisions will help to reflect several new decisions agreed upon by state conservation organizations, we are working on several rules to update and clarify our regulations. Planned regulatory revision will help to reflect several new decisions agreed upon by State and Federal partners. We will also expand on existing regulations that prescribe processes that applicants and grantees must follow when applying for and managing grants from FWS.

- Regulations to carry out the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and the Lacey Act.

In accordance with section 3(a) of Executive Order 13609 (Promoting International Regulatory Cooperation), we will update our CITES regulations to incorporate provisions resulting from the 16th Conference of the Parties to CITES. The revisions will help us more effectively promote species conservation and help U.S. importers and exporters of wildlife products understand how to conduct lawful international trade.

National Park Service

The National Park Service (NPS) preserves unimpaired the natural and cultural resources and values within more than 400 units of the National Park System encompassing nearly 84 million acres of lands and waters for the enjoyment, education, and inspiration of this and future generations. The NPS also cooperates with partners to extend the benefits of natural and resource conservation and outdoor recreation throughout the United States and the world.

To achieve this mission NPS adheres to the following guiding principles:

- *Excellent Service:* Providing the best possible service to park visitors and partners.
- *Productive Partnerships:* Collaborating with Federal, State, tribal, and local governments, private organizations, and businesses to work toward common goals.
- *Citizen Involvement:* Providing opportunities for citizens to participate in the decisions and actions of the National Park Service.
- *Heritage Education:* Educating park visitors and the general public about their history and common heritage.
- *Outstanding Employees:* Empowering a diverse workforce committed to excellence, integrity, and quality work.
- *Employee Development:* Providing developmental opportunities and training so employees have the ''tools to do the job'' safely and efficiently.
- *Wise Decisions:* Integrating social, economic, environmental, and ethical considerations into the decisionmaking process.
- *Effective Management:* Instilling a performance management philosophy that fosters creativity, focuses on results, and requires accountability at all levels.

• *Research and Technology:* Incorporating research findings and new technologies to improve work practices, products, and services.

The NPS regulatory priorities for the coming year include:

• Managing Off-Road Vehicle Use.

Rules for Fire Island National Seashore, Glen Canyon National Recreation Area, and Cape Lookout National Seashore would allow for management of off-road vehicle (ORV) use, to protect and preserve natural and cultural resources, and provide a variety of visitor use experiences while minimizing conflicts among user groups. Further, the rules would designate ORV routes and establish operational requirements and restrictions.

• Managing Disposition of Archeological Materials.

The rule will establish definitions, standards, procedures, and guidelines to be followed by Federal agencies to dispose of particular archeological material remains that are in collections recovered during Federal projects and programs under certain Federal statutes. This rule is necessary because, at present, there is no procedure to dispose of material remains that are determined to be of insufficient archeological interest.

• Implementing the Native American Graves Protection and Repatriation Act (NAGPRA).

A rule revising the existing regulations would describe the NAGPRA process in plain language, eliminate ambiguity, clarify terms, and include Native Hawaiians in the process. The rule would eliminate unnecessary requirements for museums and would not add processes or collect additional information.

• Regulating Non-Federal Oil and Gas Activity on NPS Lands.

NPS will revise its existing regulations to account for new technology and industry practices, eliminate regulatory exemptions, update new legal requirements, remove caps on bond amounts, and allow the NPS to recover compliance costs associated with administering the regulations.

• Managing Service Animals.

The rule will define and differentiate service animals from pets, and will describe the circumstances under which service animals would be allowed in a park area. The rule will ensure NPS compliance with section 504 of the Rehabilitation Act of 1973 (28 U.S.C. 794) and better align NPS regulations with the Americans with Disabilities Act of 1990 (42 U.S.C. 1211 *et seq.*) and the Department of Justice Service Animal regulations of 2011 (28 CFR 36.104).

• Managing Subsistence Collection—NPS Units—Alaska Region.

The rule will allow qualified subsistence users to collect and use non-edible fish and wildlife parts and plant materials for the creation and subsequent disposition (use, barter, or sale) of handicrafts. The rule will also (1) clarify that collecting or possessing living wildlife is generally prohibited, and (2) limit the types of bait that may be used to take bears for subsistence uses.

• Managing Sale and Distribution of Printed Matter and Other Message Bearing Items—NPS Units Nationwide.

The rule would allow the free distribution of message-bearing items that do not meet the definition of ''printed matter'' in existing regulations. These items include readable electronic media, clothing and accessories, buttons, pins, and bumper stickers. The rule would implement current NPS policy.

Bureau of Reclamation

The Bureau of Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To accomplish this mission, we employ management, engineering, and science to achieve effective and environmentally sensitive solutions.

Reclamation projects provide: Irrigation water service, municipal and industrial water supply, hydroelectric power generation, water quality improvement, groundwater management, fish and wildlife enhancement, outdoor recreation, flood control, navigation, river regulation and control, system optimization, and related uses. We have continued to focus on increased security at our facilities.

Our regulatory program focus in Fiscal Year 2017 is to publish a proposed minor amendment to 43 CFR part 429 to bring it into compliance with the requirements of 43 CFR part 5, Commercial Filming and Similar Projects and Still Photography on Certain Areas under Department Jurisdiction. Publishing this rule will implement the provisions of Public Law 106–206, which directs the establishment of permits and reasonable fees for commercial filming and certain still photography activities on public lands.

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DEPARTMENT OF JUSTICE (DOJ)—FALL 2016

Statement of Regulatory Priorities

The mission of the Department of Justice is to enforce the law and defend the interests of the United States according to the law, to ensure public safety against foreign and domestic threats, to provide Federal leadership in preventing and controlling crime, to seek just punishment for those guilty of unlawful behavior, and to ensure the fair and impartial administration of justice for all Americans. In carrying out its mission, the Department is guided by four core values: (1) Equal justice under the law; (2) honesty and integrity; (3) commitment to excellence; and (4) respect for the worth and dignity of each human being. The Department of Justice is primarily a law enforcement agency, not a regulatory agency; it carries out its principal investigative, prosecutorial, and other enforcement activities through means other than the regulatory process.

The regulatory priorities of the Department include initiatives in the areas of civil rights, criminal law enforcement and immigration. These initiatives are summarized below. In addition, several other components of the Department carry out important responsibilities through the regulatory process. Although their regulatory efforts are not separately discussed in this overview of the regulatory priorities, those components have key roles in implementing the Department's anti-terrorism and law enforcement priorities.

Civil Rights

The Department is planning to publish a rule amending the Department's section 504 regulations for federally assisted programs and activities to incorporate changes adopted by the ADA Amendments Act of 2008 and other legal developments (RIN 1105–AB50). In addition, the Civil Rights Division is including the following disability nondiscrimination rulemaking initiatives in the Department's Regulatory Plan: (1) Nondiscrimination on the Basis of Disability by Public Accommodations: Movie Captioning and Audio Description (RIN 1190–AA63); (2) Accessibility of Web Information and Services of State and Local Governments (RIN 1190–AA65); and (3) Implementation of the ADA Amendments Act of 2008 in the Department's section 504 Federal Coordination regulation (RIN 1190–AA72).

The Civil Rights Division will also be revising its regulations for Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs under title VI of the Civil Rights Act (RIN 1190–AA70), as well as revising regulations implementing section 274B of the Immigration and Nationality Act with respect to unfair immigration-related employment practices (RIN 1190–AA71).

Other disability nondiscrimination rulemaking initiatives, while important priorities for the Department's rulemaking agenda, will be included in the Department's long-term actions for fiscal years 2017 and 2018. As will be discussed more fully below, these initiatives include: (1) Next Generation 9–1–1 Services (RIN 1190–AA62); (2) Accessibility of Web Information and Services of Public Accommodations (RIN 1190–AA61); (3) Accessibility of Equipment and Furniture (RIN 1190–AA64), including Accessibility of Medical Equipment and Furniture (RIN 1190–AA66), and Accessibility of Beds in Guestrooms with Mobility Features in Places of Lodging (RIN 1190–AA67); and (4) Implementation of the ADA Amendments Act of 2008 in the Department's section 504 regulation with respect to federally conducted programs and activities (RIN 1190–AA73).

Regulatory Plan Initiatives

Captioning and Audio Description in Movie Theaters (RIN 1190–AA63). Title III of the ADA requires public accommodations to take ''such steps as may be necessary to ensure that no individual with a disability is treated differently because of the absence of auxiliary aids and services, unless the covered entity can demonstrate that taking such steps would cause a fundamental alteration or would result in an undue burden.'' 42 U.S.C. 12182(b)(2)(A)(iii). Both open and closed captioning and audio recordings are examples of auxiliary aids and services that should be provided by places of public accommodations, 28 CFR 36.303(b)(1)–(2). The Department stated in the preamble to its 1991 rule that ''[m]ovie theaters are not required . . . to present open-captioned films,'' 28 CFR part 36, app. C (2011), but did not address closed captioning and audio description in movie theaters. In the movie theater context, ''closed captioning'' refers to captions that only the patron requesting the closed captions can see because the captions are delivered to the patron at or near the patron's seat. Audio description is a technology that enables individuals who are blind or have low vision to enjoy movies by providing a spoken narration of key visual elements of a visually delivered medium, such as actions, settings, facial expressions, costumes, and scene changes.

Since 1991, there have been many technological advances in the area of closed captioning and audio description for first-run movies. In June 2008, the Department issued an NPRM to revise the ADA title III regulation, 73 FR 34466, in which the Department stated that it was considering options for requiring that movie theater owners or operators exhibit movies that are captioned or that provide video (narrative) description. The Department issued an ANPRM on July 26, 2010, to obtain more information regarding issues raised by commenters; to seek comment on technical questions that arose from the Department's research; and to learn more about the status of digital conversion. In addition, the Department sought information regarding whether other technologies or areas of interest (*e.g.,* 3D) have developed or are in the process of development that would either replace or augment digital cinema or make any regulatory requirements for captioning and audio description more difficult or expensive to implement. The Department received approximately 1,171 public comments in response to its movie captioning and video description ANPRM. On August 1, 2014, the Department published its NPRM proposing to revise the ADA title III regulation to require movie theaters to have the capability to exhibit movies with closed movie captioning and audio description (which was described in the ANPRM as video description) for all showings of movies that are available with closed captioning or audio description, to require theaters to provide notice to the public about the availability of these services, and to ensure that theaters have staff available who can provide information to patrons about the use of these services. In response to a request for an extension of the public comment period, the Department issued a notice extending the comment period for 60 days until December 1, 2014. The Department received approximately 435 public comments in response to the movie captioning and audio description NPRM and expects to publish a final rule during fiscal year 2016.

Web site Accessibility: State and Local Governments (RIN 1190–AA65). The Internet as it is known today did not exist when Congress enacted the ADA, yet today the Internet plays a critical role in the daily personal, professional, civic, and business lives of Americans. The ADA's expansive nondiscrimination mandate reaches public entities' programs, services, or activities offered on or through their Web sites. Being unable to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. For individuals with disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain government programs and services. In this regard, the Internet is dramatically changing the way that governmental entities serve the public. Public entities are increasingly providing their constituents access to government services and programs through their Web sites. Information available on the Internet has become a gateway to education and participation in many other public programs and activities. Through Government Web sites, the public can obtain information or correspond with local officials without having to wait in line or be placed on hold. They can also pay fines, apply for benefits, renew State-issued identification, register to vote, file taxes, request copies of vital records, and complete numerous other everyday tasks. The availability of these services and information online not only makes life easier for the public but also often enables governmental entities to operate more efficiently and at a lower cost.

The ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of American civic and economic life will be achieved in today's technologically advanced society only if it is clear to State and Local governments that their Web sites must be accessible. Consequently, the Department is planning to amend its regulation implementing title II of the ADA to require public entities that provide services, programs or activities to the public through Internet Web sites to make their sites accessible to and usable by individuals with disabilities.

The Department, in its 2010 ANPRM on Web site accessibility, indicated that it was considering amending its regulations implementing titles II and III of the ADA to require Web site accessibility and it sought public comment regarding what standards, if any, it should adopt for Web site accessibility, whether the Department should adopt coverage limitations for certain entities, and what resources and services are available to make existing Web sites accessible to individuals with disabilities. The Department also solicited comments on the costs of

making Web sites accessible and on the existence of any other effective and reasonably feasible alternatives to making Web sites accessible. The Department received approximately 440 public comments and is in the process of reviewing these comments. The Department will be publishing separate NPRMs addressing Web site accessibility pursuant to titles II and III of the ADA.

On May 9, 2016 the Department published a Supplemental Advance Notice of Proposed Rulemaking (SANPRM) titled *Nondiscrimination on the Basis of Disability; Accessibility of Web Information and Services of State and Local Government Entities* addressing the potential application of technical accessibility requirements to the Web sites of title II entities. 81 FR 28657. Through the SANPRM, the Department intends to solicit additional public comment on various issues to help the Department shape and further its rulemaking efforts. The SANPRM asks 123 multipart questions, seeking public comment on a wide range of complex issues related to the potential technical accessibility requirements as well as any proposed title II web rule's costs and benefits.

Implementation of the ADA Amendments Act of 2008: Federally Assisted Programs (Section 504 of the Rehabilitation Act of 1973) (RIN 1105–AB50). Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability in programs and activities receiving Federal financial assistance or in programs and activities conducted by an Executive agency. This rule would propose to revise the Department's regulation implementing section 504 of the Rehabilitation Act with respect to recipients of Federal financial assistance from the Department, 28 CFR part 42, subpart G, to reflect statutory amendments made by the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sep. 25, 2008), and other legal developments since the current regulations were adopted.

The ADA Amendments Act, which took effect on January 1, 2009, revised 29 U.S.C. 705 to make the definition of disability used in the nondiscrimination provisions in title V of the Rehabilitation Act consistent with the amended ADA requirements. Specifically, these amended ADA requirements: (1) Clarify that the term ''disability'' shall be interpreted broadly and without extensive analysis; (2) add rules of construction to be applied when determining whether an impairment substantially limits a major life activity; (3) expand the definition of ''major life activities'' by providing a non-exhaustive list of ''major life activities'' that includes the operation of ''major bodily functions;'' and (4) modify the ''regarded as'' prong of the definition of disability by stating that an individual may be ''regarded as'' having an impairment even if that impairment does not limit or is not perceived to limit a major life activity, and clarifying that individuals covered only under the ''regarded as'' prong are not entitled to reasonable modifications. An update to 28 CFR part 42, subpart G, would, therefore, incorporate these changes and harmonize the regulation with the ADA Amendments Act and the revisions to title V of the Rehabilitation Act.

Implementation of the ADA Amendments Act of 2008: Federal Coordination (Section 504 of the Rehabilitation Act of 1973) (RIN 1190–AA72). Executive Order 12250 delegated the authority to coordinate the enforcement and implementation of section 504 of the Rehabilitation Act by Executive agencies to the Attorney General. Pursuant to this authority, the Department proposes to revise its regulation implementing Executive Order 12250, 28 CFR part 41, to reflect statutory amendments to section 504 of the Rehabilitation Act made by the ADA Amendments Act of 2008. The proposed revisions to the Department's Federal Coordination regulation would be consistent with the proposed revisions to the Department's Federally Assisted regulation discussed above.

Coordination of Enforcement of Non-Discrimination in Federally Assisted Programs (RIN 1190–AA70). In addition, the Department is planning to revise the coordination regulations implementing title VI of the Civil Rights Act, which have not been updated in over 30 years. Among other things, the updates will revise outdated provisions, streamline procedural steps, streamline and clarify provisions regarding information and data collection, promote opportunities to encourage public engagement, and incorporate current law regarding meaningful access for individuals who are limited English proficient.

Implementation of Section 274B of the Immigration and Nationality Act (RIN 1190–AA71). The Department also proposes to revise regulations implementing section 274B of the Immigration and Nationality Act, and to reflect the new name of the office within the Department charged with enforcing this statute. The proposed revisions are appropriate to conform the regulations to the statutory text as amended, simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, and update outdated references.

Long-Term Actions

The remaining disability nondiscrimination rulemaking initiatives from the 2010 ANPRMs are included in the Department's long-term priorities projected for fiscal years 2017 and 2018:

Next Generation 9–1–1 (RIN 1190–AA62). This ANPRM sought information on possible revisions to the Department's regulation to ensure direct access to Next Generation 9–1–1 (NG 9–1–1) services for individuals with disabilities. In 1991, the Department of Justice published a regulation to implement title II of the Americans with Disabilities Act of 1990 (ADA). That regulation requires public safety answering points (PSAPs) to provide direct access to persons with disabilities who use analog telecommunication devices for the deaf (TTYs), 28 CFR 35.162. Since that rule was published, there have been major changes in the types of communications technology used by the general public and by people who have disabilities that affect their hearing or speech. Many individuals with disabilities now use the Internet and wireless text devices as their primary modes of telecommunications. At the same time, PSAPs are planning to shift from analog telecommunications technology to new Internet-Protocol (IP)-enabled NG 9–1–1 services that will provide voice and data (such as text, pictures, and video) capabilities. As PSAPs transition from the analog systems to the new technologies, it is essential that people with communication disabilities be able to use the new systems. Therefore, the Department published this ANPRM to begin to develop appropriate regulatory guidance for PSAPs that are making this transition. The Department is in the process of completing its review of the approximately 146 public comments it received in response to its NG 9–1–1 ANPRM.

Web Site Accessibility: Public Accommodations (RIN 1190–AA61). The ADA's expansive nondiscrimination mandate reaches the goods and services provided by public accommodations using Internet Web sites. The inability to access Web sites puts individuals at a great disadvantage in today's society, which is driven by a dynamic electronic marketplace and unprecedented access to information. On the economic front, electronic commerce, or ''e-commerce,'' often

offers consumers a wider selection and lower prices than traditional, ''brick-and-mortar'' storefronts, with the added convenience of not having to leave one's home to obtain goods and services. And, for individuals with disabilities who experience barriers to their ability to travel or to leave their homes, the Internet may be their only way to access certain goods and services. Beyond goods and services, information available on the Internet has become a gateway to education, socializing, and entertainment.

The Department's 2010 ANPRM on Web site accessibility sought public comment regarding what standards, if any, it should adopt for Web site accessibility, whether the Department should adopt coverage limitations for certain entities, including small businesses, and what resources and services are available to make existing Web sites accessible to individuals with disabilities. The Department also solicited comments on the costs of making Web sites accessible and on the existence of any other effective and reasonably feasible alternatives to making Web sites accessible. The Department is reviewing the public comments received in response to the ANPRM and, as noted above, plans to publish the title II NPRM on Web site accessibility in fiscal year 2017. The Department believes that the title II Web site accessibility rule will facilitate the creation of an important infrastructure for web accessibility that will be very important in the Department's preparation of the title III Web site accessibility NPRM. Consequently, the Department has decided to extend the time period for development of the proposed title III Web site accessibility rule and include it among its long-term rulemaking priorities.

Equipment and Furniture. Both title II and title III of the ADA require covered entities to make reasonable modifications in their programs or services to facilitate participation by persons with disabilities. In addition, covered entities are required to ensure that people are not excluded from participation because facilities are inaccessible or because the entity has failed to provide auxiliary aids. The use of accessible equipment and furniture is often critical to an entity's ability to provide a person with a disability equal access to its services. Changes in technology have resulted in the development and improved availability of accessible equipment and furniture that benefit individuals with disabilities. The 2010 ADA Standards include accessibility requirements for some types of fixed equipment (*e.g.,* ATMs, washing machines, dryers, tables, benches and vending machines) and the Department plans to look to these standards for guidance, where applicable, when it proposes accessibility standards for equipment and furniture that is not fixed. The ANPRM sought information about other categories of equipment, including beds in accessible guest rooms, and medical equipment and furniture. The Department received approximately 420 comments in response to its ANPRM and is in the process of reviewing these comments. The Department plans to publish an NPRM pursuant to title III of the ADA on beds in accessible guest rooms (RIN 1190–AA67), and also a separate NPRM pursuant to titles II and III of the ADA that focuses solely on accessible medical equipment and furniture (RIN 1190–AA66). The remaining items of equipment and furniture addressed in the 2010 ANPRM will be the subject of a subsequent NPRM.

Implementation of the ADA Amendments Act of 2008: Federally Conducted Programs (Section 504 of the Rehabilitation Act of 1973) (RIN 1190–AA73). As noted above, section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), prohibits discrimination on the basis of disability in programs and activities conducted by an Executive agency. The Department plans to revise its 504 federally conducted regulation at 28 CFR part 39 to update outdated terminology and reflect statutory amendments to the definition of disability applicable to section 504 of the Rehabilitation Act, as made by the ADA Amendments Act of 2008, Public Law 110–325, 122 Stat. 3553 (Sep. 25, 2008).

Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF)

ATF issues regulations to enforce the Federal laws relating to the manufacture and commerce of firearms and explosives. ATF's mission and regulations are designed to, among other objectives, curb illegal traffic in, and criminal use of, firearms and explosives, and to assist State, local, and other Federal law enforcement agencies in reducing crime and violence. ATF will continue, as a priority during fiscal year 2017, to seek modifications to its regulations governing commerce in firearms and explosives.

ATF plans to issue regulations to finalize the current interim rules implementing the provisions of the Safe Explosives Act, title XI, subtitle C, of Public Law 107–296, the Homeland Security Act of 2002 (enacted Nov. 25, 2002) (RIN 1140–AA00). The Department is also planning to finalize a proposed rule to codify regulations (27 CFR part 771) governing the procedure and practice for proposed denial of applications for explosives licenses or permits and proposed revocation of such licenses and permits (RIN 1140–AA38). As proposed, this rule would clarify the administrative hearing processes for explosives licenses and permits.

ATF also has begun a rulemaking process that amends 27 CFR part 447 to update the terminology in the ATF regulations based on similar terminology amendments made by the Department of State on the U.S. Munitions List in the International Traffic in Arms Regulations, and the Department of Commerce on the Commerce Control List in the Export Administration Regulations (RIN 1140–AA49).

Drug Enforcement Administration (DEA)

DEA is the primary agency responsible for coordinating the drug law enforcement activities of the United States and also assists in the implementation of the President's National Drug Control Strategy. DEA implements and enforces titles II and III of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and the Controlled Substances Import and Export Act (21 U.S.C. 801–971), as amended, and collectively referred to as the Controlled Substances Act (CSA). DEA's mission is to enforce the CSA and its regulations and bring to the criminal and civil justice system those organizations and individuals involved in the growing, manufacture, or distribution of controlled substances and listed chemicals appearing in or destined for illicit traffic in the United States. DEA promulgates the CSA implementing regulations in title 21 of the Code of Federal Regulations (CFR), parts 1300 to 1321. The CSA and its implementing regulations are designed to prevent, detect, and eliminate the diversion of controlled substances and listed chemicals into the illicit market while providing for the legitimate medical, scientific, research, and industrial needs of the United States.

Pursuant to its statutory authority, DEA continuously evaluates new and emerging substances to determine whether such substances should be controlled under the CSA. During fiscal year 2016, in addition to initiating temporary scheduling actions to prevent imminent hazard to the public safety, DEA will also consider petitions to control or reschedule various substances. Among other regulatory

reviews and initiatives, DEA plans to update its regulations for the import and export of tableting and encapsulating machines, controlled substances, and listed chemicals, and its regulations relating to reports required for domestic transactions in listed chemicals, gammy-hydroxybutyric acid, and tableting and encapsulating machines. In accordance with Executive Order 13563, the DEA has published an NPRM proposing to amend these regulations and plans to finalize these proposals promptly (RIN 1117–AB41).

Bureau of Prisons

The Federal Bureau of Prisons issues regulations to enforce the Federal laws relating to its mission: To protect society by confining offenders in the controlled environments of prisons and community-based facilities that are safe, humane, cost-efficient, and appropriately secure, and that provide work and other self-improvement opportunities to assist offenders in becoming law-abiding citizens. During the next 12 months, in addition to other regulatory objectives aimed at accomplishing its mission, the Bureau will continue its ongoing efforts to: Streamline regulations, eliminating unnecessary language and improving readability; improve disciplinary procedures through a revision of the subpart relating to the disciplinary process (RIN 1120–AB71); improve safety in facilities through the use of less-than-lethal force instead of traditional weapons (RIN 1120–AB67); and provide effective literacy programming which serves both general and specialized inmate needs (RIN 1120–AB64).

Executive Office for Immigration Review (EOIR)

On March 1, 2003, pursuant to the Homeland Security Act of 2002 (HSA), the responsibility for immigration enforcement and border security and for providing immigration-related services and benefits, such as naturalization, immigrant petitions, and work authorization, was transferred from the Justice Department's former Immigration and Naturalization Service (INS) to the Department of Homeland Security (DHS). However, the immigration judges and the Board of Immigration Appeals (Board) in EOIR remain part of the Department of Justice. The immigration judges adjudicate approximately 300,000 cases each year to determine whether aliens should be ordered removed from the United States or should be granted some form of relief from removal. The Board has jurisdiction over appeals from the decisions of immigration judges, as well as other matters. Accordingly, the Attorney General has a continued role in the conducting of immigration proceedings, including removal proceedings and custody determinations regarding the detention of aliens pending completion of removal proceedings. The Attorney General also is responsible for civil litigation and criminal prosecutions relating to the immigration laws.

In several pending rulemaking actions, the Department is working to revise and update the regulations relating to immigration proceedings in order to further EOIR's primary mission to adjudicate immigration cases by fairly, expeditiously, and uniformly interpreting and administering the Nation's immigration laws. These pending regulations include but are not limited to: A final regulation to establish procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel (1125–AA68); a final regulation to improve the recognition and accreditation process for organizations and representatives that appear in immigration proceedings before EOIR (RIN 1125–AA72); and a proposed regulation to implement procedures that address the specialized needs of unaccompanied alien children in removal proceedings pursuant to the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (RIN 1125–AA70). In response to Executive Order 13653, the Department is retrospectively reviewing EOIR's regulations to eliminate regulations that unnecessarily duplicate DHS's regulations and update outdated references to the pre-2003 immigration system (RIN 1125–AA71).

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in *The Regulatory Plan.* However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on *Reginfo.gov* in the Completed Actions section for that agency. These rulemakings can also be found on *Regulations.gov*. The final Justice Department plan can be found at: *http://www.justice.gov/open/doj-rr-final-plan.pdf.*

RIN	Title	Description
1125–AA62	List of Pro Bono Legal Service Providers for Aliens in Immigration Proceedings.	The Department has published a Final rule amending the EOIR regulations to enhance the eligibility requirements for organizations, private attorneys, and referral services to be included on the List of Pro Bono Legal Service Providers.
1125–AA71	Retrospective Regulatory Review Under E.O. 13563 of 8 CFR parts 1003, 1103, 1211, 1212, 1215, 1216, 1235.	Advance notice of future rulemaking concerning appeals of DHS decisions (8 CFR part 1103), documentary requirements for aliens (8 CFR parts 1211 and 1212), control of aliens departing from the United States (8 CFR part 1215), procedures governing conditional permanent resident status (8 CFR part 1216), and inspection of individuals applying for admission to the United States (8 CFR part 1235). A number of attorneys, firms, and organizations in immigration practice are small entities. EOIR believes this rule will improve the efficiency and fairness of adjudications before EOIR by, for example, eliminating duplication, ensuring consistency with the Department of Homeland Security's regulations in chapter I of title 8 of the CFR, and delineating more clearly the authority and jurisdiction of each agency. The ANPRM was published on 9/28/2012. The comment period closed on 11/27/2012. EOIR is currently in the process of reviewing the comments received and drafting two follow-up NPRMs.

RIN	Title	Description
1125–AA72	Recognition of Organizations and Accreditations of Non- Attorney Representatives.	This rule amends the regulations governing the requirements and procedures for authorizing representatives of non-profit religious, charitable, social service, or similar organizations to represent persons in proceedings before the Executive Office for Immigration Review (EOIR) and the Department of Homeland Security (DHS).
1125–AA78	Separate Representation for Custody and Bond Proceedings.	The Department has published a Final rule amending the Executive Office for Immigration Review (EOIR) regulations relating to the representation of aliens in custody and bond proceedings by allowing a representative to enter an appearance in custody and bond proceedings before EOIR without committing to appear on behalf of the alien for all proceedings before the Immigration Court.
1117–AB37	Transporting to Dispense Controlled Substances on an As-Needed and Random Basis.	DEA proposes to amend its regulations to clearly delineate how to transport, dispense, and store controlled substances away from registered locations when such activities are for the purpose of dispensing controlled substances on an as-needed and random basis. These proposed amendments include changes necessary to implement the Veterinary Medicine Mobility Act of 2014 and to clarify controlled substance handling requirements for emergency response operations.
1117–AB41	Implementation of the International Trade Data System.	DEA plans to update its regulations for the import and export of tableting and encapsulating machines, controlled substances, and listed chemicals, and its regulations relating to reports required for domestic transactions in listed chemicals, gammy-hydroxybutyric acid, and tableting and encapsulating machines. In accordance with Executive Order 13563, the DEA has plans to review its import and export regulations and reporting requirements for domestic transactions in listed chemicals (and gammy-hydroxybutyric acid) and tableting and encapsulating machines, and evaluate them for clarity, consistency, continued accuracy, and effectiveness. The proposed amendments would clarify certain policies and reflect current procedures and technological advancements. The amendments would also allow for the implementation, as applicable to tableting and encapsulating machines, controlled substances, and listed chemicals, of the President's Executive Order 13659 on streamlining the export/import process and requiring the government-wide utilization of the International Trade Data System.
1121–AA85; 1121–AA86	Public Safety Officers' Benefits (PSOB) Program.	These two related rules are a priority because certain key provisions of the PSOB rule have been superseded by statutory change, a need exists to improve the overall efficiency of the program, and the last significant update to the rules was in 2008. The first rule proposes to update the existing regulation to address issues related to injuries and deaths of public safety officers asserted to have been caused by 9/11 services, and offset issues with the 9/11 Victim Compensation Fund. The second rule proposes a more comprehensive update of the PSOB regulation. These revisions are necessary as a result of significant changes to the Program following the enactment of the Dale Long Public Safety Officers' Benefits Improvements Act of 2012 (signed into law in January 2013), as well as recommendations from an OIG Audit finalized in July 2015, and other internal reviews that identified the need to streamline the claims review process to reduce delays and increase transparency.

Executive Order 13609—Promoting International Regulatory Cooperation

The Department is not currently engaged in international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

Executive Order 13659

Executive Order 13659, ''Streamlining the Export/Import Process for America's Businesses,'' provided new directives for agencies to improve the technologies, policies, and other controls governing the movement of goods across our national borders. This includes additional steps to implement the International Trade Data System as an electronic information exchange capability, or ''single window,'' through which businesses will transmit data required by participating agencies for the importation or exportation of cargo.

At the Department of Justice, stakeholders must obtain pre-import and pre-export authorizations from the Drug Enforcement Administration (DEA) (relating to controlled substances and listed chemicals), or from the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) (relating to firearms, ammunition, and explosives). The ITDS ''single window'' will work in conjunction with these pre-import and pre-export authorizations. Because the ITDS excludes applications for permits, licenses, or certifications, the ITDS single window will not be used by DEA registrants, regulated persons, or brokers or traders applying for permits or filing import/export declarations, notifications or reports. The DEA import/export application and filing processes will continue to remain separate from (and in advance of) the ITDS single window. Entities will continue to use the DEA application and filing processes; however, the processes will be electronic rather than paper. After DEA's approval or notification of receipt as appropriate, the DEA will transmit the necessary information electronically to the ITDS and the registrant or regulated person.

Pursuant to section 6 of E.O. 13659, DEA and ATF have consulted with U.S. Customs and Border Protection (CBP) and are continuing to study what modifications and technical changes to their existing regulations and operational systems are needed to achieve the goals of E.O. 13659.

DOJ—CIVIL RIGHTS DIVISION (CRT)

Proposed Rule Stage

72. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 42 U.S.C. 12101 *et seq.*

CFR Citation: 28 CFR 35.

Legal Deadline: None.

Abstract: The Department published an ANPRM on July 26, 2010, RIN 1190–AA61, that addressed issues relating to proposed revisions of both the title II and title III ADA regulations in order to provide guidance on the obligations of covered entities to make programs, services and activities offered over the Web accessible to individuals with disabilities. The Department has now divided the rulemakings in the next step of the rulemaking process so as to proceed with separate notices of proposed rulemakings for title II and title III. The title III rulemaking on Web accessibility will continue under RIN 1190–AA61 and the title II rulemaking will continue under the new RIN 1190–AA65. This rulemaking will provide specific guidance to State and local governments in order to make services, programs, or activities offered to the public via the Web accessible to individuals with disabilities. The ADA requires that State and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42. U.S.C. 12132. The Internet as it is known today did not exist when Congress enacted the ADA; yet today the Internet is dramatically changing the way that governmental entities serve the public. Taking advantage of new technology, citizens can now use State and local government Web sites to correspond online with local officials; obtain information about government services; renew library books or driver's licenses; pay fines; register to vote; obtain tax information and file tax returns; apply for jobs or benefits; and complete numerous other civic tasks. These Government Web sites are important because they allow programs and services to be offered in a more dynamic, interactive way in order to increase citizen participation; increase convenience and speed in obtaining information or services; reduce costs in providing information about Government services and administering programs; reduce the amount of paperwork; and expand the possibilities of reaching new sectors of the community or offering new programs or services. Many States and localities have begun to improve the accessibility of portions of their Web sites. However, full compliance with the ADA's promise to provide an equal opportunity for individuals with disabilities to participate in and benefit from all aspects of the programs, services, and activities provided by State and local governments in today's technologically advanced society will only occur if it is clear to public entities that their Web sites must be accessible. Consequently, the Department intends to publish a Notice of Proposed Rulemaking (NPRM) to amend its title II regulations to expressly address the obligations of public entities to make the Web sites they use to provide programs, activities, or services or information to the public accessible to and usable by individuals with disabilities under the legal framework established by the ADA. The proposed regulation will propose the scope of the obligation to provide accessibility when persons with disabilities access public Web sites, as well as propose the technical standards necessary to comply with the ADA.

Statement of Need: Many people with disabilities use ''assistive technology'' to enable them to use computers and access the Internet. Individuals who are blind or have low vision who cannot see computer monitors may use screen readers-devices that speak the text that would normally appear on a monitor. People who have difficulty using a computer mouse can use voice recognition software to control their computers with verbal commands. People with other types of disabilities may use still other kinds of assistive technology. New and innovative assistive technologies are being introduced every day. Web sites that do not accommodate assistive technology, for example, can create unnecessary barriers for people with disabilities, just as buildings not designed to accommodate people with disabilities prevent some individuals from entering and accessing services. Web designers may not realize how simple features built into a Web site will assist someone who, for instance, cannot see a computer monitor or use a mouse. In addition, in many cases, these Web sites do not provide captioning for videos or live events streamed over the web, leaving persons who are deaf or hard of hearing unable to access the information that is being provided. Although an increasing number of State and local Governments are making efforts to provide accessible Web sites, because there are no specific ADA standards for Web site accessibility, these Web sites vary in actual usability.

Summary of Legal Basis: The ADA requires that State and local Governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden. 42 U.S.C. 12132.

Alternatives: The Department intends to consider various alternatives for ensuring full access to Web sites of State and local Governments and will solicit public comment addressing these alternatives.

Anticipated Cost and Benefits: The Department anticipates that this rule will be ''economically significant,'' that is, that the rule will have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal Governments or communities. However, the Department believes that revising its title II rule to clarify the obligations of State and local Governments to provide accessible Web sites will significantly increase the opportunities for citizens with disabilities to participate in, and benefit from, State and local Government programs, activities, and services. It will also ensure that individuals have access to important information that is provided over the Internet, including emergency information. The Department also believes that providing accessible Web sites will benefit State and local Governments as it will increase the numbers of citizens who can use these Web sites, and thus improve the efficiency of delivery of services to the public. In drafting this NPRM, the Department will attempt to minimize the compliance costs to State and local Governments while ensuring the benefits of compliance to persons with disabilities.

Risks: If the Department does not revise its ADA title II regulations to address Web site accessibility, persons with disabilities in many communities will continue to be unable to access their State and local governmental services in the same manner available to citizens without disabilities, and in some cases will not be able to access those services at all.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43460
ANPRM Comment Period End.	01/21/11	
Supplemental ANPRM.	05/09/16	81 FR 28657
Supplemental ANPRM Comment Period Extended.	07/29/16	81 FR 49908
Supplemental ANPRM Comment Period End.	08/08/16	
Supplemental ANPRM Extended Comment Period End.	10/07/16	
NPRM	07/00/17	
NPRM Comment Period End.	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Governmental Jurisdictions.

Government Levels Affected: Local, State.

Additional Information: Split from RIN 1190–AA61.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Avenue NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA65

DOJ—CRT

Final Rule Stage

73. Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description

Priority: Other Significant.

Legal Authority: 42 U.S.C. 12101, *et seq.*

CFR Citation: 28 CFR 36.

Legal Deadline: None.

Abstract: Following its advance notice of proposed rulemaking published on July 26, 2010, the Department plans to publish a proposed rule addressing the requirements for captioning and video description of movies exhibited in movie theatres under title III of the Americans with Disabilities Act of 1990 (ADA). Title III prohibits discrimination on the basis of disability in the activities of places of public accommodation (private entities whose operations affect commerce and that fall into one of twelve categories listed in the ADA). 42 U.S.C. 12181–12189. Title III makes it unlawful for places of public accommodation, such as movie theaters, to discriminate against individuals with disabilities in the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation (42 U.S.C. 12182[a]). Moreover, title III prohibits places of public accommodation from affording an unequal or lesser service to individuals or classes of individuals with disabilities than is offered to other individuals (42 U.S.C. 12182(b)(1)(A)(ii)). Title III requires places of public accommodation to take ''such steps as may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently because of the absence of auxiliary aids and services, such as captioning and video description, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the good, service, facility, privilege, advantage, or accommodation being offered or would result in an undue burden,'' (42 U.S.C. 12182(b)(2)(A)(iii)).

Statement of Need: A significant-and increasing-proportion of Americans have hearing or vision disabilities that prevent them from fully and effectively understanding movies without captioning or audio description. For persons with hearing and vision disabilities, the unavailability of captioned or audio-described movies inhibits their ability to socialize and fully take part in family outings and deprives them of the opportunity to meaningfully participate in an important aspect of American culture. Many individuals with hearing or vision disabilities who commented on the Department's 2010 ANPRM remarked that they have not been able to enjoy a commercial movie unless they watched it on TV, or that when they took their children to the movies they could not understand what they were seeing or discuss what was happening with their children. Today, more and more movies are produced with captions and audio description. However, despite the underlying ADA obligation, the advancement of digital technology and the availability of captioned and audio-described films, many movie theaters are still not exhibiting captioned or audio-described movies, and when they do exhibit them, they are only for a few showings of a movie, and usually at off-times. Recently, a number of theater companies have committed to provide greater availability of captioning and audio description. In some cases, these have been nationwide commitments; in other cases it has only been in a particular State or locality. A uniform Federal ADA requirement for captioning and audio description is necessary to ensure that access to movies for persons with hearing and vision disabilities is not dictated by the individual's residence or the presence of litigation in their locality. In addition, the movie theater industry is in the process of converting its movie screens to use digital technology, and the Department believes that it will be extremely helpful to provide timely guidance on the ADA requirements for captioning and audio description so that the industry may factor this into its conversion efforts and minimize costs.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: The Department will consider any public comments that propose achievable alternatives that will still accomplish the goal of providing access to movies for persons with hearing and vision disabilities. However, the Department believes that the baseline alternative of not providing such access would be inconsistent with the provisions of title III of the ADA.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. In the NPRM, the Department solicited public comment in response to its preliminary analysis regarding the costs imposed by the rule.

Risks: Without the proposed changes to the Department's title III regulation, persons with hearing and vision disabilities will continue to be denied access to movies shown in movie theaters and movie theater owners and operators will not understand what they are required to do in order to provide auxiliary aids and services to patrons with hearing and vision disabilities.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/10	75 FR 43467
ANPRM Comment Period End.	01/24/11	
NPRM	08/01/14	79 FR 44975
NPRM Comment Period Extended.	09/08/14	79 FR 53146
NPRM Comment Period End.	09/30/14	
NPRM Extended Comment Period End.	12/01/14	

Action	Date	FR Cite
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Avenue NW., Washington, DC 20530, *Phone:* 800 514–0301.

RIN: 1190–AA63

DOJ—CRT

74. Revision of Standards and Procedures for the Enforcement of Section 274B of the Immigration and Nationality Act

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 8 U.S.C. 1103(a)(1); 8 U.S.C. 1103(g); 8 U.S.C. 1324b; 28 U.S.C. 509; 28 U.S.C. 510; 28 U.S.C. 515–519

CFR Citation: 28 CFR 0; 28 CFR 44

Legal Deadline: None.

Abstract: The Department of Justice proposes to revise regulations implementing section 274B of the Immigration and Nationality Act and to reflect the new name of the office within the Department charged with enforcing this statute. The proposed revisions are appropriate to conform the regulations to the statutory text as amended, simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, and update outdated references.

Statement of Need: The regulatory revisions are necessary to conform the regulations to section 274B of the Immigration and Nationality Act (INA), as amended. The regulatory revisions also simplify and add definitions of statutory terms, update and clarify the procedures for filing and processing charges of discrimination, ensure effective investigations of unfair immigration-related employment practices, replace outdated references, and reflect the new name of the office within the Department charged with enforcing this statute.

Summary of Legal Basis: Statutory Authority: 8 U.S.C. 1324b; 8 U.S.C. 1103(a)(1), (g).

Alternatives: The Department believes that an NPRM is the most appropriate, and for some revisions a necessary, method for achieving the goals of the revisions. Issuing this NPRM is necessary to correct outdated regulatory provisions and incorporate statutory changes to section 274B of the INA. Likewise, revising the regulations to be consistent with longstanding agency guidance and relevant case law is appropriate and will reduce potential confusion about the law. Further, because the regulations already include procedures for filing and processing charges, it is appropriate to revise the regulations to reflect updates to these processes and procedures. Finally, it is appropriate to update the regulations to reflect the new name of the office charged with enforcing the statute.

Anticipated Cost and Benefits: The Department has determined that this rule is not economically significant, that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. Any estimated costs to the public relate to costs employers may incur familiarizing themselves with the rule, updating their relevant policies if needed, and participating in a voluntary training webinar. In the NPRM, the Department will be soliciting public comment in response to its preliminary analysis regarding the costs imposed by the rule. While not easily quantifiable due to data limitations, the Department identified several benefits of the rule, including: (1) Helping employers understand the law more efficiently, (2) increasing public access to government services, and (3) eliminating public confusion regarding two offices in the Federal government with the same name.

Risks: Failure to update the regulations to conform to the statutory amendments will interfere with the Department's enforcement efforts. Further, failure to revise the regulations to reflect changes to the filing and processing of charges and the new name of the office charged with enforcing the law will lead to confusion among the public, most specifically employers subject to the law's requirements and workers whose rights are guaranteed by the law.

Timetable:

Action	Date	FR Cite
NPRM	08/15/16	81 FR 53965
NPRM Comment Period End.	09/14/16	
Final Action	09/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

Agency Contact: Alberto Ruisanchez, Deputy Special Counsel, OSC, Department of Justice, Civil Rights Division, 1425 New York Avenue NW., Suite 9000, Washington, DC 20530, *Phone:* 202 616–5594, *Fax:* 202 616–5509, *Email: osccrt@usdoj.gov.*

RIN: 1190–AA71

DOJ—EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (EOIR)

Final Rule Stage

75. Motions To Reopen Removal, Deportation, or Exclusion Proceedings Based Upon a Claim of Ineffective Assistance of Counsel

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101, 1103, 1154, 1155, 1158, 1182, 1226, 1229, 1229a, 1229b, 1229c, 1231, 1252, 1254a, 1255, 1282, 1324d, 1330, 1361, 1362; 28 U.S.C. 509, 510, 1746; sec. 2 Reorg Plan No 2 of 1950; 3 CFR, 1949–1953, Comp, p 1002; sec. 203 of Pub. L. 105–100, 111 Stat 2196–200; sec. 1506 and 1510 of Pub. L. 106–386, 114 Stat 1527–29, 1531–32; sec. 1505 of Pub. L. 106–554, 114 Stat 2763A–326–328; title VII of Pub. L. 110–229

CFR Citation: 8 CFR 1003; 8 CFR 1208.

Legal Deadline: None.

Abstract: The Department of Justice (Department) is planning to amend the regulations of the Executive Office for Immigration Review (EOIR) by establishing procedures for the filing and adjudication of motions to reopen removal, deportation, and exclusion proceedings based upon a claim of ineffective assistance of counsel. This proposed rule is in response to Matter of Compean, Bangaly & J–E–C–, 25 I&N Dec. 1 (A.G. 2009), in which the Attorney General directed EOIR to develop such regulations. The Department is also planning to propose to amend the EOIR regulations to provide that ineffective assistance of counsel may constitute extraordinary circumstances that may excuse the failure to file an asylum application within one year after the date of arrival in the United States.

Statement of Need: This regulation is necessary to comply with *Matter of Compean, Bangaly & J–E–C–,* 25 I&N Dec. 1 (A.G. 2009), in which the Attorney General directed EOIR to develop regulations governing claims of ineffective assistance of counsel in proceedings before the immigration judges and the Board of Immigration Appeals. The purpose of this proposed

rule is to establish uniform procedural and substantive requirements for the filing of motions to reopen based upon a claim of ineffective assistance of counsel and to provide a uniform standard for adjudicating such motions.

Summary of Legal Basis: The summary of the legal basis for the authority for this regulation is set forth in the above abstract.

Alternatives: The Department will consider any public comments it may receive regarding achievable alternatives that will still accomplish the goal of setting forth a framework for claims of ineffective assistance of counsel that supports the integrity of immigration proceedings.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be economically significant, that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities.

Risks: Without the proposed changes to the Department's regulations, the Department will not have complied with the Attorney General's directive in Matter of Compean, Bangaly & J–E–C–, 25 I&N Dec. 1 (A.G. 2009) and the procedural and substantive requirements for filing—and the standards for adjudicating—motions to reopen based upon a claim of ineffective assistance of counsel will lack uniformity.

Timetable:

Action	Date	FR Cite
NPRM	07/28/16	81 FR 49556
NPRM Comment Period End.	09/26/16	
Final Action	05/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: None.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Jean King, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, *Phone:* 703 305–0470.

RIN: 1125–AA68

DOJ—EOIR

76. Recognition of Organizations and Accreditation of Non-Attorney Representatives

Priority: Other Significant.

Legal Authority: 5 U.S.C. 301; 6 U.S.C. 521; 8 U.S.C. 1101; 8 U.S.C. 1103; 8 U.S.C. 1154; 8 U.S.C. 1155; 8 U.S.C. 1158; 8 U.S.C. 1182; 8 U.S.C. 1226; 8 U.S.C. 1229; 8 U.S.C. 1229a; 8 U.S.C. 1229b; 8 U.S.C. 1229c; 8 U.S.C. 1231; 8 U.S.C. 1232; 8 U.S.C. 1252b; 8 U.S.C. 1254a; 8 U.S.C. 1255; 8 U.S.C. 1324d; 8 U.S.C. 1330; 8 U.S.C. 1361; 8 U.S.C. 1362; 28 U.S.C. 509; 28 U.S.C. 510; 28 U.S.C. 1746; sec. 2 Reorg Plan No 2 of 1950; 3 CFR, 1949–1953 Comp, 1002; sec. 203 of Pub. L. 105–100, 111 Stat 2196–200; sec. 1506 and 1510 of Pub. L. 106–386, 114 Stat 1527–29, 1531–1532; sec. 1505 of Pub. L. 106–554, 114 Stat 2763 A–326 to –328

CFR Citation: 8 CFR 1001; 8 CFR 1003; 8 CFR 1292.

Legal Deadline: None.

Abstract: This rule would amend the regulations governing the requirements and procedures for authorizing the representatives of nonprofit religious, charitable, social service, or similar organizations to represent aliens in proceedings before the Executive Office for Immigration Review and the Department of Homeland Security.

Statement of Need: The Recognition and Accreditation (R&A) program addresses the critical and ongoing shortage of qualified legal representation for underserved populations in immigration cases before federal administrative agencies. Through the R&A program, EOIR permits qualified non-attorneys to represent persons before the DHS, the immigration courts, and the Board of Immigration Appeals (Board). For over 30 years, the R&A regulations have remained largely unchanged, despite structural changes in the government, the changing realities of the immigration system, the inability of non-profit organizations to meet the increased need for legal representation under the current regulations, and the surge in fraud and abuse by unscrupulous organizations and individuals preying on indigent and vulnerable populations.

The proposed rule seeks to address the critical and ongoing shortage of qualified legal representation for underserved populations in immigration cases before federal administrative agencies by revising the eligibility requirements and procedures for recognizing organizations and accrediting their representatives to provide immigration legal services to underserved populations. The proposed rule also imposes greater oversight over recognized organizations and their representatives in order to protect against potential abuse of vulnerable immigrant populations by unscrupulous organizations and individuals.

Summary of Legal Basis: The proposed rule is a revision of current regulations that are authorized under 8 U.S.C. 292, regarding authorization to practice before the immigration courts and the Board.

Alternatives: The R&A regulations have been comprehensively examined in light of various issues that have arisen and input has been solicited from the public on how to address in amended regulations various developments over the past 30 years. The proposed rule is the product of both internal and external deliberations, and the proposed rule directly addresses alternatives approaches to the current regulations that the Department has either decided to adopt or reject in the proposed rule. The Department will consider any public comments that propose achievable alternatives that will still accomplish the goals of this proposed rule.

Anticipated Cost and Benefits: The Department's preliminary analysis indicates that the proposed rule would not be economically significant, that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal governments or communities. The proposed rule, like the current regulations, does not assess any fees on an organization to apply for initial recognition or accreditation, to renew recognition or accreditation, or to extend recognition.

Risks: The purpose of this proposed rule is to promote effective and efficient administration of justice before DHS and EOIR by increasing the availability of competent non-lawyer representation for underserved immigrant populations. The proposed rule seeks to accomplish this goal by amending the requirements for recognition and accreditation to increase the availability of qualified representation for primarily low-income and indigent persons while protecting the public from fraud and abuse by unscrupulous organizations and individuals. Without the proposed changes, the Department will be limited in its ability to expand the availability of non-lawyer representation and to provide increased oversight over recognized organizations and their representatives.

Timetable:

Action	Date	FR Cite
NPRM	10/01/15	80 FR 59514
NPRM Comment Period End.	11/30/15	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: Public Meeting notice 77 FR 9590 (Feb. 17, 2012).

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Jean King, General Counsel, Department of Justice, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041, *Phone:* 703 305–0470.

RIN: 1125–AA72

DOJ—LEGAL ACTIVITIES (LA)

Proposed Rule Stage

77. • Implementation of the ADA Amendments Act of 2008 Federally Assisted Programs (Section 504 of the Rehabilitation Act of 1973)

Priority: Other Significant.

Legal Authority: Pub. L. 110–325; 29 U.S.C. 794 (sec. 504 of the Rehabilitation Act of 1973, as amended); E.O. 12250 (45 FR 72855); 11/04/1980

CFR Citation: 28 CFR 42, subpart G.

Legal Deadline: None.

Abstract: The Department of Justice is issuing this notice of proposed rulemaking to revise its regulation implementing section 504 of the Rehabilitation Act of 1973, as applicable to programs and activities receiving financial assistance from the Department, in order to: (1) Incorporate amendments to the statute, including the changes in the meaning and interpretation of the applicable definition of disability required by the ADA Amendments Act of 2008; (2) incorporate requirements stemming from judicial decisions; (3) update accessibility standards applicable to new construction and alteration of buildings and facilities; (4) update certain provisions to promote consistency with comparable provisions implementing title II of the Americans with Disabilities Act; and (5) make other nonsubstantive clarifying edits, including updating outdated terminology and references that currently exist in 28 CFR part 42, such as changing the word handicapped and similar variations of that word to language referencing individuals with disabilities, modifying the order of the regulatory provisions to group like provisions together, and adding some headings to make the regulation more user-friendly.

Statement of Need: This rule is necessary to bring the Department's prior section 504 regulations into compliance with the ADA Amendments Act of 2008, which became effective on January 1, 2009.

Summary of Legal Basis: The summary of the legal basis of authority for this regulation is set forth above in the abstract.

Alternatives: Because this NPRM implements statutory changes to the section 504 definition of disability, there are no appropriate alternatives to issuing this NPRM.

Anticipated Cost and Benefits: The Department's preliminary assessment in this early stage of the rulemaking process is that this rule will not be ''economically significant,'' that is, that the rule will not have an annual effect on the economy of $100 million, or adversely affect in a material way the economy, a sector of the economy, the environment, public health or safety or State, local or tribal Governments or communities. The Department's section 504 rule for federally assisted programs will incorporate the same changes made by the ADA Amendments Act to the definition of disability as are included in the proposed changes to the ADA title II and title III rules (1190–AA59), was published in the **Federal Register** on August 11, 2016. 81 FR 53203.

Because most public and private entities that receive federal financial assistance from the Department are also likely to be subject to titles II or III of the ADA we do not believe that the revisions to the Department's existing section 504 federally assisted regulations will have a significant economic impact.

Risks: Failure to update the Department's section 504 regulations to conform to statutory changes will interfere with the Department's enforcement efforts and lead to confusion about the law's requirements among entities that receive Federal financial assistance from the Department.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
NPRM Comment Period End.	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Additional Information: Transferred from RIN 1190–AA60.

Agency Contact: Rebecca B. Bond, Chief, Department of Justice, Civil Rights Division, Disability Rights Section, 950 Pennsylvania Avenue NW., Washington, DC 20530, *Phone:* 800 514–0301.

Michael Alston, Director, Office for Civil Rights, Office of Justice Programs, Department of Justice, 800 K Street NW., Room 2327, (Techworld), Washington, DC 20530, *Phone:* 202 307–0692.

RIN: 1105–AB50

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U.S. DEPARTMENT OF LABOR

Fall 2016 Statement of Regulatory Priorities

Introduction

The Department's Fall 2016 Regulatory Agenda continues to advance the Department's mission to foster, promote, and develop the welfare of wage earners, job seekers, and retirees; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights. These rules will provide greater opportunity for workers to acquire the skills they need to succeed, to earn a fair day's pay for a fair day's work, for veterans to thrive in the civilian economy, for workers to retire with dignity, for workers and employers to compete on a level playing field, and for people to work in a safe environment with the full protection of our anti-discrimination laws.

Since the beginning of the Obama Administration, the Department of Labor has completed historic rulemakings on issues that are central to America's workers and their families: Worker safety, wages, and retirement security.

We finalized regulations to limit worker exposure to deadly silica dust that can lead to lung cancer, silicosis, chronic obstructive pulmonary disease and kidney disease, providing important new protections to 2.3 million workers

and preventing hundreds of deaths each year.

We finalized updates to our overtime regulations to ensure that middle class jobs pay middle class wages, extending important overtime pay protections to over 4.2 million workers and raising their pay by an estimated $12 billion in the next 10 years.

We issued final regulations that will enable employees of Federal contractors to earn seven days of paid sick and safe leave per year, for the first time guaranteeing these workers have paid leave to care for themselves, family members, or loved ones, without fear of losing their paychecks or their jobs.

We finalized our Conflict of Interest Rule, establishing a fundamental principle of consumer protection in the American retirement marketplace—that retirement advisors must put their clients' interests before their own profits.

Along with the Department of Education, we finalized regulations to implement the Workforce Innovation and Opportunity Act—the most significant legislative reform to the public workforce system in nearly 20 years—that will expand workers' opportunities to develop the skills they need and provide employers with the skilled workforce they need to succeed in the 21st century economy.

We finalized new regulations that establish equity and transparency in employer/consultant reporting requirements when employers engage consultants to persuade employees on their rights to organize and bargain collectively.

Working with the Federal Acquisition Regulatory Council, we finalized regulations and guidance implementing the President's Fair Pay and Safe Workplaces Executive Order, holding Federal contractors accountable when they put workers' safety, hard-earned wages and basic workplace rights at risk. The rule ensures that taxpayer dollars do not reward companies that break the law and that contractors who meet their legal responsibilities do not have to compete with those who do not.

We updated sex discrimination regulations for Federal contractors for the first time in 40 years, to reflect the current state of the law and the reality of a modern and diverse workforce. Updated rules on workplace sex discrimination will mean clarity for Federal contractors and subcontractors and equal opportunities for both men and women applying for jobs with, or already working for, these employers.

We will update and simplify the equal opportunity regulations implementing the National Apprenticeship Act to help employers and other apprenticeship sponsors attract a larger and more diverse applicant pool and provide greater opportunities to women, people of color, and other individuals regardless of disability, age, sexual orientation, or gender identity, to take part in Registered Apprenticeship programs. And, we finalized regulations clarifying how states can establish retirement savings arrangements to automatically enroll employees, and offer coverage that is consistent with Federal laws governing employee benefit plans.

The 2016 Regulatory Plan highlights the Labor Department's most noteworthy and significant rulemaking efforts, with each addressing the top priorities of its regulatory agencies: Employee Benefits Security Administration (EBSA), Employment and Training Administration (ETA), Mine Safety and Health Administration (MSHA), Office of Federal Contract Compliance Programs (OFCCP), Occupational Safety and Health Administration (OSHA), Office of Workers' Compensation Programs (OWCP), and Wage and Hour Division (WHD). These regulatory priorities exemplify the five components of the Secretary's opportunity agenda:

- Training more people, including veterans and people with disabilities, to have the skills they need for the in-demand jobs of the 21st century;
- ensuring that individuals have the peace of mind that comes with access to health care, retirement, and Federal workers' compensation benefits when they need them;
- safeguarding a fair day's pay for a fair day's work for all hardworking Americans, regardless of race, gender, religion, disability, national origin, veteran's status, sexual orientation, or gender identity;
- giving workers a voice in their workplaces; and
- protecting the safety and health of workers so they do not have to risk their lives for a paycheck.

Under Secretary Perez's leadership, the Department continues its commitment to ensuring that collaboration, consensus-building, strong foundation of evidence, and extensive stakeholder outreach, are integral to all of our regulatory efforts. Successful rulemaking requires that we build a big table and keep an open mind.

Training More Workers and Job-Seekers for 21st Century Jobs

The Department continues to implement the Workforce Innovation and Opportunity Act (WIOA), the first major reform to Federal job training programs in almost 20 years, building new partnerships, engaging employers, emphasizing proven strategies like apprenticeship and preparing people for the demands of the 21st century economy. The Department's regulatory priorities reflect the Secretary's vision for a modern job-driven workforce system that helps businesses stay on the competitive cutting edge and helps workers punch their ticket to the middle class.

- The Department's Civil Rights Center (CRC) will issue a final rule to implement the nondiscrimination provisions in section 188 of WIOA. The rule will update nondiscrimination and equal opportunity provisions to be consistent with current law and address its application to current workforce development and workplace practices and issues. To ensure no gap in coverage between the effective date of WIOA and this rulemaking, CRC issued a final rule that makes only technical revisions to the WIA section 188 rule, changing references from ''WIA'' to ''WIOA.'' [2] The current final rule ultimately will be superseded by the final rule arising from the earlier NPRM.

To further meet the demands of the 21st century workforce, the Department will also explore options to modernize and provide flexibilities to employers and workers, without sacrificing important worker protections in the permanent labor certification program.

- The permanent labor certification requirements and process have not been comprehensively examined or modified since 2004. ETA proposes to consider options to modernize the PERM program to be more responsive to changes in the national workforce in order to further align the program design with the objectives of the U.S. Immigration system, and needs of workers and employers, and to enhance the integrity of the labor certification process.[3]
- ETA also proposes to engage the public on whether the Schedule A of the permanent labor certification process serves as an effective tool for addressing current labor shortages, and how the Department may create a timely, coherent, and transparent methodology for identifying occupations that are experiencing labor shortages.[4]

[2] Implementation of the Nondiscrimination and Equal Opportunity Provisions of the Workforce Innovation Act of 2014 (RIN: 1291–A37).

[3] Modernizing the Permanent Labor Certification Program (PERM) (RIN: 1205–AB76).

[4] Labor Certification for Permanent Employment of Foreign Workers in the United States; Revising Schedule A (RIN: 1205–AB77).

Ensuring Access to Health Care, Retirement, and Workers' Compensation Benefits

Workplace benefits ensure that workers have the opportunity to remain in the middle class if they face a health and welfare challenge, retire from their jobs, or experience a workplace accident or illness. In addition, a financially secure retirement is a fundamental pillar of the middle class. The Department has a regulatory program designed to improve health benefits and retirement security for all workers.

• EBSA plans to finalize regulations that describe how political subdivisions (*e.g.* cities and counties) may design and operate payroll deduction savings programs, using automatic enrollment, for private-sector employees without causing the political subdivisions or private-sector employers to establish employee pension benefit plans under the Employee Retirement Income Security Act of 1974.[5]

• EBSA plans to finalize regulations that strengthen, improve and update the current disability benefit claims and appeals process under section 503 of ERISA.[6]

EBSA will also continue to issue guidance implementing the health coverage provisions of Parts 6 and 7 of ERISA, including the provisions of COBRA, HIPAA, GINA, mental health parity, the Newborns' and Mothers' Health Protection Act, the Women's Health and Cancer Rights Act, and the Affordable Care Act group market protections. Much of this guidance involves joint work with the Departments of Health and Human Services and Treasury.

The Department also promulgates regulations to ensure that Federal workers' compensation benefits programs are fairly administered:

• OWCP will issue an NPRM under the Black Lung Benefits Act to address how medical providers are reimbursed for covered services rendered to coal miners totally disabled by pneumoconiosis, including the possibility of modernizing and standardizing payment methodologies and fee schedules.[7]

Safeguarding Fair Pay for All Americans

The Department's regulatory agenda prioritizes ensuring that all Americans receive a fair day's pay for a fair day's work, and are not discriminated against with respect to hiring, employment, or benefits on the basis of race, gender, religion, disability, national origin, veteran's status, sexual orientation, or gender identity. The Department continues to take a robust approach to implementing its wage-and-hour and nondiscrimination regulations through education, outreach and strategic enforcement across industries. The regulations in this area are grounded in a commitment to an inclusive and diverse workforce and rewarding hard work with a fair wage to provide workers with a real pathway to middle class jobs.

• WHD will propose revisions to its regulations implementing section 14(c) of the Fair Labor Standards Act to reflect the changes in employment laws affecting workers with disabilities.[8]

Protecting the Safety and Health of Workers

The Department's safety and health regulatory proposals are based on the responsibility of employers to provide workers with workplaces that do not threaten their safety or health. We reject the false choice between worker safety and economic growth. Through our rulemakings, we are committed to protecting workers in all kinds of workplaces, including above- and below-ground coal and metal/nonmetal mines. So many workplace injuries, illnesses and fatalities are preventable. They not only put workers in harm's way, they jeopardize their economic security, often forcing families out of the middle class and into poverty. Our efforts are to prevent workers from having to choose between their lives and their livelihood.

• MSHA will build on the knowledge gained through the OSHA silica rulemaking process to develop regulations that would provide essential protections to miners from silica exposure in mines.[9]

• OSHA is developing an NPRM that will look at how to provide stronger protections for workers exposed to infectious diseases in healthcare and other related high risk environments.[10]

• OSHA will finalize regulations that address occupational exposure to beryllium in the workplace.[11]

• Building upon its history of addressing workplace violence in health care facilities, OSHA will solicit information from health care employers, workers and other experts on preventing workplace violence in the workplace. The request for information will seek public input on the impacts of violence, prevention strategies, and other information that will be useful to OSHA.[12]

• After more than 25 years, OSHA will update and finalize regulations that address slip, trip and fall hazards and establish requirements for personal fall protection systems. Slips, trips and falls are among the leading causes or work-related injuries and fatalities.[13]

Regulatory Review and Burden Reduction

On January 18, 2011, the President issued Executive Order (E.O.) 13563, entitled ''Improving Regulation and Regulatory Review.'' The Department is committed to smart regulations that ensure the health, welfare and safety of all working Americans and foster economic growth, job creation, and competitiveness of American business. The Department's Fall 2016 Regulatory Agenda also aims to achieve more efficient and less burdensome regulations through a retrospective review of the Labor Department regulations.

In August 2011, as part of a government-wide response to the E.O., the Department published its ''Plan for Retrospective Analysis of Existing Rules.'' (This plan, and each subsequent update, can be found at *www.dol.gov/regulations/*.) The current regulatory agenda includes 14 retrospective review projects, which are listed below pursuant to section 6 of E.O. 13563. More information about completed rulemakings no longer included in the plan can be found on *www.reginfo.gov*.

[5] Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees (RIN: 1210–AB76).

[6] Amendment to Claims Procedure Regulation (RIN: 1210–AB39).

[7] Black Lung Benefits Act: Benefit Payments (RIN: 1240–AA11).

[8] Employment of Workers with Disabilities under Special Certificates (RIN: 1235–AA14).

[9] Respirable Crystalline Silica (RIN: 1219–AB36).

[10] Infectious Diseases (RIN: 1218–AC46).

[11] Occupational Exposure to Beryllium (RIN: 1218–AB76).

[12] Preventing Violence in Healthcare (RIN: 1218–AD08).

[13] Walking Working Surfaces and Personal Fall Protection Systems (Slips, Trips, and Fall Prevention) (RIN: 1218–AA11).

Agency	Regulatory Identifier No. (RIN)	Title of rulemaking	Whether it is expected to significantly reduce burdens on small businesses
EBSA	1210–AB47	Amendment of Abandoned Plan Program	Yes.
EBSA	1210–AB63	21st Century Initiative to Modernize the Form 5500 Series and Implementing and Related Regulations.	To Be Determined.
ETA	1205–AB59	Equal Employment Opportunity in Apprenticeship and Training, Amendment of Regulations.	To Be Determined.
ETA	1205–AB75	Modernizing the Permanent Labor Certification Program (PERM)	To Be Determined.
OSHA	1218–AC34	Bloodborne Pathogens	To Be Determined.
OSHA	1218–AC67	Standard Improvement Project—Phase IV (SIP IV)	To Be Determined.
OSHA	1218–AC74	Chemical Management and Permissible Exposure Limits (PELs)	To Be Determined.
OSHA	1218–AC81	Cranes and Derricks in Construction: Amendments	Yes.
OSHA	1218–AC82	Process Safety Management and Flammable Liquids	To Be Determined.
OSHA	1218–AD01	Revocation of Obsolete PELs	To Be Determined.
OSHA	1218–AC99	Powered Industrial Trucks	To Be Determined.
OSHA	1218–AC98	Mechanical Power Presses Update	To Be Determined.
OSHA	1218–AD00	Lock-Out/Tag-Out Update	To Be Determined.
OSHA	1218–AD12	Technical Correction to 16 OSHA Standards	To Be Determined.
OWCP	1240–AA11	Black Lung Benefits Act: Medical Benefit Payments	To Be Determined.
WHD	1235–AA17	Updating Regulations Issued Under Various Wage and Hour Division Statutes Consistent with Rosa's Law.	To be Determined.
WHD	1235–AA18	Technical Updates to Regulations Issued Under Various Wage and Hour Division Statutes.	To Be Determined.

DOL—WAGE AND HOUR DIVISION (WHD)

Proposed Rule Stage

78. Employment of Workers With Disabilities Under Special Certificates

Priority: Other Significant.

Unfunded Mandates: Undetermined.

Legal Authority: 29 U.S.C. 201 *et seq.;* 29 U.S.C. 214; Pub. L. 113–128

CFR Citation: 29 CFR 525.

Legal Deadline: None.

Abstract: Section 14(c) of the FLSA, 29 U.S.C. 214(c), provides that the Secretary of Labor may, to the extent necessary to prevent the curtailment of opportunities for employment, issue certificates to permit the payment of subminimum wages to individuals with disabilities whose earring or productive capacities are affected by their disability. The Department is proposing to revise the regulations implementing section 14(c) to reflect changes in employment laws affecting workers with disabilities enacted since the Department's last update to the regulations.

Statement of Need: For some time, WHD has been conducting a comprehensive review of the section 14(c) program. This review was designed to develop strategies to better protect workers in the program, to promote WHD's vision of supporting competitive and integrated employment of individuals with disabilities, and to assist with efforts to make section 14(c) employment an option of last resort for workers where feasible. The Workforce Innovation and Opportunity Act (WIOA) created a new section 511 of the Rehabilitation Act, which imposes certain new conditions on the payment of subminimum wages by section 14(c) certificate holders. The current section 14(c) regulations are in need of improvement. The regulations have not been updated since 1989 and lack comprehensive, detailed information regarding the issuance, renewal, and revocation of 14(c) certificates as well as WHD's enforcement of the program. The regulations will be updated as the Department considers the new requirements of WIOA, and suggestions from workers with disabilities and their advocates.

Summary of Legal Basis: These regulations are authorized by section 14(c) of the Fair Labor Standards Act, 29 U.S.C. 214.

Alternatives: Alternatives will be developed in considering proposed revisions to the current regulations. The public will be invited to provide comments on the proposed revisions and possible alternatives.

Anticipated Cost and Benefits: The Department will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks: This action does not affect public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, *Phone:* 202 693–0406, *Fax:* 202 693–1387.

RIN: 1235–AA14

DOL—EMPLOYMENT AND TRAINING ADMINISTRATION (ETA)

Final Rule Stage

79. Equal Employment Opportunity in Apprenticeship Amendment of Regulations

Priority: Other Significant.

Legal Authority: Sec. 1, 50 stat 664, as amended (29 U.S.C. 50; 40 U.S.C. 276c; 5 U.S.C. 301); Reorganization Plan No 14 of 1950, 64 stat 1267 (5 U.S.C. app p 534)

CFR Citation: 29 CFR 30 (revision).

Legal Deadline: None.

Abstract: Revisions to the equal opportunity regulatory framework for the National Apprenticeship Act are a critical element in the Department's vision to promote and expand Registered Apprenticeship opportunities in the 21st century while continuing to safeguard the welfare and safety of apprentices. In October 2008, the Agency issued a Final Rule updating regulations for Apprenticeship Programs and Labor Standards for Registration. These regulations, codified at title 29 CFR 29, have not been updated since 1977. The companion regulations, 29 CFR 30, Equal Employment Opportunity (EEO) in Apprenticeship and Training,

have not been amended since 1978. The Agency proposes to update 29 CFR 30 to ensure that the National Registered Apprenticeship System is consistent and in alignment with EEO law, as it has developed since 1978, and recent revisions to 29 CFR 29. This second phase of regulatory updates ensures that Registered Apprenticeship is positioned to continue to provide economic opportunity for millions of Americans while keeping pace with these new requirements.

Statement of Need: Federal regulations for Equal Employment Opportunity (EEO) in Apprenticeship have not been updated since 1978. Updates to these regulations are necessary to ensure that DOL regulatory requirements governing the National Registered Apprenticeship System are consistent with the current state of EEO law and recent revisions to 29 CFR 29.

Summary of Legal Basis: These regulations are authorized by the National Apprenticeship Act of 1937 (29 U.S.C. 50) and the Copeland Act (40 U.S.C. 276(c). These regulations will set forth policies and procedures to promote equality of opportunity in apprenticeship programs registered with the U.S. Department of Labor or in State Apprenticeship Agencies recognized by the U.S. Department of Labor.

Alternatives: The public was afforded an opportunity to provide comments on the proposed amendment to Apprenticeship EEO regulations when the Department published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register**. A Final Rule was issued after analysis and incorporation of public comments to the NRPM.

Anticipated Cost and Benefits: The proposed changes are thought to raise ''novel legal or policy issues'' but are not economically significant within the context of Executive Order 12866 and are not a ''major rule'' under section 804 of the Small Business Regulatory Enforcement Fairness Act.

Risks: This action does not affect the public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/06/15	80 FR 68908
NPRM Comment Period End.	01/05/16	
NPRM Comment Period Extended.	12/24/15	
NPRM Comment Period Extended End.	01/20/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State, Tribal.

Federalism: This action may have federalism implications as defined in E.O. 13132.

Agency Contact: John V. Ladd, Office of Apprenticeship, Department of Labor, Employment and Training Administration, FP Building, Room C–5311, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–2796, *Fax:* 202 693–3799, *Email: ladd.john@dol.gov.*

RIN: 1205–AB59

DOL—EMPLOYEE BENEFITS SECURITY ADMINISTRATION (EBSA)

Final Rule Stage

80. Amendment to Claims Procedure Regulation

Priority: Other Significant.

Legal Authority: 29 U.S.C. 1135; ERISA sec. 505; 29 U.S.C. 1133

CFR Citation: 29 CFR 2550.503–1.

Legal Deadline: None.

Abstract: Section 503 of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. 1133, provides that, in accordance with regulations promulgated by the Secretary of Labor, each employee benefit plan must provide ''adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied.'' The notice must set forth the specific reasons for the denial and must be written in a manner calculated to be understood by the claimant. Each plan must also afford ''a reasonable opportunity'' for any participant or beneficiary whose claim has been denied to obtain ''full and fair review'' of the denial by the ''appropriate named fiduciary of the plan.'' The Department has issued a regulation pursuant to the above authority that establishes the minimum requirements for benefit claims procedures of employee benefit plans covered by title 1 of ERISA. See 29 CFR 2560.503–1. This rulemaking is intended to strengthen, improve, and update the current disability benefit claims and appeals process under the section 503 regulations.

Statement of Need: Because of the volume and constancy of disability benefits litigation, the Department recognizes a need to revisit, reexamine, and revise the current regulations to ensure that disability claimants receive a fair review of denied claims as provided by section 503 of ERISA. The rulemaking would revise and strengthen the current claims procedure rules primarily by adopting certain procedural protections and safeguards for disability benefit claims that are currently applicable to claims for group health benefits pursuant to the Affordable Care Act (ACA).

Summary of Legal Basis: Section 503 of ERISA, 29 U.S.C. 1133, requires every employee benefit plan to provide adequate notice in writing to any participant or beneficiary whose claim for benefits under the plan has been denied, setting forth the specific reasons for such denial, written in a manner calculated to be understood by the participant and to afford a reasonable opportunity to any participant whose claim for benefits has been denied for a full and fair review by the appropriate named fiduciary of the decision denying the claim. Section 503 also provides the Secretary of Labor with broad authority to prescribe regulations governing a plan's claims procedure.

Alternatives: On November 18, 2015, the Department published in the **Federal Register** a proposed rule revising the claims procedure regulations for plans providing disability benefits under ERISA. The Department received 145 public comments in response to the proposed rule from plan participants, consumer groups representing disability benefit claimants, employer groups, individual insurers and trade groups representing disability insurance providers. In addition to the approach set forth in the proposal, the Department will consider all meaningful alternative rules and standards presented in these comment letters.

Anticipated Cost and Benefits: The Department expects that these final regulations will improve the procedural protections for workers who become disabled and make claims for disability benefits from ERISA-covered employee benefit plans. This would result in some participants receiving benefits they might otherwise have been denied absent the fuller protections provided by the final regulations. In other circumstances, expenditures by plans may be reduced as a fuller and fairer disability claims processing helps facilitate participant acceptance of cost management efforts. Greater certainty and consistency in the handling of disability benefit claims and appeals and improved access to information about the manner in which claims and appeals are adjudicated may lead to efficiency gains in the system, both in terms of the allocation of spending at a macro-economic level as well as operational efficiencies among individual plans.

The Department believes that these requirements have modest costs associated with them, since many chiefly clarify provisions of the current claims procedure regulations or require provision of notices to plan participants.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	11/18/15	80 FR 72014
NPRM Comment Period End.	01/19/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N–5655, Washington, DC 20210, *Phone:* 202 693–8500, *Fax:* 202 219–7291.

RIN: 1210–AB39

DOL—EBSA

81. • Savings Arrangements Established by Political Subdivisions for Non-Governmental Employees

Priority: Other Significant.

Legal Authority: 29 U.S.C. 1135 (ERISA sec. 505); 29 U.S.C. 1002 (ERISA sec. 3(2))

CFR Citation: 29 CFR 2510.3–2.

Legal Deadline: None.

Abstract: The Department proposes to amend a regulation (29 CFR 2510.3–2(h)) that describes how states may design and operate payroll deduction savings programs, using automatic enrollment, for private-sector employees without causing the states or private-sector employers to establish employee pension benefit plans under the Employee Retirement Income Security Act of 1974. The proposed amendments would expand the current regulation to cover programs of political subdivisions of states that otherwise comply with the current regulation.

Statement of Need: On November 18, 2015, the Department published in the **Federal Register** a proposed safe harbor regulation describing specific circumstances in which state (but not state political subdivisions, such as cities and counties) payroll deduction savings programs with automatic enrollment would not give rise to the establishment of employee pension benefit plans under the Employee Retirement Income Security Act of 1974, as amended (ERISA). Several commenters on that proposal asserted that the scope of the safe harbor regulation was too narrow and requested that the Department broaden it beyond states to cover payroll deduction savings programs of state political subdivisions, such as counties and cities. These commenters asserted that such an expansion would promote broader access to workplace retirement savings opportunities for employees, especially in states that do not themselves establish state-level programs but do have political subdivisions that would be willing to do so. The Department agrees with commenters that there may be good reasons for expanding the safe harbor to cover political subdivisions. Accordingly, on August 30, 2016, the Department published a notice of proposed rulemaking soliciting further comments on whether and how the safe harbor should be expanded to state political subdivisions.

Summary of Legal Basis: Section 505 of ERISA, 29 U.S.C. 1135, provides the Secretary of Labor with broad authority to prescribe such regulations as he finds necessary and appropriate to carry out the provisions of Title I of the Act. Section 3(2) of ERISA, 29 U.S.C. 1002, defines the term employee pension benefit plan. The Department's regulations at 29 CFR 2510.3–2 clarify the term employee pension benefit plan by identifying certain specific plans, funds and programs that do not constitute employee pension benefit plans.

Alternatives: The notice of proposed rulemaking would expand the safe harbor to cover payroll deduction savings programs of a limited number of large (in terms of population) cities and other political subdivisions. The Department considered three alternative criteria suggested by commenters that it could use to narrow the universe of eligible political subdivisions. The first suggested alternative criterion is that a political subdivision would have a population equal to or greater than the population of the least populous state. The second suggested alternative criterion is that the state in which the political subdivision exists does not have a state-wide retirement savings program for private-sector employees. The third suggested alternative criterion is that a political subdivision would have demonstrated capacity to design and operate a payroll deduction savings program, such as by maintaining a pension plan with substantial assets for employees of the political subdivision. All of these alternatives are under consideration. In addition, the Department will consider other alternatives presented by commenters.

Anticipated Cost and Benefits: In analyzing benefits and costs associated with this proposed rule, the Department focuses on the direct effects, which include both benefits and costs directly attributable to the rule. These benefits and costs are limited, because as stated above, the proposed rule would merely establish a safe harbor describing the circumstances under which a qualified political subdivision with authority under state law could establish payroll deduction savings programs that would not give rise to ERISA-covered employee pension benefit plans. It does not require qualified political subdivisions to take any actions nor employers to provide any retirement savings programs to their employees. The Department also addresses indirect effects associated with the proposed rule, which include: (1) Potential benefits and costs directly associated with the requirements of qualified political subdivision payroll deduction savings programs; and (2) the potential increase in retirement savings and potential cost burden imposed on covered employers to comply with the requirements of such programs. Indirect effects vary by qualified political subdivisions depending on their program requirements and the degree to which the proposed rule might influence political subdivisions to design their payroll deduction savings programs.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	08/30/16	81 FR 59581
NPRM Comment Period End.	09/29/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Undetermined.

Agency Contact: Jeffrey J. Turner, Deputy Director, Office of Regulations and Interpretations, Department of Labor, Employee Benefits Security Administration, 200 Constitution Avenue NW., FP Building, Room N–5655, Washington, DC 20210, *Phone:* 202 693–8500, *Fax:* 202 219–7291.

RIN: 1210–AB76

DOL—MINE SAFETY AND HEALTH ADMINISTRATION (MSHA)

Proposed Rule Stage

82. Respirable Crystalline Silica

Priority: Other Significant.
Legal Authority: 30 U.S.C. 811
CFR Citation: 30 CFR 58.
Legal Deadline: None.
Abstract: Current MSHA standards limit exposures to quartz (crystalline silica) in respirable dust. Overexposure to crystalline silica can result in some miners developing silicosis, an irreversible but preventable lung disease, which ultimately may be fatal. The metal and nonmetal mining industry standard is based on the 1973 American Conference of Governmental Industrial Hygienists (ACGIH) Threshold Limit Values formula: 10 mg/m3 divided by the percentage of quartz plus 2. The formula is designed to limit exposures to 0.1 mg/m3 (100 ug/m3) of silica. The National Institute for Occupational Safety and Health (NIOSH) recommends a 50 ug/m3 exposure limit for respirable crystalline silica. MSHA will publish a proposed rule to address miners' exposure to respirable crystalline silica.

Statement of Need: MSHA standards have not been updated since 1985; current regulations may not protect workers from developing silicosis. Evidence indicates that miners continue to develop silicosis. MSHA's proposed regulatory action exemplifies the Agency's commitment to protecting the most vulnerable populations while assuring broad-based compliance. MSHA will regulate based on sound science to eliminate or reduce the hazards with the broadest and most serious consequences. MSHA intends to use OSHA's work on the health effects and risk assessment of silica, adapting it as necessary for the mining industry.

Summary of Legal Basis: Promulgation of this standard is authorized by section 101 of the Federal Mine Safety and Health Act of 1977.

Alternatives: This rulemaking would improve health protection from that afforded by the existing standards. MSHA will consider alternative methods of addressing miners' exposures based on the capabilities of the sampling and analytical methods.

Anticipated Cost and Benefits: MSHA will prepare estimates of the anticipated costs and benefits associated with the proposed rule.

Risks: For over 70 years, toxicology information and epidemiological studies have shown that exposure to respirable crystalline silica presents potential health risks to miners. These potential adverse health effects include simple silicosis and progressive massive fibrosis (lung scarring). Evidence indicates that exposure to silica may cause cancer. MSHA believes that the health evidence forms a reasonable basis for reducing miners' exposures to respirable crystalline silica.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.
Small Entities Affected: Businesses, Governmental Jurisdictions.
Government Levels Affected: Local, State.
URL for More Information: *www.msha.gov/regsinfo.htm.*
URL for Public Comments: *www.regulations.gov.*
Agency Contact: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South, Room 4E401, Arlington, VA 22202–5452, *Phone:* 202 693–9440, *Fax:* 202 693–9441, *Email: mcconnell.sheila.a@dol.gov.*
RIN: 1219–AB36

DOL—MSHA

83. Proximity Detection Systems for Mobile Machines in Underground Mines

Priority: Other Significant.
Legal Authority: 30 U.S.C. 811
CFR Citation: 30 CFR 75.
Legal Deadline: None.
Abstract: This final rule addresses hazards miners face when working near mobile equipment in underground mines. MSHA has concluded, from investigations of accidents involving mobile equipment and other reports, that action is needed to protect miner safety. Mobile equipment can pin, crush, or strike a miner working near the equipment. Proximity detection technology can prevent these types of accidents. The proposed rule would strengthen the protection for underground miners by reducing the potential of pinning, crushing, or striking hazards associated with working close to mobile equipment.

Statement of Need: Mining is one of the most hazardous industries in this country. Miners continue to be injured or killed from pinning, crushing, or striking accidents involving mobile equipment. Equipment is available to help prevent accidents that cause debilitating injuries and accidental death.

Summary of Legal Basis: Promulgation of this standard is authorized by section 101(a) of the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006.

Alternatives: No reasonable alternatives to this regulation would be as comprehensive or as effective in eliminating hazards and preventing injuries.

Anticipated Cost and Benefits: MSHA's proposed rule included an estimate of the anticipated cost and benefits.

Risks: The lack of proximity detection systems on mobile equipment in underground mines contributes to a higher incidence of debilitating injuries and accidental deaths.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	02/01/10	75 FR 5009
RFI Comment Period End.	04/02/10	
NPRM	09/02/15	80 FR 53070
Scheduling of Public Hearing.	09/28/15	80 FR 58229
Public Hearing—Denver, Colorado 10/06/2015.	10/06/15	
Public Hearing—Birmingham, Alabama 10/08/2015.	10/08/15	
Public Hearing—Beaver, West Virginia 10/19/2015.	10/19/15	
Public Hearing—Indianapolis, Indiana 10/29/2015.	10/29/15	
NPRM Comment Period Extended.	11/30/15	80 FR 74740
NPRM Comment Period Extended End.	12/15/15	
Reopening of Record.	11/00/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: Businesses.
Government Levels Affected: None.
URL for More Information: *www.msha.gov/regsinfo.htm.*
URL for Public Comments: *www.regulations.gov.*
Agency Contact: Sheila McConnell, Director, Office of Standards, Regulations, and Variances, Department of Labor, Mine Safety and Health Administration, 201 12th Street South,

Room 4E401, Arlington, VA 22202–5452, *Phone:* 202 693–9440, *Fax:* 202 693–9441, *Email: mcconnell.sheila.a@dol.gov*.

Related RIN: Related to 1219–AB65
RIN: 1219–AB78

DOL—OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA)

Prerule Stage

84. Preventing Workplace Violence in Healthcare

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.
Legal Authority: Not Yet Determined
CFR Citation: Not Yet Determined.
Legal Deadline: None.

Abstract: The RFI will provide OSHA's history with the issue of workplace violence in healthcare, including a discussion of the Guidelines that were initially published in 1996, a 2014 update to the Guidelines, and the recently published tools and strategies that were shared with OSHA by healthcare facilities with effective violence prevention programs. It will also discuss the Agency's use of 5(a)(1) in enforcement cases in healthcare. The RFI solicits information primarily from health care employers, workers and other subject matter experts on impacts of violence, prevention strategies, and other information that will be useful to the Agency if it decides to move forward in rulemaking. OSHA will also solicit information from stakeholders, including state officials, employers and workers, in the nine states that require certain health healthcare facilities to have some type of workplace violence prevention program.

Statement of Need: Workplace violence is a widespread problem, and there is growing recognition that workers in healthcare occupations face unique risks and challenges. In 2013, the rate of serious workplace violence incidents (those requiring days off for an injured worker to recuperate) was more than four times greater in healthcare than in private industry on average. Healthcare accounts for nearly as many serious violent injuries as all other industries combined. Workplace violence comes at a high cost. It harms workers often both physically and emotionally and makes it more difficult for them to do their jobs.

In 2013, 80 percent of serious violent incidents reported in healthcare settings were caused by interactions with patients. Other incidents were caused by visitors, coworkers, or other people. Some medical professions and settings are more at risk than others. According to the Bureau of Labor Statistics, in 2013 psychiatric aides experienced the highest rate of violent injuries that resulted in days away from work, at approximately 590 injuries per 10,000 full-time employees (FTEs). This rate is more than 10 times higher than the next group, nursing assistants (about 55 violent injuries per 10,000 FTEs, and registered nurses (about 14 violent injuries per 10,000 FTEs), compared with a rate of 4.2 violent injuries per 10,000 FTEs in U.S. private industry as a whole. High-risk areas include emergency departments, geriatrics, and behavioral health, among others.

Summary of Legal Basis:
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
Request For Information (RFI).	11/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

RIN: 1218–AD08

DOL—OSHA

Proposed Rule Stage

85. Infectious Diseases

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 660; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673

CFR Citation: 29 CFR 1910.

Legal Deadline: None.

Abstract: Employees in health care and other high-risk environments face long-standing infectious disease hazards such as tuberculosis (TB), varicella disease (chickenpox, shingles), and measles (rubeola), as well as new and emerging infectious disease threats, such as Severe Acute Respiratory Syndrome (SARS) and pandemic influenza. Health care workers and workers in related occupations, or who are exposed in other high-risk environments, are at increased risk of contracting TB, SARS, Methicillin-resistant Staphylococcus aureus (MRSA), and other infectious diseases that can be transmitted through a variety of exposure routes. OSHA is concerned about the ability of employees to continue to provide health care and other critical services without unreasonably jeopardizing their health. OSHA is developing a standard to ensure that employers establish a comprehensive infection control program and control measures to protect employees from infectious disease exposures to pathogens that can cause significant disease. Workplaces where such control measures might be necessary include: Health care, emergency response, correctional facilities, homeless shelters, drug treatment programs, and other occupational settings where employees can be at increased risk of exposure to potentially infectious people. A standard could also apply to laboratories, which handle materials that may be a source of pathogens, and to pathologists, coroners' offices, medical examiners, and mortuaries.

Statement of Need: OSHA is considering the need for regulatory action to address the risk to workers exposed to infectious diseases in healthcare and other related high-risk environments. Especially given recent events necessitating the careful treatment of individuals with life-threatening infectious diseases, OSHA is concerned about the risk posed to healthcare workers with the movement of healthcare delivery from the traditional hospital setting into more diverse and smaller workplace settings. The Agency initiated the Small Business Regulatory Enforcement Fairness Act (SBREFA) Panel process in the spring of 2014.

Summary of Legal Basis: 5 U.S.C. 533; 29 U.S.C. 657 and 658; 29 U.S.C. 666; 29 U.S.C. 669; 29 U.S.C. 673.

Alternatives: OSHA offered several alternatives to the SBREFA panel when presenting the proposed Infectious Disease (ID) rule. OSHA considered a specification oriented rule rather than a performance oriented rule, but this type of rule would provide less flexibility and would likely fail to anticipate all of the potential hazards and necessary controls for every type and every size of facility and would under-protect workers. Exempting small entities from the rule was considered, but approximately 1.5 million of the estimated 9 million workers affected by the rule as outlined in the regulatory

framework work in very small entities, leaving these workers under-protected. OSHA also considered changing the scope of the rule restricting the ID rule to workers who have occupational exposure during the provision of direct patient care in institutional settings but based on the evidence thus far analyzed, those workers performing other covered tasks in both institutional and non-institutional settings face a risk of infection because of their occupational exposure. Per the proposed rule, employers would be required to provide medical removal protection (MRP) benefits. If OSHA eliminated the requirement for MRP benefits, workers might be deterred from reporting signs and symptoms that could be indicative of infection and might work while sick (due to concerns about loss of pay or other such punitive consequences), potentially resulting in further infections to co-workers and/or patients. OSHA also considered the option of not requiring employers to make vaccinations available to workers. Vaccination is generally considered an important component of an effective infection control program, as it protects inoculated workers from infections, lessens chances of outbreaks by minimizing transmission of infections from workers to other workers and patients, and may also lessen the duration and severity of infections, depending on the efficacy of the vaccine.

Anticipated Cost and Benefits: Undetermined.

Risks: During provision of direct patient care and the performance of other covered tasks as outlined in the scope of the proposed rule, workers are at risk for exposure to infections agents. The peer-reviewed literature suggests that HCWs are especially susceptible to exposures during the early stages of the emergence of novel infectious agents or novel strains of known infectious agents. While the patients who are the most ill with infectious diseases are most likely being treated in hospitals, many patients with infectious diseases are treated in ambulatory care settings during the early stages of the disease while they are asymptomatic or have mild symptoms. An increasing number of patients who are ill and symptomatic with an infectious disease are getting initial treatment at clinics that have urgent care or immediate care services, rather than being treated at hospital emergency rooms. Many patients with childhood illnesses such as measles, mumps and pertussis are being treated at clinics, not hospitals, unless they have severe cases. Currently, outbreaks of measles, mumps and pertussis are occurring in various countries, including the U.S. Workers in laboratories are tasked with the identification of infectious agents causing outbreaks and are similarly susceptible to exposures. OSHA believes that the 1998 and 2007 CDC/HICPAC guidelines, along with other authoritative guidance documents (*e.g.,* CDC/NIH, 2009), and hundreds of peer-reviewed publications, demonstrate a well-recognized risk of occupational exposure to infectious agents for workers providing direct patient care and/or performing other covered tasks.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	05/06/10	75 FR 24835
RFI Comment Period End.	08/04/10	
Analyze Comments.	12/30/10	
Stakeholder Meetings.	07/05/11	76 FR 39041
Initiate SBREFA ..	06/04/14	
Complete SBREFA.	12/22/14	
NPRM	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Local, State.

Federalism: Undetermined.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov*.

RIN: 1218–AC46

DOL—OSHA

86. Standards Improvement Project IV

Priority: Other Significant.

Legal Authority: 29 U.S.C. 655(b)

CFR Citation: 29 CFR 1926.

Legal Deadline: None.

Abstract: OSHA's Standards Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions (63 FR 33450, 70 FR 1111, 76 FR 33590), thus reducing costs or paperwork burden on affected employers. The Agency is initiating a fourth rulemaking effort to identify unnecessary or duplicative provisions or paperwork requirements that are focused primarily on its construction standards in 29 CFR 1926, as long as they do not diminish employee protections.

Statement of Need: OSHA's Standard Improvement Projects (SIPs) are intended to remove or revise duplicative, unnecessary, and inconsistent safety and health standards. The Agency has published three earlier final standards to remove unnecessary provisions, thus reducing costs or paperwork burden on affected employers. The Agency is initiating a fourth rulemaking effort to identify unnecessary or duplicative provisions or paperwork requirements that are focused primarily on its construction standards in 29 CFR 1926, as long as they do not diminish employee protections.

Summary of Legal Basis: OSHA is conducting Phase IV of the Standards Improvement Project (SIP–IV) in response to the President's Executive Order 13563, Improving Regulations and Regulatory Review (76 FR 38210). SIP–IV will update three standards to align with current medical practice, including a reduction to the number of necessary employee x-rays, updates to requirements for pulmonary function testing, and updates to the table used for decompression of employees during underground construction. Additionally, the proposed revisions include an update to the consensus standard incorporated by reference for signs and devices used to protect workers near automobile traffic, a revision to the requirements for roll-over protective structures to comply with current consensus standards, updates for storage of digital x-rays and the method of calling emergency services to allow for use of current technology, and a revision to lockout/tagout requirements in response to a court decision, among others. OSHA is also proposing to remove from its standards the requirements that employers include an employee's social security number (SSN) on exposure monitoring, medical surveillance, and other records in order to protect employee privacy and prevent identity fraud.

Alternatives: The main alternative OSHA considered for all of the proposed changes contained in the SIP–IV rulemaking was retaining the existing regulatory language, *i.e.,* retaining the status quo. In each instance, OSHA has concluded that the benefits of the proposed regulatory change outweigh the costs of those changes. In a few of the items, such as the proposed changes

to the decompression requirements applicable to employees working in compressed air environments, OSHA has requested public comment on feasible alternatives to the Agency's proposal.

Anticipated Cost and Benefits: The Agency has estimated that one revision (updating the method of identifying and calling emergency medical services) may increase construction employers costs by about $28,000 per year while two provisions (reduction in the number of necessary employee x-rays and elimination of posting requirements for residential construction employers) provide estimated costs savings of $3.2 million annually. The Agency has not estimated or quantified benefits to employees from reduced exposure to x-ray radiation or to employers for the reduced cost of storing digital x-rays rather than x-ray films, among others. The Agency has preliminarily concluded that the proposed revisions are economically feasible and do not have any significant economic impact on small businesses. The Preliminary Economic Analysis in this preamble provides an explanation of the economic effects of the proposed revisions.

Risks: SIP rulemakings do not address new significant risks or estimate benefits and economic impacts of reducing such risks. Overall, SIP rulemakings are reasonably necessary under the OSH Act because they provide cost savings, or eliminate unnecessary requirements.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	12/06/12	77 FR 72781
RFI Comment Period End.	02/04/13	
NPRM	10/04/16	81 FR 68504
NPRM Comment Period End.	12/05/16	
Analyze Comments.	06/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–2020, *Fax:* 202 693–1689, *Email: mckenzie.dean@dol.gov.*

RIN: 1218–AC67

DOL—OSHA

Final Rule Stage

87. Occupational Exposure to Beryllium

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657

CFR Citation: 29 CFR 1910.

Legal Deadline: None.

Abstract: In 1999 and 2001, OSHA was petitioned to issue an emergency temporary standard for permissible exposure limit (PEL) to beryllium by the United Steel Workers (formerly the Paper Allied-Industrial, Chemical, and Energy Workers Union), Public Citizen Health Research Group, and others. The Agency denied the petitions but stated its intent to begin data gathering to collect needed information on beryllium's toxicity, risks, and patterns of usage. On November 26, 2002, OSHA published a Request for Information (RFI) (67 FR 70707) to solicit information pertinent to occupational exposure to beryllium, including: Current exposures to beryllium; the relationship between exposure to beryllium and the development of adverse health effects; exposure assessment and monitoring methods; exposure control methods; and medical surveillance. In addition, the Agency conducted field surveys of selected worksites to assess current exposures and control methods being used to reduce employee exposures to beryllium. OSHA convened a Small Business Advocacy Review Panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) and completed the SBREFA Report in January 2008. OSHA also completed a scientific peer review of its draft risk assessment.

Statement of Need: Exposure to beryllium causes a disabling and potentially fatal chronic lung disease called Chronic Beryllium Disease (CBD). Exposure to beryllium has also been linked to lung cancer. OSHA proposed to reduce the permissible exposure limit (PEL) by 10 times to 0.2 micrograms of beryllium per cubic meter of air ($\mu g/m^3$) over an 8-hour time weighted average (TWA) and a short term exposure limit (STEL) of 2.0 $\mu g/m^3$ over 15 minutes. The proposal also included important requirements such as medical surveillance, medical removal protection, regulated areas, training, and engineering controls.

Summary of Legal Basis: 29 U.S.C. 655(b); 29 U.S.C. 657.

Alternatives: OSHA also proposed regulatory alternatives to its proposed beryllium rule. These include: Scope alternatives to address exposures in the construction and maritime industries; changes to the proposed PEL and STEL; and changes to the proposed ancillary provisions for exposure assessment, personal protective clothing and equipment, medical surveillance, and medical removal.

Anticipated Cost and Benefits: The proposed rule for beryllium covers approximately 35,000 workers in General Industry, and OSHA estimated that the proposed rule when fully implemented would produce $575.8 million in annualized benefits over 60 years, far outweighing the expected cost of $37.6 million annually for workplaces in General Industry.

Risks: Prevent 92 deaths from chronic beryllium disease, 4 deaths from lung cancer, and 50 non-fatal cases of chronic beryllium disease each year.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	11/26/02	67 FR 70707
RFI Comment Period End.	02/24/03	
SBREFA Report Completed.	01/23/08	
Initiated Peer Review of Health Effects and Risk Assessment.	03/22/10	
Complete Peer Review.	11/19/10	
NPRM	08/07/15	80 FR 47565
NPRM Comment Period End.	11/05/15	
Notice of Public Hearing; Date 02/29/2016.	12/30/15	80 FR 81475
Notice of Public Hearing; Date Change 03/21/2016.	02/16/16	81 FR 7717
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov.*

RIN: 1218–AB76

BILLING CODE 4510–HL–P

DEPARTMENT OF TRANSPORTATION (DOT)

Introduction: Department Overview and Summary of Regulatory Priorities

The Department of Transportation (DOT) consists of nine operating administrations and the Office of the Secretary, each of which has statutory responsibility for a wide range of regulations. DOT regulates safety in the aviation, motor carrier, railroad, motor vehicle, commercial space, public transportation, and pipeline transportation areas. DOT also regulates aviation consumer and economic issues and provides financial assistance for programs involving highways, airports, public transportation, the maritime industry, railroads, and motor vehicle safety. In addition, the Department writes regulations to carry out a variety of statutes ranging from the Americans With Disabilities Act to the Uniform Time Act. Finally, DOT develops and implements a wide range of regulations that govern internal DOT programs such as acquisitions and grants, access for the disabled, environmental protection, energy conservation, information technology, occupational safety and health, property asset management, seismic safety, and the use of aircraft and vehicles.

The Department's Regulatory Priorities

The Department's regulatory priorities respond to the challenges and opportunities we face. Our mission generally is as follows:

The national objectives of general welfare, economic growth and stability, and the security of the United States require the development of transportation policies and programs that contribute to providing fast, safe, efficient, and convenient transportation at the lowest cost consistent with those and other national objectives, including the efficient use and conservation of the resources of the United States.

To help us achieve our mission, we have five goals in the Department's Strategic Plan for Fiscal Years 2014–2018:

- *Safety:* Improve public health and safety by ''reducing transportation-related fatalities, injuries, and crashes.''
- *State of Good Repair:* Ensure the U.S. ''proactively maintains critical transportation infrastructure in a state of good repair.''
- *Economic Competitiveness:* Promote ''transportation policies and investments that bring lasting and equitable economic benefits to the Nation and its citizens.''
- *Quality of Life:* Foster quality of life in communities by ''integrating transportation policies, plans, with coordinated housing and economic development policies to increase transportation choices and access to transportation services for all.''
- *Environmental Sustainability:* Advance ''environmental sustainable policies and investments that reduce carbon and other harmful emissions from transportation sources.''

In identifying our regulatory priorities for the next year, the Department considered its mission and goals and focused on a number of factors, including the following:

- The relative risk being addressed
- Requirements imposed by law
- Actions on the National Transportation Safety Board ''Most Wanted List''
- The costs and benefits of the regulations
- The advantages of nonregulatory alternatives
- Opportunities for deregulatory action
- The enforceability of any rule, including the effect on agency resources

This regulatory plan identifies the Department's regulatory priorities—the 19 pending rulemakings chosen, from among the dozens of significant rulemakings listed in the Department's broader regulatory agenda, that the Department believes will merit special attention in the upcoming year. The rules included in the regulatory plan embody the Department's focus on our strategic goals.

The regulatory plan reflects the Department's primary focus on safety—a focus that extends across several modes of transportation. For example:

- The Federal Aviation Administration (FAA) will continue its efforts to implement safety management systems.
- The Federal Motor Carrier Safety Administration (FMCSA) continues its work to strengthen the requirements for Electronic Logging Devices and revise motor carrier safety fitness determination procedures.
- The National Highway Traffic Safety Administration (NHTSA) will continue its rulemaking efforts to reduce death and injury resulting from motor vehicle crashes.

Each of the rulemakings in the regulatory plan is described below in detail. In order to place them in context, we first review the Department's regulatory philosophy and our initiatives to educate and inform the public about transportation safety issues. We then describe the role of the Department's retrospective reviews and its regulatory process and other important regulatory initiatives of OST and of each of the Department's components. Since each transportation ''mode'' within the Department has its own area of focus, we summarize the regulatory priorities of each mode and of OST, which supervises and coordinates modal initiatives and has its own regulatory responsibilities, such as consumer protection in the aviation industry.

The Department's Regulatory Philosophy and Initiatives

The Department has adopted a regulatory philosophy that applies to all its rulemaking activities. This philosophy is articulated as follows: DOT regulations must be clear, simple, timely, fair, reasonable, and necessary. They will be issued only after an appropriate opportunity for public comment, which must provide an equal chance for all affected interests to participate, and after appropriate consultation with other governmental entities. The Department will fully consider the comments received. It will assess the risks addressed by the rules and their costs and benefits, including the cumulative effects. The Department will consider appropriate alternatives, including nonregulatory approaches. It will also make every effort to ensure that regulation does not impose unreasonable mandates.

The Department stresses the importance of conducting high-quality rulemakings in a timely manner and reducing the number of old rulemakings. To implement this, the Department has required the following actions: (1) Regular meetings of senior DOT officials to ensure effective policy leadership and timely decisions, (2) effective tracking and coordination of rulemakings, (3) regular reporting, (4) early briefings of interested officials, (5) regular training of staff, and (6) adequate allocations of resources. The Department has achieved significant success because of this effort. It allows the Department to use its resources more effectively and efficiently.

The Department's regulatory policies and procedures provide a comprehensive internal management and review process for new and existing regulations and ensure that the Secretary and other appropriate appointed officials review and concur in all significant DOT rules. DOT continually seeks to improve its regulatory process. A few examples include: The Department's development of regulatory process and related training courses for its employees; creation of an electronic rulemaking tracking and coordination system; the

use of direct final rulemaking; the use of regulatory negotiation; a continually expanding and improved Internet page that provides important regulatory information, including ''effects'' reports and status reports (*http://www.dot.gov/regulations*); and the continued exploration and use of Internet blogs and other Web 2.0 technology to increase and enhance public participation in its rulemaking process.

In addition, the Department continues to engage in a wide variety of activities to help cement the partnerships between its agencies and its customers that will produce good results for transportation programs and safety. The Department's agencies also have established a number of continuing partnership mechanisms in the form of rulemaking advisory committees.

The Department's Retrospective Review of Existing Regulations

In accordance with Executive Order (E.O.) 13563 (Improving Regulation and Regulatory Review), the Department actively engaged in a special retrospective review of our existing rules to determine whether they need to be revised or revoked. This review was in addition to those reviews in accordance with section 610 of the Regulatory Flexibility Act, E.O. 12866, and the Department's Regulatory Policies and Procedures. As part of this effort, we also reviewed our processes for determining what rules to review and ensuring that the rules are effectively reviewed. As a result of the review, we identified many rules for expedited review and changes to our retrospective review process. Pursuant to section 6 of E.O. 13563, the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the Department's final retrospective review of regulations plan. Some of these entries on this list may be completed actions, which do not appear in The Regulatory Plan. If a retrospective review action has been completed it will no longer appear on the list below. However, more information can be found about these completed rulemakings on the Unified Agenda publications at *Reginfo.gov* in the Completed Actions section for that agency. These rulemakings can also be found on *Regulations.gov*. The final agency retrospective review plan can be found at *http://www.dot.gov/regulations*.

RETROSPECTIVE REVIEW OF EXISTING REGULATIONS

RIN	Rulemaking title	Significantly reduces costs on small businesses
1. 2105–AE29	Transportation Services for Individuals with Disabilities: Over-the-Road Buses (RRR)	TBD.
2. 2120–AJ94	Enhanced Flight Vision System (EFVS) (RRR)	
3. 2120–AK24	Fuel Tank and System Lightning Protection (RRR)	
4. 2120–AK28	Aviation Training Devices; Pilot Certification, Training, and Pilot Schools; Other Provisions (RRR).	
5. 2120–AK32	Acceptance Criteria for Portable Oxygen Concentrators Used Onboard Aircraft (RRR)	
6. 2120–AK34	Flammability Requirements for Transport Category Airplanes (RRR)	
7. 2120–AK44	Reciprocal Waivers of Claims for Non-Party Customer Beneficiaries, Signature of Waivers of Claims by Commercial Space Transportation Customers. And Waiver of Claims and Assumption of Responsibility for Permitted Activities with No Customer (RRR).	
8. 2125–AF62	Acquisition of Right-of-Way (RRR) (MAP–21)	N.
9. 2125–AF65	Buy America (RRR)	TBD.
10. 2126–AB46	Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (RRR)	
11. 2126–AB47	Electronic Signatures and Documents (E-Signatures) (RRR)	
12. 2126–AB49	Elimination of Redundant Maintenance Rule (RRR)	
13. 2127–AK98	Pedestrian Safety Global Technical Regulation (RRR)	
14. 2127–AL03	Part 571 FMVSS No. 205, Glazing Materials, GTR (RRR)	
15. 2127–AL05	Amend FMVSS No. 210 to Incorporate the Use of a New Force Application Device (RRR)	Y.
16. 2127–AL20	Upgrade of LATCH Usability Requirements (MAP–21) (RRR)	
17. 2127–AL24	Rapid Tire Deflation Test in FMVSS No. 110 (RRR)	
18. 2127–AL58	Upgrade of Rear Impact Guard Requirements for Trailers and Semitrailers (RRR)	
19. 2130–AC40	Qualification and Certification of Locomotive Engineers; Miscellaneous Revisions (RRR)	
20. 2130–AC41	Hours of Service Recordkeeping; Electronic Recordkeeping Amendments (RRR)	
21. 2130–AC43	Safety Glazing Standards; Miscellaneous Revisions (RRR)	
22. 2137–AE72	Pipeline Safety: Gas Transmission (RRR)	Y.
23. 2137–AE80	Hazardous Materials: Miscellaneous Pressure Vessel Requirements (DOT Spec Cylinders) (RRR).	Y.
24. 2137–AE81	Hazardous Materials: Reverse Logistics (RRR)	Y.
25. 2137–AE86	Hazardous Materials: Requirements for the Safe Transportation of Bulk Explosives (RRR)	
26. 2137–AE94	Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes (RRR).	
27. 2137–AF00	Hazardous Materials: Adoption of Special Permits (MAP–21) (RRR)	Y.
28. 2137–AF04	Hazardous Materials: Miscellaneous Amendments (RRR)	
29. 2137–AF09	Hazardous Materials: Miscellaneous Petitions for Rulemaking (RRR)	
30. 2137–AF10	Hazardous Materials: Revision of the Requirements for Carriage by Aircraft (RRR)	
31. 2137–AF18	Hazardous Materials: Harmonization with International Standards (RRR)	
32. 2137–AF19	Hazardous Materials: Revisions to Hazardous Materials Emergency Preparedness Grants Requirements (RRR).	

International Regulatory Cooperation

Executive Order 13609 (Promoting International Regulatory Cooperation) stresses that ''[i]n an increasingly global economy, international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting the goals of'' Executive Order 13563 to ''protect public health, welfare, safety, and our environment while

promoting economic growth, innovation, competitiveness, and job creation.'' DOT has long recognized the value of international regulatory cooperation and has engaged in a variety of activities with both foreign governments and international bodies. These activities have ranged from cooperation in the development of particular standards to discussions of necessary steps for rulemakings in general, such as risk assessments and cost-benefit analyses of possible standards. Since the issuance of Executive Order 13609, we have increased our efforts in this area. For example, many of DOT's Operating Administrations are active in groundbreaking government-wide Regulatory Cooperation Councils (RCC) with Canada, Mexico, and the European Union. These RCC working groups are setting a precedent in developing and testing approaches to international coordination of rulemaking to reduce barriers to international trade. We also have been exploring innovative approaches to ease the development process.

Examples of the many cooperative efforts we are engaged in include the following:

The FAA maintains ongoing efforts with foreign civil aviation authorities, including in particular the European Aviation Safety Agency and Transport Canada, to harmonize standards and practices where doing so will improve the safety of aviation and aviation-related activities. The FAA also plays an active role in the standard-setting work of the International Civil Aviation Organization (ICAO), particularly on the Air Navigation Commission and the Legal Committee. In doing so, the FAA works with other Nations to shape the standards and recommended practices adopted by ICAO. The FAA's rulemaking actions related to safety management systems are examples of the FAA's harmonization efforts.

NHTSA is actively engaged in international regulatory cooperative efforts on both a multilateral and a bilateral basis, exchanging information on best practices and otherwise seeking to leverage its resources for addressing vehicle issues in the U.S. As noted in Executive Order 13609: ''(i)n meeting shared challenges involving health, safety, labor, security, environmental, and other issues, international regulatory cooperation can identify approaches that are at least as protective as those that are or would be adopted in the absence of such cooperation'' and ''can also reduce, eliminate, or prevent unnecessary differences in regulatory requirements.''

As the representative, for vehicle safety matters, of the United States, one of 33 contracting parties to the 1998 Agreement on the Harmonization of Vehicle Regulations, NHTSA is an active participant in the World Forum for Vehicle Regulations (WP.29) at the UN. Under that umbrella, NHTSA is currently working on the development of harmonized regulations for the safety of electric vehicles; hydrogen and fuel cell vehicles; advanced head restraints; pole side impact test procedures; pedestrian protection; the safety risks associated with quieter vehicles, such as electric and hybrid electric vehicles; and advancements in tires.

In recognition of the large cross-border market in motor vehicles and motor vehicle equipment, NHTSA is working bilaterally with Transport Canada under the Motor Vehicles Working Group of the U.S.-Canada Regulatory Cooperation Council (RCC) to facilitate implementation of the initial RCC Joint Action Plan. Under this Plan, NHTSA and Transport Canada are working on the development of international standards on quieter vehicles, electric vehicle safety, and hydrogen and fuel cell vehicles.

Building on the initial Joint Action Plan, the U.S. and Canada issued a Joint Forward Plan on August 29, 2014. The Forward Plan provided that regulators would develop Regulatory Partnership Statements (RPSs) outlining the framework for how cooperative activities will be managed between agencies. Since that time, regulators have been developing and completing detailed work plans to address the commitments in the Forward Plan. To facilitate future cooperation, the RCC will continue to work on cross-cutting issues in areas such as: ''sharing information with foreign governments, joint funding of new initiatives and our respective rulemaking processes.''

To broaden and deepen its cooperative efforts with the European Union, NHTSA is participating in ongoing negotiations regarding the Transatlantic Trade and Investment Partnership which is ''aimed at providing greater compatibility and transparency in trade and investment regulation, while maintaining high levels of health, safety, and environmental protection.'' NHTSA is seeking to build on existing levels of safety and lay the groundwork for future cooperation in addressing emerging safety issues and technologies.

PHMSA's hazardous material group works with ICAO, the UN Subcommittee of Experts on Dangerous Goods, and the International Maritime Organization. Through participation in these international bodies, PHMSA is able to advocate on behalf of U.S. safety and commercial interests to guide the development of international standards with which U.S. businesses have to comply when shipping in international commerce. PHMSA additionally participates in the RCC with Canada and has a Memorandum of Cooperation in place to ensure that cross-border shipments are not hampered by conflicting regulations. The pipeline group at PHMSA incorporates many standards by reference into the Pipeline Safety Regulations, and the development of these standards benefit from the participation of experts from around the world.

In the areas of airline consumer protection and civil rights regulation, OST is particularly conscientious in seeking international regulatory cooperation. For example, the Department participates in the standard-setting activities of ICAO and meets and works with other governments and international airline associations on the implementation of U.S. and foreign aviation rules.

For a number of years the Department has also provided information on which of its rulemaking actions have international effects. This information, updated monthly, is available at the Department's regulatory information Web site, *http://www.dot.gov/regulations*, under the heading ''Reports on Rulemakings and Enforcement.'' (The reports can be found under headings for ''EU,'' ''NAFTA'' (Canada and Mexico) and ''Foreign.'') A list of our significant rulemakings that are expected to have international effects follows; the identifying RIN provided below can be used to find summary and other information about the rulemakings in the Department's Regulatory Agenda published along with this Plan:

RIN	Rulemaking title
2105–AD91	Accessibility of Airports.
2105–AE06	E-Cigarette.
2120–AJ38	Airport Safety Management System.

RIN	Rulemaking title
2120–AJ60	Small Unmanned Aircraft.
2120–AJ69	Prohibition Against Certain Flights Within the Territory and Airspace of Afghanistan.
2120–AK09	Drug & Alcohol Testing for Repair Stations.
2120–AK65	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes.
2126–AA34	Mexico-Domiciled Motor Carriers.
2126–AA35	Safety Monitoring System and Compliance Initiative for Mexico-Domiciled Motor Carriers Operating in the United States.
2124–AA70	Limitations on the Issuance of Commercial Driver Licenses with a Hazardous Materials Endorsement.
2126–AB56	MAP–21 Enhancements and Other Updates to the Unified Registration System.
2127–AK76	Tire Fuel Efficiency Part 2.
2127–AK93	Quieter Vehicles Sound Alert.
2133–AB74	Cargo Preference.
2137–AF18	Hazardous Materials: Harmonization with International Standards (RRR).

As we identify rulemakings arising out of our ongoing regulatory cooperation activities that we reasonably anticipate will lead to significant regulations, we will add them to our Web site report and subsequent Agendas and Plans.

The Department's Regulatory Process

The Department will also continue its efforts to use advances in technology to improve its rulemaking management process. For example, the Department created an effective tracking system for significant rulemakings to ensure that either rules are completed in a timely manner or delays are identified and fixed. Through this tracking system, a monthly status report is generated. To make its efforts more transparent, the Department has made this report Internet accessible at *http://www.dot.gov/regulations*. By doing this, the Department is providing valuable information concerning our rulemaking activity and is providing information necessary for the public to evaluate the Department's progress in meeting its commitment to completing quality rulemakings in a timely manner.

The Department continues to place great emphasis on the need to complete high-quality rulemakings by involving senior departmental officials in regular meetings to resolve issues expeditiously.

Office of the Secretary of Transportation (OST)

The Office of the Secretary (OST) oversees the regulatory process for the Department. OST implements the Department's regulatory policies and procedures and is responsible for ensuring the involvement of top management in regulatory decisionmaking. Through the General Counsel's office, OST is also responsible for ensuring that the Department complies with the Administrative Procedure Act, Executive Order 12866 (Regulatory Planning and Review), Executive Order 13563, DOT's Regulatory Policies and Procedures, and other legal and policy requirements affecting rulemaking. Although OST's principal role concerns the review of the Department's significant rulemakings, this office has the lead role in the substance of such projects as those concerning aviation economic rules, the Americans with Disabilities Act, and rules that affect multiple elements of the Department.

OST provides guidance and training regarding compliance with regulatory requirements and process for personnel throughout the Department. OST also plays an instrumental role in the Department's efforts to improve our economic analyses; risk assessments; regulatory flexibility analyses; other related analyses; retrospective reviews of rules; and data quality, including peer reviews.

OST also leads and coordinates the Department's response to the Office of Management and Budget's (OMB) intergovernmental review of other agencies' significant rulemaking documents and to Administration and congressional proposals that concern the regulatory process. The General Counsel's office works closely with representatives of other agencies, OMB, the White House, and congressional staff to provide information on how various proposals would affect the ability of the Department to perform its safety, infrastructure, and other missions.

During Fiscal Year 2017, OST will focus its efforts on voice communications on passengers´ mobile wireless devices on scheduled flights within, to and from the United States (2105–AE30).

OST will also continue its efforts on the following rulemaking initiatives:

- Airline Passenger Protections III (2105–AE11)
- In-Flight Medical Oxygen and other ACAA issues (2105–AE12)
- In-Flight Entertainment (2105–AE32)
- Reporting of Statistics for Mishandled Baggage and Wheelchairs (2105–AE41)

OST will also continue its efforts to help coordinate the activities of several operating administrations that advance various departmental efforts that support the Administration's initiatives on promoting safety, stimulating the economy and creating jobs, sustaining and building America's transportation infrastructure, and improving quality of life for the people and communities who use transportation systems subject to the Department's policies. It will also continue to oversee the Department's rulemaking actions to implement the ''Moving Ahead for Progress in the 21st Century Act'' (MAP–21).

Federal Aviation Administration (FAA)

The Federal Aviation Administration is charged with safely and efficiently operating and maintaining the most complex aviation system in the world. Destination 2025, an FAA initiative that captures the agency's vision of transforming the Nation's aviation system by 2025, has proven to be an effective tool for pushing the agency to think about longer-term aspirations; FAA has established a vision that defines the agency's priorities for the next five years. The changing technological and industry environment compels us to transform the agency. And the challenging fiscal environment we face only increases the need to prioritize our goals.

We have identified four major strategic initiatives where we will focus our efforts (1) Risk-based Decision Making—Build on safety management principles to proactively address emerging safety risk by using consistent, data-informed approaches to make smarter, system-level, risk-based decisions; (2) NAS Initiative—Lay the foundation for the National Airspace System of the future by achieving prioritized NextGen benefits, enabling the safe and efficient integration of new user entrants including Unmanned Aircraft Systems (UAS) and Commercial Space flights, and deliver more efficient, streamlined air traffic management

services; (3) Global Leadership—Improve safety, air traffic efficiency, and environmental sustainability across the globe through an integrated, data-driven approach that shapes global standards, enhances collaboration and harmonization, and better targets FAA resources and efforts; and (4) Workforce of the Future—Prepare FAA's human capital for the future, by identifying, recruiting, and training a workforce with the leadership, technical, and functional skills to ensure the U.S. has the world's safest and most productive aviation sector.

FAA activities that may lead to rulemaking in Fiscal Year 2017 include continuing to:

- Promote and expand safety information-sharing efforts, such as FAA-industry partnerships and data-driven safety programs that prioritize and address risks before they lead to accidents. Specifically, FAA will continue implementing Commercial Aviation Safety Team projects related to controlled flight into terrain, loss of control of an aircraft, uncontained engine failures, runway incursions, weather, pilot decision making, and cabin safety. Some of these projects may result in rulemaking and guidance materials.
- Respond to the FAA Modernization and Reform Act of 2012 (the Act), which directed the FAA to initiate a rulemaking proceeding to issue guidelines and regulations relating to ADS–B In technology and recommendations from an Aviation Rulemaking Committee on ADS–B In capabilities in consideration of the FAA's evolving thinking on how to provide an integrated suite of communication, navigation, and surveillance (CNS) capabilities to achieve full NextGen performance.
- Respond to the Act, which also recommended we complete the rulemaking for small Unmanned Aircraft Systems, and consider how to fully integrate UAS operations in the NAS, which will require future rulemaking.
- Respond to the Airline Safety and Federal Aviation Administration Extension Act of 2010 (H.R. 5900), which requires the FAA to develop and implement Safety Management Systems (SMS) where these systems will improve safety of aviation and aviation-related activities. An SMS proactively identifies potential hazards in the operating environment, analyzes the risks of those hazards, and encourages mitigation prior to an accident or incident. In its most general form, an SMS is a set of decision-making tools that can be used to plan, organize, direct, and control activities in a manner that enhances safety.
- Respond to the Small Airplane Revitalization Act of 2013 (H.R. 1848), which requires the FAA adopt the recommendations from part 23 Reorganization Aviation Rulemaking Aviation Rulemaking Committee (ARC) for improving safety and reducing certification costs for general aviation. The ARC recommendations include a broad range of policy and regulatory changes that it believes could significantly improve the safety of general aviation aircraft while simultaneously reducing certification and modification costs for these aircraft. Among the ARC's recommendations is a suggestion that compliance with part 23 requirements be performance-based, focusing on the complexity and performance of an aircraft instead of the current regulations based on weight and type of propulsion. In announcing the ARC's recommendations, the Secretary of Transportation said ''Streamlining the design and certification process could provide a cost-efficient way to build simple airplanes that still incorporate the latest in safety initiatives. These changes have the potential to save money and maintain our safety standing—a win-win situation for manufacturers, pilots and the general aviation community as a whole.'' Further, these changes are consistent with directions to agencies in Executive Order 13610 ''*Identifying and Reducing Regulatory Burdens,*'' we continue to find ways to make our regulatory program more effective or less burdensome; provide quantifiable monetary savings or quantifiable reductions in paperwork burdens, and modify and streamline regulations in light of changed circumstances.
- Work cooperatively to harmonize the U.S. aviation regulations with those of other countries, without compromising rigorous safety standards, or our requirements to develop cost benefit analysis. The differences worldwide in certification standards, practice and procedures, and operating rules must be identified and minimized to reduce the regulatory burden on the international aviation system. The differences between the FAA regulations and the requirements of other nations impose a heavy burden on U.S. aircraft manufacturers and operators, some of which are small businesses. Standardization should help the U.S. aerospace industry remain internationally competitive. The FAA continues to publish regulations based on internal analysis, public comment, and recommendations of Aviation Rulemaking Committees that are the result of cooperative rulemaking between the U.S. and other countries.

FAA top regulatory priorities for Fiscal Year 2017 include:

- Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (2120–AK65)
- Airport Safety Management System (2120–AJ38)
- Flight Crewmember Mentoring, Leadership and Professional Development (2120–AJ87)

The Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes rulemaking would:

- Reorganize part 23 into performance-based requirements by removing the detailed design requirements from part 23;
- Promote the adoption of the newly created performance-based airworthiness design standard as an internationally accepted standard by the majority of other civil aviation authorities;
- Re-align the part 23 requirements to promote the development of entry-level airplanes similar to those certified under Certification Specification for Very Light Aircraft (CS–VLA);
- Enhance the FAA's ability to address new technology;
- Increase the general aviation (GA) level of safety provided by new and modified airplanes;
- Amend the stall, stall warning, and spin requirements to reduce fatal accidents and increase crashworthiness by allowing new methods for occupant protection; and
- Address icing conditions that are currently not included in part 23 regulations.

The Airport Safety Management System rulemaking would:

- Require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation related activities.

The Flight Crewmember Mentoring, Leadership and Professional Development rulemaking would:

- Ensure air carriers establish or modify training programs to address mentoring, leadership and professional development of flight crewmembers in part 121 operations.

Federal Highway Administration (FHWA)

The Federal Highway Administration (FHWA) carries out the Federal highway program in partnership with State and local agencies to meet the Nation's transportation needs. The FHWA's

mission is to improve continually the quality and performance of our Nation's highway system and its intermodal connectors.

Consistent with this mission, the FHWA will continue:

- With ongoing regulatory initiatives in support of its surface transportation programs;
- To implement legislation in the most cost-effective way possible; and
- To pursue regulatory reform in areas where project development can be streamlined or accelerated, duplicative requirements can be consolidated, recordkeeping requirements can be reduced or simplified, and the decisionmaking authority of our State and local partners can be increased.

MAP–21 authorizes the Federal surface transportation programs for highways, highway safety, and transit for the two-year period from 2012–2014. The FHWA has analyzed MAP–21 to identify Congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities for the coming year.

Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with MAP–21 and will update those regulations that are not consistent with the recently enacted legislation.

The Fixing America's Surface Transportation (FAST) Act authorizes the Federal surface transportation programs for highways, highway safety, and transit for the five-year period from 2016–2020. The FHWA has analyzed the FAST Act to identify Congressionally directed rulemakings. These rulemakings will be the FHWA's top regulatory priorities for the coming year.

Additionally, the FHWA is in the process of reviewing all FHWA regulations to ensure that they are consistent with the FAST Act and will update those regulations that are not consistent with the recently enacted legislation.

During Fiscal Year 2017, FHWA will continue its focus on improving the quality and performance of our Nation's highway systems by creating national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21 under the following rulemaking initiatives:

- National Goals and Performance Management Measures (Bridges and Pavement) (RIN: 2125–AF53)
- National Goals and Performance Management Measures (Congestion Reduction, CMAQ, Freight, and Performance of Interstate/Non-Interstate NHS) (RIN: 2125–AF54).

Federal Motor Carrier Safety Administration (FMCSA)

The mission of the Federal Motor Carrier Safety Administration (FMCSA) is to reduce crashes, injuries, and fatalities involving commercial trucks and buses. A strong regulatory program is a cornerstone of FMCSA's compliance and enforcement efforts to advance this safety mission. FMCSA develops new and more effective safety regulations based on three core priorities: Raising the safety bar for entry, maintaining high standards, and removing high-risk behavior. In addition to Agency-directed regulations, FMCSA develops regulations mandated by Congress, through legislation such as MAP–21. FMCSA regulations establish standards for motor carriers, commercial drivers, commercial motor vehicles, and State agencies receiving certain motor carrier safety grants and issuing commercial drivers' licenses.

FMCSA's regulatory plan for FY 2017 includes completion of a number of rulemakings that are high priorities for the Agency because they would have a positive impact on safety. Among the rulemakings included in the plan are: (1) Carrier Safety Fitness Determination (RIN 2126–AB11), (2) Entry Level Driver Training (RIN 2126–AB66), and (3) Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18).

Together, these priority rules could improve substantially commercial motor vehicle (CMV) safety on our Nation's highways by increasing FMCSA's ability to provide safety oversight of motor carriers and commercial drivers.

In FY 2017, FMCSA plans to issue a final rule on Carrier Safety Fitness Determination (RIN 2126–AB11) to establish a new safety fitness determination standard that will enable the Agency to prohibit ''unfit'' carriers from operating on the Nation's highways and contribute to the Agency's overall goal of decreasing CMV-related fatalities and injuries.

In FY 2017, FMCSA plans to issue a final rule on Entry Level Driver Training (RIN 2126–AB66). This rule would establish training requirements for individuals before they can obtain their CDL or certain endorsements. It will define curricula for training providers and establish requirements and procedures for the schools.

Also in FY 2017, FMCSA plans to issue a final rule on the Commercial Driver's License Drug and Alcohol Clearinghouse (RIN 2126–AB18). The rule would establish a clearinghouse requiring employers and service agents to report information about current and prospective employees' drug and alcohol test results. It would require employers and certain service agents to search the Clearinghouse for current and prospective employees' positive drug and alcohol test results as a condition of permitting those employees to perform safety-sensitive functions. This would provide FMCSA and employers the necessary tools to identify drivers who are prohibited from operating a CMV based on DOT drug and alcohol program violations and ensure that such drivers receive the required evaluation and treatment before resuming safety-sensitive functions.

National Highway Traffic Safety Administration

The statutory responsibilities of the National Highway Traffic Safety Administration (NHTSA) relating to motor vehicles include reducing the number, and mitigating the effects, of motor vehicle crashes and related fatalities and injuries; providing safety performance information to aid prospective purchasers of vehicles, child restraints, and tires; and improving automotive fuel efficiency. NHTSA pursues policies that encourage the development of nonregulatory approaches when feasible in meeting its statutory mandates. It issues new standards and regulations or amendments to existing standards and regulations when appropriate. It ensures that regulatory alternatives reflect a careful assessment of the problem and a comprehensive analysis of the benefits, costs, and other impacts associated with the proposed regulatory action. Finally, it considers alternatives consistent with the Administration's regulatory principles.

NHTSA plans to issue a final rule on vehicle-to-vehicle (V2V) communications in Fiscal Year 2017. V2V communications are currently perceived to become a foundational aspect of vehicle automation. NHTSA will publish a final rule on heavy vehicle speed limiters in response to petitions for rulemaking and recommendations from the National Transportation Safety Board. In Fiscal Year 2017 NHTSA will also finalize rulemaking for Tire Fuel Efficiency in response to requirements of the Energy Independence & Security Act of 2007. In response to requirements in MAP–21, NHTSA plans to continue work toward a final rule that would require automobile manufacturers to install a seat belt reminder system for the front passenger and rear designated seating positions in passenger vehicles. The seat

belt reminder system is intended to increase belt usage and thereby improve the crash protection of vehicle occupants who would otherwise have been unbelted.

In addition to numerous programs that focus on the safe performance of motor vehicles, the Agency is engaged in a variety of programs to improve driver and occupant behavior. These programs emphasize the human aspects of motor vehicle safety and recognize the important role of the States in this common pursuit. NHTSA has identified two high-priority areas: Safety belt use and impaired driving. To address these issue areas, the Agency is focusing especially on three strategies—conducting highly visible, well-publicized enforcement; supporting prosecutors who handle impaired driving cases and expanding the use of DWI/Drug Courts, which hold offenders accountable for receiving and completing treatment for alcohol abuse and dependency; and adopting alcohol screening and brief intervention by medical and health care professionals. Other behavioral efforts encourage child safety-seat use; combat excessive speed, driver distraction, and aggressive driving; improve motorcycle, bicycle, and pedestrian safety; and provide consumer information to the public.

Federal Railroad Administration (FRA)

FRA's current regulatory program reflects a number of pending proceedings to satisfy mandates resulting from the Rail Safety Improvement Act of 2008 (RSIA08), the Passenger Rail Investment and Improvement Act of 2008 (PRIIA), and the Fixing America's Surface Transportation Act of 2015 (FAST Act), as well as actions under its general safety rulemaking authority and actions supporting a high-performing passenger rail network and to address the safe and effective movement of energy products, particularly crude oil. RSIA08 alone has required 21 rulemaking actions, 19 of which have been completed. The FAST Act requires an additional 13 rulemaking actions, 4 of which are complete and 6 others are in the developmental or proposal stage. FRA continues to prioritize its rulemakings according to the greatest effect on safety while promoting economic growth, innovation, competitiveness, and job creation, as well as expressed congressional interest, while working to complete as many mandated rulemakings as quickly as possible.

FRA is working to complete its on-going development of requirements related to the creation and implementation of railroad risk reduction programs (RIN 2130–AC11). FRA is finalizing initial rulemaking documents based on the recommendations of a Railroad Safety Advisory Committee (RSAC) working group containing the fatigue management provisions related to risk reduction and system safety programs. FRA is also in the process of producing a final regulatory action related to the transportation of crude oil and ethanol by rail, focusing on the appropriate crew size requirements when transporting such commodities. FRA's crew size activity will also address other freight and passenger operations to ensure FRA will have appropriate oversight if a railroad chooses to alter its standard method of operation. FRA continues its work to produce a rulemaking containing RSAC-supported actions that advance high-performing passenger rail to propose standards for alternative compliance with FRA's Passenger Equipment Safety Standards for the operation of Tier III passenger equipment (RIN 2130–AC51). Through RSAC, FRA is developing recommendations for proposed rules regarding track inspections aimed at improving rail integrity to allow continuous rail integrity testing and to address rail head wear. Finally, FRA is developing proposed rules related to the use of inward and outward facing locomotive-mounted cameras and other recording devices in response to a FAST Act mandate for such devices on passenger locomotives.

Federal Transit Administration (FTA)

FTA helps communities support public transportation by making grants of Federal funding for transit vehicles, construction of transit facilities, and planning and operation of transit and other transit-related purposes. FTA regulatory activity implements the laws that apply to recipients' uses of Federal funding and the terms and conditions of FTA grant awards. FTA policy regarding regulations is to:

- Ensure the safety of public transportation systems.
- Provide maximum benefit to the Nation's mobility through the connectivity of transportation infrastructure;
- Provide maximum local discretion;
- Ensure the most productive use of limited Federal resources;
- Protect taxpayer investments in public transportation;
- Incorporate principles of sound management into the grant management process.

As the needs for public transportation have changed over the years, the Federal transit programs have grown in number and complexity often requiring implementation through the rulemaking process. FTA is currently implementing many of its public transportation programs authorized under MAP–21 through the regulatory process. To that end, FTA's regulatory priorities include implementing the newly authorized Public Transportation Safety Program (49 U.S.C. 5329), such as the Public Transportation Safety Plan and updating the State Safety Oversight rule, as well as, implementing requirements for Transit Asset Management Systems (49 U.S.C. 5326). The joint FTA/FHWA planning rule which will be merged with FTA/FHWA's Additional Authorities for Planning and Environmental Linkages rule and FTA's Bus Testing rule round out its regulatory priorities.

Maritime Administration (MARAD)

The Maritime Administration (MARAD) administers Federal laws and programs to improve and strengthen the maritime transportation system to meet the economic, environmental, and security needs of the Nation. To that end, MARAD's efforts are focused upon ensuring a strong American presence in the domestic and international trades and to expanding maritime opportunities for American businesses and workers.

MARAD's regulatory objectives and priorities reflect the agency's responsibility for ensuring the availability of water transportation services for American shippers and consumers and, in times of war or national emergency, for the U.S. armed forces. Major program areas include the following: Maritime Security, Voluntary Intermodal Sealift Agreement, National Defense Reserve Fleet and the Ready Reserve Force, Cargo Preference, Maritime Guaranteed Loan Financing, United States Merchant Marine Academy, Mariner Education and Training Support, Deepwater Port Licensing, and Port and Intermodal Development. Additionally, MARAD administers the Small Shipyard Grants Program through which equipment and technical skills training are provided to America's maritime workforce, with the aim of helping businesses to compete in the global marketplace while creating well-paying jobs at home.

MARAD's primary regulatory activities in Fiscal Year 2017 will be to continue the update of existing regulations as part of the Department's Retrospective Regulatory Review effort, and to propose new regulations where appropriate.

Pipeline and Hazardous Materials Safety Administration (PHMSA)

The Pipeline and Hazardous Materials Safety Administration (PHMSA) has responsibility for rulemaking under two programs. Through the Associate Administrator for the Office of Hazardous Materials Safety (OHMS), PHMSA administers regulatory programs under Federal hazardous materials transportation law and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. Through the Associate Administrator for the Office of Pipeline Safety (OPS), PHMSA administers regulatory programs under the Federal pipeline safety laws and the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990. The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 included a number of rulemaking studies and mandates and additional enforcement authorities that continue to impact PHMSA's regulatory activities in Fiscal Year 2016.[14]

PHMSA will continue to work toward improving safety related to transportation of hazardous materials by all transportation modes, including pipeline, while promoting economic growth, innovation, competitiveness, and job creation. We will concentrate on the prevention of high-risk incidents identified through the findings of the National Transportation Safety Board (NTSB) and PHMSA's evaluation of transportation incident data. PHMSA will use all available Agency tools to assess data; evaluate alternative safety strategies, including regulatory strategies as necessary and appropriate; target enforcement efforts; and enhance outreach, public education, and training to promote safety outcomes.

OHMS

On December 4, 2015, President Barack Obama signed legislation entitled, ''Fixing America's Surface Transportation Act of 2015,'' or the ''FAST Act.'' *See* Public Law 114–94. The FAST Act includes the ''Hazardous Materials Transportation Safety Improvement Act of 2015'' (Sections 7001 through 7311) which instructs the Secretary of Transportation (''Secretary'') to make specific regulatory amendments to the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). PHMSA has been very effective in implementing the FAST Act provisions. For example, PHMSA recently issued a final rule to expand requirements for the use of the DOT Specification 117 tank car to all flammable liquids, regardless of train make-up. This change will promote consistency for all flammable liquid tank cars and simplify compliance for shippers and carriers. As a result of these actions, all retrofitted and newly constructed DOT Specification 117 tank cars will be equipped with top fittings protection, jackets, thermal protection systems, full height head shields, and better outlet valves. The expanded use of the enhanced tank car will reduce the likelihood of a flammable liquid release in the event of a derailment.

PHMSA will continue to focus on the streamlining of its regulatory system and reducing regulatory burdens. PHMSA will evaluate existing rules to examine whether they remain justified; should be modified to account for changing circumstances and technologies; or should be streamlined or even repealed. PHMSA will continue to evaluate, analyze, and be responsive to petitions for rulemaking. PHMSA will review regulations, letters of interpretation, petitions for rulemaking, special permits, enforcement actions, approvals, and international standards to identify inconsistencies, outdated provisions, and barriers to regulatory compliance.

PHMSA aims to reduce the risks related to the transportation of hazardous materials by rail. Preventing tank car incidents and minimizing the consequences when an incident does occur are not only DOT priorities, but are also shared by our Federal and international partners, the NTSB, industry, and the general public. Expansion in United States energy production has led to significant challenges in the transportation system. Expansion in oil production has led to increasing volumes of energy products transported to refineries. With a growing domestic supply, rail transportation, in particular, has emerged as an alternative to transportation by pipeline or vessel. The growing reliance on trains to transport large volumes of flammable liquids raises risks that have been highlighted by the recent instances of trains carrying crude oil that have derailed. PHMSA issued a Notice of Proposed Rulemaking on July 29, 2016 (81 FR 50067), seeking comment on potential revisions to its regulations that would expand the applicability of comprehensive oil spill response plans (OSRPs) for crude oil trains and require railroads to share information about high-hazard flammable train operations with state and tribal emergency response commissions to improve community preparedness. PHMSA will continue to take regulatory actions to enhance the safe transportation of energy products.

PHMSA is also looking to reduce the risk of transporting lithium batteries by air. The safe transport of lithium batteries by air has been an ongoing concern due to the unique challenges they pose to safety in a transportation environment. Unlike other hazardous materials, lithium batteries contain both a chemical and an electrical hazard. This combination of hazards, when involved in a fire encompassing significant quantities of lithium batteries, may exceed the fire suppression capability of the aircraft and lead to a catastrophic lithium battery event. PHMSA is developing regulatory actions that will: (1) Prohibit the transport of lithium ion cells and batteries as cargo on passenger aircraft; (2) require all lithium ion cells and batteries to be shipped at not more than a 30 percent state of charge on cargo-only aircraft; and (3) limits the use of alternative provisions for small lithium cell or battery shipments under 49 CFR 173.185(c). These amendments will predominately affect air carriers (both passenger and cargo-only) and shippers offering lithium ion cells and batteries for transport as cargo by aircraft. The amendments will not restrict passengers or crew members from bringing personal items or electronic devices containing lithium batteries aboard aircraft in carry-on or checked baggage.

OPS

President Obama signed the Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016 (or the ''PIPES Act of 2016'') on June 22, 2016. The 2016 Act reauthorizes the pipeline safety program and requires a number of reports and mandates. Under the 2016 Act, PHMSA is required to take regulatory actions to establish minimum safety standards for underground natural gas storage facilities, and to update the minimum safety standards for liquefied natural gas pipeline facilities for permanent, small scale liquefied natural gas pipeline facilities. The Act also contains regulatory mandates regarding emergency order authority, unusually sensitive areas, and hazardous materials identification numbers. PHMSA is in the process of taking the necessary steps to address these mandates.

On October 13, 2015 [80 FR 61609], PHMSA issued an NPRM proposing changes to the regulations covering hazardous liquid onshore pipelines. Specifically, the agency proposed regulatory changes relative to High

[14] *http://www.phmsa.dot.gov/pv_obj_cache/pv_obj_id_7FD46010F0497123865B976479CFF3952E990200/filename/Pipeline%20Reauthorization%20Bill%202011.pdf.*

Consequence Areas (HCAs) for integrity management (IM) protections, repair timeframes, and reporting for all hazardous liquid gathering lines. The agency also addressed public safety and environmental aspects of any new requirements, as well as the cost implications and regulatory burden.

Also, on April 8, 2016 [81 FR 20722], PHMSA proposed to revise the requirements in the Pipeline Safety Regulations to address integrity management principles for Gas Transmission pipelines. In particular, PHMSA proposed requirements to address repair criteria for both HCA and non-HCA areas, assessment methods, validating and integrating pipeline data, risk assessments, knowledge gained through the IM program, corrosion control, management of change, gathering lines, and safety features on launchers and receivers.

QUANTIFIABLE COSTS AND BENEFITS OF RULEMAKINGS ON THE 2016 TO 2017 DOT REGULATORY PLAN

[This chart does not account for benefits and costs that could not be monetized, which may be substantial]

Agency/RIN No.	Title	Stage	Quantifiable costs discounted 2013 $ (millions)	Quantifiable benefits discounted 2013 $ (millions)
		FAA		
2120–AJ38	Airport Safety Management System.	SNPRM (Analyzing Comments 12/16).	$157.5	$225.9.
2120–AJ87	Pilot Professional Development	Published: Comment Period End 01/05/17.	46.8	46.3.
2120–AK65	Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes.	FR 12/16	3.9	11.6.
		FHWA		
2125–AF53	Performance Management 2	FR 11/16	21.2 *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*	Breakeven Analysis.
2125–AF54	Performance Management 3	NPRM (Analyzing Comments 08/16) FR TBD.	15.3–21.1 *Note: These are preliminary agency estimates only. They have not been reviewed by others outside of DOT. The estimates could change after interagency review.*	Breakeven Analysis.
		FMCSA		
2126–AB11	Carrier Safety Fitness Determination.	NPRM (Analyzing Comments) FR TBD.	TBD	TBD.
2126–AB66	Entry Level Driver Training	FR 11/16	TBD	TBD.
		NHTSA		
2127–AL55	Light Vehicle V2V Communications.	FR 10/17	TBD	TBD.
2127–AK92	Heavy Vehicle Speed Limiters	FR 10/17	TBD	TBD.
2127–AK76	Tire Fuel Efficiency Part 2	FR10/17	10.6	21.5.
		FRA		
2130–AC11	Risk Reduction Program	FR 12/16	TBD	TBD.
2130–AC51	Locomotive Recording Devices	NPRM 11/16	TBD	TBD.
		PHMSA		
2137–AE66	Pipeline Safety: Safety of On-Shore Liquid Hazardous Pipelines.	FR 12/16	TBD	TBD.
2137–AE72	Pipeline Safety: Gas Transmission (RRR).	NPRM (Analyzing Comments) FR TBD	TBD	TBD.

QUANTIFIABLE COSTS AND BENEFITS OF RULEMAKINGS ON THE 2016 TO 2017 DOT REGULATORY PLAN—Continued

[This chart does not account for benefits and costs that could not be monetized, which may be substantial]

Agency/RIN No.	Title	Stage	Quantifiable costs discounted 2013 $ (millions)	Quantifiable benefits discounted 2013 $ (millions)
2137–AF08	Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains.	FR 07/17	2.9m per year	Breakeven Analysis. Cost-effective if this requirement reduces risk by 3.7%.

Notes: Costs and benefits of rulemakings may be forecast over varying periods. Although the forecast periods will be the same for any given rulemaking, comparisons between proceedings should be made cautiously.

Costs and benefits are generally discounted at a 7 percent discount rate over the period analyzed.

The Department of Transportation generally assumes that there are economic benefits to avoiding a fatality of $9.4 million. That economic value is included as part of the benefits estimates shown in the chart. As noted above, we have not included the non-quantifiable benefits.

DOT—FEDERAL AVIATION ADMINISTRATION (FAA)

Proposed Rule Stage

88. +Airport Safety Management System

Priority: Other Significant.

Legal Authority: 49 U.S.C. 44706; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44706; 49 U.S.C. 44709; 49 U.S.C. 44719

CFR Citation: 14 CFR 139.

Legal Deadline: Final, Statutory, November 5, 2012, Final rule.

Abstract: This rulemaking would require certain airport certificate holders to develop, implement, maintain, and adhere to a safety management system (SMS) for its aviation-related activities. An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies.

Statement of Need: In the NPRM published on October 7, 2010, the FAA proposed to require all part 139 certificate holders to develop and implement an SMS to improve the safety of their aviation-related activities. The FAA received 65 comment documents from a variety of commenters. Because of the complexity of the issues and concerns raised by the commenters, the FAA began to reevaluate whether deployment of SMS at all certificated airports was the most effective approach. The FAA continues to believe that an SMS can address potential safety gaps that are not completely eliminated through effective FAA regulations and technical operating standards. While the comments generated some changes to the proposal in this document, most of the proposed core elements of the SMS program remain in the SNPRM. The FAA now proposes to require an SMS be developed, implemented, maintained, and adhered to at any certificated airport that is: (i) Classified as a Small, Medium, or Large hub airport in the National Plan of Integrated Airport Systems; (ii) identified by the U.S. Customs and Border Protection as a port-of-entry, designated international airport, landing rights airport, or user fee airport; or (iii) identified as having more than 100,000 total annual operations (according to best available data).

Summary of Legal Basis: The FAA's authority to issue rules regarding aviation safety is found in title 49 of the United States Code. Subtitle I, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. The FAA is proposing this rulemaking under the authority described in subtitle VII, part A, subpart III, section 44706, ''Airport operating certificates.'' Under that section, Congress charges the FAA with issuing airport operating certificates (AOC) that contain terms that the Administrator finds necessary to ensure safety in air transportation. This proposed rule is within the scope of that authority because it requires certain certificated airports to develop and maintain an SMS. The development and implementation of an SMS ensures safety in air transportation by assisting these airports in proactively identifying and mitigating safety hazards.

Alternatives: The FAA explored various alternatives to determine how to apply an SMS requirement to a group of airports that gains the most benefit in a cost-effective manner. The FAA focused on airports with the highest passenger enplanements and largest total operations so that safety benefits would flow to the overwhelming majority of aircraft operations in the United States. The FAA also focused on incorporating airports with international passenger operations to ensure conformity with international standards and recommended practices. To that end, the FAA developed the following alternatives for additional analysis: (i) All part 139 airports (as originally proposed); (ii) airport operators holding a Class I airport operating certificate; (iii) certificated international airports regardless of certificate class; (iv) Large, Medium, and Small hub airports (as identified in the National Plan of Integrated Airport Systems) and certificated airports with more than 100,000 total annual operations; and (v) Large, Medium, and Small hub airports, certificated airports with more than 100,000 total annual operations, and certificated international airports.

Anticipated Cost and Benefits: Benefits are estimated at $370,788,457 ($225,850,869 present value) and total costs are estimated at $238,865,692 ($157,496,312 present value), with benefits exceeding costs. These are preliminary estimates subject to change based on further review and analysis.

Risks: An SMS is a formalized approach to managing safety by developing an organization-wide safety policy, developing formal methods of identifying hazards, analyzing and mitigating risk, developing methods for ensuring continuous safety improvement, and creating organization-wide safety promotion strategies. An SMS provides an organization's management with a set of decisionmaking tools that can be used to plan, organize, direct, and control its business activities in a manner that enhances safety and ensures compliance with regulatory standards. Adherence to standard operating procedures, proactive identification and mitigation of hazards and risks, and effective communications are crucial to continued operational safety. The FAA envisions an SMS would provide an airport with an added layer of safety to help reduce the number of near-misses, incidents, and accidents. An SMS also would ensure that all levels of airport

management understand safety implications of airfield operations.

Timetable:

Action	Date	FR Cite
NPRM	10/07/10	75 FR 62008
NPRM Comment Period Extended.	12/10/10	75 FR 76928
NPRM Comment Period End.	01/05/11	
End of Extended Comment Period.	03/07/11	
Second Extension of Comment Period.	03/07/11	76 FR 12300
End of Second Extended Comment Period.	07/05/11	
Second NPRM	07/14/16	81 FR 45871
Second NPRM Comment Period End.	09/12/16	
Analyzing Comments.	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: State.

Additional Information: The estimated costs of this rule do not include the costs of mitigations that operators could incur as a result of conducting the risk analysis proposed in this rule. Given the range of mitigation actions possible, it is difficult to provide a quantitative estimate of both the costs and benefits of such mitigations. However, we anticipate that operators will only implement mitigations where benefits exceeded costs. As such, the FAA believes that the costs of this rule would be justified by the anticipated benefits of the rule, if adopted as proposed.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Keri Lyons, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–8972, *Email: keri.lyons@faa.gov.*

Related RIN: Related to 2120–AJ15

RIN: 2120–AJ38

DOT—FAA

89. +Pilot Professional Development

Priority: Other Significant.

Legal Authority: 49 U.S.C. 44701(a)(5); P.L. 111–216, sec. 206.

CFR Citation: 14 CFR 121.

Legal Deadline: NPRM, Statutory, April 20, 2015, NPRM.

Abstract: This rulemaking would amend the regulations for air carrier training programs under part 121. The action is necessary to ensure that air carriers establish or modify training programs to address mentoring, leadership and professional development of flight crewmembers in part 121 operations. This rulemaking is required by the Airline Safety and Federal Aviation Administration Act of 2010.

Statement of Need: On August 1, 2010, the President signed the Airline Safety and Federal Aviation Administration Extension Act of 2010 (Public Law 111–216). Section 206 of Public Law 111–216 directed the FAA to convene an aviation rulemaking committee (ARC) to develop procedures for each part 121 air carrier pertaining to mentoring, professional development, and leadership and command training for pilots serving in part 121 operations and to issue a Notice of Proposed Rulemaking (NPRM) based on the ARC recommendations. This NPRM is necessary to satisfy a requirement of section 206 of Public Law 111–216.

Summary of Legal Basis: The FAA authority to issue rules on aviation safety is found in title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the general authority described in 49 U.S.C. 106(f) and 44701(a) and the specific authority found in section 206 of Public Law 111–216, the Airline Safety and Federal Aviation Administration Extension Act of 2010 (49 U.S.C. 44701 note), which directed the FAA to convene an aviation rulemaking committee (ARC) and conduct a rulemaking proceeding based on this ARC's recommendations pertaining to mentoring, professional development, and leadership and command training for pilots serving in part 121 operations. Section 206 further required that the FAA include in leadership and command training, instruction on compliance with flightcrew member duties under 14 CFR 121.542.

Alternatives: The Flight Crewmember Mentoring, Leadership, and Professional Development ARC presented recommendations to the FAA in its report dated November 2, 2010.

Anticipated Cost and Benefits: For the timeframe 2015 to 2024 (Millions of 2013 Dollars), the total cost saving benefits is $72.017 ($46.263 present value) and the total compliance costs is $67.632 ($46.774 present value).

Risks: As recognized by the National Transportation Safety Board (NTSB), the overall safety and reliability of the National Airspace System demonstrates that most pilots conduct operations with a high degree of professionalism. Nevertheless, a problem still exists in the aviation industry with some pilots acting unprofessionally and not adhering to standard operating procedures, including sterile cockpit. The NTSB has continued to cite inadequate leadership in the flight deck, pilots' unprofessional behavior, and pilots' failure to comply with the sterile cockpit rule as factors in multiple accidents and incidents including Pinnacle Airlines flight 3701 and Colgan Air, Inc. flight 3407. The FAA intends for this proposal to mitigate unprofessional pilot behavior which would reduce pilot errors that can lead to a catastrophic event.

Timetable:

Action	Date	FR Cite
NPRM	10/07/16	81 FR 69908
NPRM Comment Period End.	01/05/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Sheri Pippin, Department of Transportation, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, CA 90261, *Phone:* 310 725–7342, *Email: sheri.pippin@faa.gov.*

Related RIN: Related to 2120–AJ00

RIN: 2120–AJ87

DOT—FAA

Final Rule Stage

90. +Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (RRR)

Priority: Other Significant.

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

CFR Citation: 14 CFR 23.

Legal Deadline: Final, Statutory, December 15, 2015, NPRM (Pub. L. 113–53).

Abstract: This rulemaking would revise Title 14, Code of Federal Regulations (14 CFR) part 23 as a set of performance based regulations for the

design and certification of small transport category aircraft. This rulemaking would: (1) Reorganize part 23 into performance-based requirements by removing the detailed design requirements from part 23. The detailed design provisions that would assist applicants in complying with the new performance-based requirements would be identified in means of compliance (MOC) documents to support this effort; (2) promote the adoption of the newly created performance-based airworthiness design standard as an internationally accepted standard by the majority of other civil aviation authorities; (3) re-align the part 23 requirements to promote the development of entry-level airplanes similar to those certified under Certification Specification for Very Light Aircraft (CS–VLA); (4) enhance the FAA's ability to address new technology; (5) increase the general aviation (GA) level of safety provided by new and modified airplanes; (6) amend the stall, stall warning, and spin requirements to reduce fatal accidents and increase crashworthiness by allowing new methods for occupant protection; and (7) address icing conditions that are currently not included in part 23 regulations.

Statement of Need: The FAA's strategic vision—Destination 2025, communicates FAA goals to increase safety throughout general aviation by enabling and facilitating innovation and development of safety enhancing products. This project intends to provide an appropriate and globally competitive regulatory structure that allows small transport category airplanes to achieve FAA safety goals through innovation and compliance with performance-based safety standards. One focus area is Loss of Control (LOC) accidents, which continues to be the largest source of fatal GA accidents. To address LOC accidents, the Small Airplane Directorate is focused on establishing standards based on a safety continuum that balances the level of certitude, appropriate level of safety, and acceptable risk for each segment of GA. This risk-based approach to certification has already served the FAA and public well, with the application of section 23.1309 to avionics equipment in part 23 airplanes, leading to the successful introduction of glass cockpits in small GA airplanes. To improve the GA fleet's safety level over that of today's aging fleet, the FAA needs to allow industry to build new part 23 certificated airplanes with today's safety enhancing technologies. Although a number of new small airplanes are being built, many are certified to the Civil Air Regulations (CAR 3) part 3, or very early amendment levels of part 23, and reflect the level of safety technology available when they were designed decades ago. Without new airplanes and improved existing airplanes, we will not see the safety improvements in GA that are possible with the technology developed since the 1970's. This rulemaking effort targets: Increasing the safety level in new airplanes; reducing the cost of certification to encourage newer and safer airplane development; and create new opportunities to address safety related issues, not just in new airplanes, but eventually with the existing fleet.

Summary of Legal Basis: Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704. Additionally, Public Law 113–53, Small Airplane Revitalization Act of 2013 (Nov. 27, 2013), requires that the FAA issue a final rule revising these standards by December 15, 2015.

Alternatives: Several alternatives are considering. 1. Retaining part 23 in its current form without adopting the recommendations of the ARC and the CPS. 2. Revising part 23 using a tiered approach and adopting a performance and complexity tiering structure instead of the propulsion and weight-based approach used today, but retaining the detailed design requirements in the rule. 3. Allowing an industry standard for part 23 entry-level airplanes as an alternative to part 23. Airplanes other than entry-level would still be regulated within the confines of the existing part 23.

Anticipated Cost and Benefits: For the timeframe 2017 to 2036 (2014 $ Millions), the total costs are $3.9 ($3.9 present value) and the total benefits are $30.8 ($11.6 present value).

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	03/14/16	81 FR 13452
NPRM Comment Period End.	05/13/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Undetermined.

Additional Information: Additionally, Public Law 113–53, Small Airplane Revitalization Act of 2013 states: ''SEC. 3. SAFETY AND REGULATORY IMPROVEMENTS FOR GENERAL AVIATION. (a) IN GENERAL.—Not later than December 15, 2015, the Administrator of the Federal Aviation Administration shall issue a final rule-''

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

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Analiese Marchesseault, Department of Transportation, *Phone:* 202–366–1675, *Email: analiese.marchesseault@dot.gov.*

RIN: 2120–AK65.

DOT—FEDERAL HIGHWAY ADMINISTRATION (FHWA)

Final Rule Stage

91. +National Goals and Performance Management Measures 2 (MAP–21)

Priority: Other Significant.

Legal Authority: Sec. 1203 P.L. 112–141; 49 CFR 1.85

CFR Citation: Not Yet Determined.

Legal Deadline: NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

Abstract: This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking, number two, will cover the bridges and pavement.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the second of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in

each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use to carry out the National Highway Performance Program (NHPP) and to assess: Condition of pavements on the National Highways System (NHS) (excluding the Interstate System), condition of pavements on the Interstate System, and condition of bridges on the NHS. This rulemaking would also propose: The definitions that will be applicable to the new 23 CFR 490; the process to be used by State DOTs and MPOs to establish performance targets that reflect the measures proposed in this rulemaking; a methodology to be used to assess State DOTs compliance with the target achievement provision specified under 23 U.S.C. 119(e)(7); and the process to be followed by State DOTs to report on progress towards the achievement of pavement and bridge condition-related performance targets.

Summary of Legal Basis: Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

Alternatives: N/A.

Anticipated Cost and Benefits: The FHWA estimated the incremental costs associated with the new requirements proposed in this regulatory action that represent a change to current practices for State DOTs and MPOs. Following this approach, the estimated 10-year undiscounted incremental costs to comply with this rule are $196.4 million. The FHWA could not directly quantify the expected benefits due to data limitations and the amorphous nature of the benefits from the proposed rule. Therefore, in order to evaluate the benefits, FHWA used a break-even analysis as the primary approach to quantify benefits. For both pavements and bridges, FHWA focused its break-even analysis on Vehicle Operating Costs (VOC) savings. The FHWA estimated the number of road miles of deficient pavement that would have to be improved and the number of posted bridges that would have to be avoided in order for the benefits of the rule to justify the costs. The results of the break-even analysis quantified the dollar value of the benefits that the proposed rule must generate to outweigh the threshold value, the estimated cost of the proposed rule, which is $196.4 million in undiscounted dollars. The FHWA believes that the proposed rule would surpass this threshold and, as a result, the benefits of the rule would outweigh the costs.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	01/05/15	80 FR 326
NPRM Comment Period Extended.	02/17/15	80 FR 8250
NPRM Comment Period End.	04/06/15	
NPRM Extended Comment Period End.	05/08/15	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–8028, *Email:* *Francine.Shaw-whitson@dot.gov.*

RIN: 2125–AF53

DOT—FHWA

92. +National Goals and Performance Management Measures 3 (MAP–21)

Priority: Other Significant.

Legal Authority: Sec. 1203, P.L. 112–141; 49 FR 1.85

CFR Citation: 23 CFR 490.

Legal Deadline: NPRM, Statutory, April 1, 2014, NPRM.

Section 1203 of MAP–21 requires the Secretary to promulgate a rulemaking within 18 months after the date of enactment.

Abstract: This rulemaking would create national performance management measures and standards to be used by the States to meet the national transportation goals identified in section 1203 of MAP–21. This rulemaking would also establish the process to be used by States to set performance targets that reflect their performance measures. The FHWA anticipates issuing up to three rulemakings in this area. This rulemaking covers Congestion Mitigation and Air Quality (CMAQ) and Freight issues.

Statement of Need: The Moving Ahead for Progress in the 21st Century Act (MAP–21) transforms the Federal-aid highway program by establishing new requirements for performance management to ensure the most efficient investment of Federal transportation funds. Performance management refocuses attention on national transportation goals, increases the accountability and transparency of the Federal-aid highway program, and improves project decisionmaking through performance-based planning and programming. This rulemaking is the third of three that would propose the establishment of performance measures for State DOTs and MPOs to use to carry out Federal-aid highway programs and to assess performance in each of the 12 areas mandated by MAP–21. This rulemaking would establish performance measures for State DOTs to use in the areas of Congestion Reduction, Congestion mitigation and air quality improvement program (CMAQ), Freight, and Performance of Interstate/Non-Interstate National Highway System.

Summary of Legal Basis: Section 1203 of MAP–21 requires the Secretary of Transportation to establish performance measures and standards through a rulemaking to assess performance in 12 areas.

Alternatives: N/A.

Anticipated Cost and Benefits: Not yet determined.

Risks: N/A.

Timetable:

Action	Date	FR Cite
NPRM	04/22/16	81 FR 23806
NPRM Comment Period End.	08/20/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Francine Shaw-Whitson, Department of Transportation, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–8028, *Email:* *Francine.Shaw-whitson@dot.gov.*

RIN: 2125–AF54

DOT—FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION (FMCSA)

Final Rule Stage

93. +Entry-Level Driver Training (Section 610 Review)

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 31136

CFR Citation: 49 CFR 380; 49 CFR 383; 49 CFR 384.

Legal Deadline: None.

Abstract: FMCSA establishes new minimum training standards for certain individuals applying for their commercial driver's license (CDL) for the first time; an upgrade of their CDL (*e.g.,* a Class B CDL holder seeking a Class A CDL); or a hazardous materials (H), passenger (P), or school bus (S) endorsement for the first time. These individuals are subject to the entry-level driver training (ELDT) requirements and must complete a prescribed program of instruction provided by an entity that is listed on FMCSA's Training Provider Registry (TPR). FMCSA will submit training certification information to State driver licensing agencies (SDLAs), who may only administer CDL skills tests to applicants for the Class A and B CDL, and/or the P or S endorsements, or knowledge test for the H endorsement, after verifying the information is present in the driver's record. This final rule responds to a Congressional mandate imposed under the Moving Ahead for Progress in the 21st Century Act (MAP–21). The rule is based on consensus recommendations from the Agency's Entry-Level Driver Training Advisory Committee (ELDTAC), a negotiated rulemaking committee that held a series of meetings between February and May 2015.

Statement of Need: This final rule enhances the safety of commercial motor vehicle (CMV) operations on our Nation's highways by establishing a minimum standard for entry-level driver training (ELDT) and increasing the number of drivers who receive ELDT. It replaces existing mandatory training requirements for entry-level operators of CMVs in interstate and intrastate operations required to possess a CDL. The minimum training standards established in today's rule are for certain individuals applying for a CDL for the first time, an upgrade of their CDL (*e.g.,* a Class B CDL holder seeking a Class A CDL), or a hazardous materials, passenger, or school bus endorsement for the first time. These individuals are subject to the ELDT requirements and must complete a prescribed program of instruction provided by an entity listed on FMCSA's Training Provider Registry (TPR).

Summary of Legal Basis: FMCSA's legal authority to propose this rulemaking is derived from the Motor Carrier Act of 1935, the Motor Carrier Safety Act of 1984, the Commercial Motor Vehicle Safety Act of 1986, and the Moving Ahead for Progress in the 21st Century Act.

Alternatives: The Agency considered several alternatives ini developing the NPRM, but fully evaluated the alternative adopted by the negotiated rulemaking committee in the NPRM analysis.

Anticipated Cost and Benefits: While FMCSA believes that this final rule would at minimum achieve cost-neutrality, the net of quantified costs and benefits results in an annualized net cost of $142 million at a 7% discount rate. A 3.91% improvement in safety performance (that is, a 3.91% reduction in the frequency of crashes involving those new entry-level drivers who would receive additional pre-CDL training as a result of this final rule during the period for which the benefits of training are estimated to remain intact) is necessary to offset the $142 million (annualized at 7%) net cost of this final rule.

Risks: A risk of a driver not receiving adequate training before applying for a CDL.

Timetable:

Action	Date	FR Cite
NPRM	03/07/16	81 FR 11944
NPRM Comment Period End.	04/06/16	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Sean Gallagher, MC–PRR, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Avenue SE., Washington, DC 20590, *Phone:* 202 366–3740, *Email: sean.gallagher@dot.gov.*

Related RIN: Related to 2126–AB06

RIN: 2126–AB66

DOT—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

Proposed Rule Stage

94. +Tire Fuel Efficiency Consumer Information—Part 2

Priority: Other Significant.

Legal Authority: 49 U.S.C. 32304

CFR Citation: 49 CFR 575.

Legal Deadline: None.

Abstract: This rulemaking would respond to requirements of the Energy Independence & Security Act of 2007 to establish a national tire fuel efficiency consumer information program for replacement tires designed for use on motor vehicles. On March 30, 2010, NHTSA published a final rule specifying the test procedures to be used to rate the performance of replacement passenger car tires for this new program (75 FR 15893). This rulemaking would address how this information would be made available to consumers.

Statement of Need: The EISA mandated the TFECIP to be finalized by December 2009. In 2010, NHTSA finalized a regulation to require the testing of replacement tires for rolling resistance (fuel efficiency), wet traction (safety) and treadwear (durability). In December 2014, the White House announced that the agency would publish the final rule by 2017.

Summary of Legal Basis: This rulemaking is mandated by Public Law 110140, 121 Stat. 1492.

Alternatives: This rule is statutorily mandated.

Anticipated Cost and Benefits: The agency estimates that annual net benefits, in millions of 2013 dollars, will range between $1.2 and $12.7 at a 3% discount rate, and between $0.2 and $10.9 at a 7% discount rate.

Risks: The agency believes there are no significant risks related to this rulemaking.

Timetable:

Action	Date	FR Cite
Second NPRM	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Mary Versailles, Office of Planning and Consumer Standards, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–2057, *Email: mary.versailles@dot.gov.*

Related RIN: Related to 2127–AK83

RIN: 2127–AK76

DOT—NHTSA

95. +Heavy Vehicle Speed Limiters

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 30111; 49 U.S.C. 30115; 49 U.S.C. 30116; 49 U.S.C. 30117; 49 U.S.C. 322; delegation of authority at 49 CFR 1.95

CFR Citation: 49 CFR 571.

Legal Deadline: None.

Abstract: This rulemaking would respond to petitions from ATA and Roadsafe America to require the installation of speed limiting devices on heavy trucks. In response to the petitions, NHTSA requested public comment on the subject and received thousands of comments supporting the petitioner´s request. Based on the available safety data and the ancillary benefit of reduced fuel consumption, this rulemaking would consider a new Federal Motor Vehicle Safety Standard that would require the installation of speed limiting devices on heavy trucks. We believe this rule would have minimal cost, as all heavy trucks already have these devices installed, although some vehicles do not have the limit set. This rule would decrease the estimated 1,115 fatal crashes annually involving vehicles with a GVWR of over 11,793.4 kg (26,000 lbs) on roads with posted speed limits of 55 mph or above.

Statement of Need: Based on the agencies' review of the available data, limiting the speed of heavy vehicles would reduce the severity of crashes involving these vehicles and reduce the resulting fatalities and injuries. We expect that, as a result of the joint rulemaking, virtually all of these vehicles would be limited to that speed.

Summary of Legal Basis: NHTSA's authority is the National Traffic and Motor Vehicle Safety Act. Motor Vehicle Safety Standards must be practicable and meet the need for motor vehicle safety while stated in objective terms. FMCSA's authority is based on the Motor Carrier Act. They are authorized to prescribe requirements for 1 qualifications and maximum hours of service of employees of, and safety of operation and equipment of, motor carrier; and 2 qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety operations.

Alternatives: Other technologies limiting speed such as GPS, visions systems, vehicle infrastructure communications, or some other autonomous vehicle technology.

Anticipated Cost and Benefits: Annual net benefit estimates vary with changing assumptions of the speed limit that is set. At a 7% discount rate in millions of 2013 dollars, net benefits range between $1,136 and $4,964 at a speed of 60 mph. At a speed of 65 mph, that range is between $1,039 and $2,757. At 68 mph, that range is between $475 and $1,260.

Risks: The agency believes there are no significant risks related to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/07/16	81 FR 61941
NPRM Comment Period End.	11/07/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Markus Price, Safety Engineer, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–0098, *Email:* *markus.price@dot.gov.*

Related RIN: Related to 2126–AB63

RIN: 2127–AK92

DOT—NHTSA

96. +Federal Motor Vehicle Safety Standard (FMVSS) 150—Vehicle to Vehicle (V2V) Communication

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 49 U.S.C. 30101.

CFR Citation: 49 CFR 571.150.

Legal Deadline: None.

Abstract: V2V communications uses on-board dedicated short-range radio communication (DSRC) devices to broadcast messages about a vehicle's speed, heading, brake status, and other information to other vehicles and receive the same information from the messages, with extended range and 'line-of-sight' capabilities. V2V's enhanced detection distance and ability to 'see' around corners or ''through'' other vehicles helps V2V-equipped vehicles uniquely perceive some threats and warn their drivers accordingly. V2V technology can also be fused with vehicle-resident technologies to potentially provide greater benefits than either approach alone. V2V can augment vehicle-resident systems by acting as a complete system, extending the ability of the overall safety system to address other crash scenarios not covered by V2V communications, such as lane and road departure. Additionally, V2V communication is currently perceived to become a foundational aspect of vehicle automation.

Statement of Need: V2V communications uses on-board dedicated short-range radio communication (DSRC) devices to broadcast messages about a vehicle's speed, heading, brake status, and other information to other vehicles and receive the same information from the messages, with extended range and line-of-sight capabilities. V2V's enhanced detection distance and ability to see around corners or ''through'' other vehicles helps V2V-equipped vehicles uniquely perceive some threats and warn their drivers accordingly. V2V technology can also be fused with vehicle-resident technologies to potentially provide greater benefits than either approach alone. V2V can augment vehicle-resident systems by acting as a complete system, extending the ability of the overall safety system to address other crash scenarios not covered by V2V communications, such as lane and road departure. Additionally, V2V communication is currently perceived to become a foundational aspect of vehicle automation.

Summary of Legal Basis: 49 U.S.C. 30101.

Alternatives: No other alternatives are currently endorsed by the agency.

Anticipated Cost and Benefits: Annualized monetized net benefit estimates over 40 years, in millions of 2014 Dollars, range between $20,058 and $23,487.

Risks: Timing, Public Acceptance.

Timetable:

Action	Date	FR Cite
ANPRM	08/20/14	79 FR 49270
ANPRM Comment Period End.	10/20/14	
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Gregory Powell, Department of Transportation, National Highway Traffic Safety Administration, 1200 New Jersey Ave SE., Washington, DC 20590, *Phone:* 202 366–5206, *Email:* *gregory.powell@dot.gov.*

RIN: 2127–AL55

DOT—FEDERAL RAILROAD ADMINISTRATION (FRA)

Proposed Rule Stage

97. +Locomotive Recording Devices

Priority: Other Significant.

Legal Authority: 49 CFR 1.89; 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 20168

CFR Citation: 49 CFR 217; 49 CFR 218; 49 CFR 229.

Legal Deadline: NPRM, Statutory, December 4, 2017, FAST Act.

Abstract: This rulemaking would require the installation of inward- and outward-facing locomotive video cameras on controlling locomotives of trains traveling over 30 mph. The recordings would be used to help determine the cause of railroad accidents in order to prevent the occurrence of similar accidents. They would also be used to ensure railroad employee compliance with applicable Federal railroad safety regulations and railroad rules, particularly regulations prohibiting the use of personal electronic devices. This rulemaking attempts to fulfill NTSB recommendations urging FRA to adopt regulations requiring locomotive-mounted audio and video recording devices. FRA is requesting comments regarding whether audio recording devices should be required. This rulemaking would amend 49 CFR parts 217, 218, and 229.

Statement of Need: FRA is proposing to require the installation and use of inward- and outward-facing recording devices in train locomotives under section 11411 of the Fixing America's Surface Transportation Act (FAST Act) (Pub. L. 114–94, 129 Stat. 1686 (Dec. 4, 2015)) (codified at 48 U.S.C. 20168) and the Federal Railroad Safety Act of 1970, 49 U.S.C. 20103. Section 11411 of the FAST Act requires FRA (as the Secretary of Transportation's delegate) to promulgate regulations requiring each railroad carrier that provides regularly scheduled intercity rail passenger or commuter rail passenger transportation to the public to install inward- and outward-facing image recording devices in all controlling locomotives of passenger trains. Section 20103 contains FRA's general rulemaking authority ''for every area of railroad safety.''

Summary of Legal Basis: As stated above, FRA is publishing this proposed rule as mandated by the FAST Act and under its general railroad safety rulemaking authority at 49 U.S.C. 20103.

Alternatives: TBD.

Anticipated Cost and Benefits: FRA will determine the estimated costs and benefits associated with this proposed rule before publication.

Risks: TBD.

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Local, State.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC51

DOT—FRA

Final Rule Stage

98. +Risk Reduction Program

Priority: Other Significant.

Legal Authority: Public Law 110–432, Div. A, 122 Stat. 4848 *et seq.;* Rail Safety Improvement Act of 2008; sec. 103, 49 U.S.C. 20156 ''Railroad Safety Risk Reduction Program''

CFR Citation: 49 CFR 237.

Legal Deadline: Final, Statutory, October 16, 2012, Final Rule.

Abstract: This rulemaking would consider appropriate contents for Risk Reduction Programs and how they should be implemented and reviewed by FRA.

Statement of Need: Rulemaking required by section 103 of the Rail Safety Improvement Act of 2008.

Timetable:

Action	Date	FR Cite
ANPRM	12/08/10	75 FR 76345
ANPRM Comment Period End.	02/07/11	
NPRM	02/27/15	80 FR 10950
NPRM Comment Period End.	04/28/15	
NPRM Comment Period Re-opened.	07/30/15	80 FR 45500
NPRM Comment Period End.	09/10/15	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: SB—N, IC—N, SLT—N. A comment on this rulemaking was received during the RRR process. Following publication of an ANPRM, hearings were held on July 19, 2011 (Chicago, IL) and July 21, 2011 (Washington, DC).

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email:* *kathryn.shelton@fra.dot.gov.*

RIN: 2130–AC11

DOT—PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION (PHMSA)

Final Rule Stage

99. +Pipeline Safety: Safety of Hazardous Liquid Pipelines

Priority: Other Significant.

Legal Authority: 49 U.S.C. 60101 *et seq.*

CFR Citation: 49 CFR 195.

Legal Deadline: None.

Abstract: In recent years, there have been significant hazardous liquid pipeline accidents, most notably the 2010 crude oil spill near Marshall, Michigan, during which almost one million gallons of crude oil were spilled into the Kalamazoo River. In response to accident investigation findings, incident report data and trends, and stakeholder input, PHMSA published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** on October 13, 2015. Previously, Congress had enacted the Pipeline Safety, Regulatory Certainty, and Job Creation Act that included several provisions that are relevant to the regulation of hazardous liquid pipelines. Shortly after the Pipeline Safety, Regulatory Certainty, and Job Creation Act was passed, the National Transportation Safety Board (NTSB) issued its accident investigation report on the Marshall, Michigan accident. In this rulemaking action, PHMSA is amending the Pipeline Safety Regulations to improve protection of the public, property, and the environment by closing regulatory gaps where appropriate, and ensuring that operators are increasing the detection and remediation of unsafe conditions, and mitigating the adverse effects of hazardous liquid pipeline failures.

Statement of Need: PHMSA is proposing to make the following

changes to the hazardous liquid pipeline safety regulations: (1) Repeal the exception for gravity lines; (2) Extend certain reporting requirements to all hazardous liquid gathering lines; (3) Require inspections of pipelines in areas affected by extreme weather, natural disasters, and other similar events; (4) Require periodic assessments of pipelines that are not already covered under the integrity management (IM) program requirements; (5) Expand the use of leak detection systems on hazardous liquid pipelines to mitigate the effects of failures that occur outside of high consequence areas; (6) Modify the IM repair criteria, both by expanding the list of conditions that require immediate remediation and consolidating the time frames for remediating all other conditions, and apply those same criteria to pipelines that are not subject to the IM requirements, with an adjusted schedule for performing non-immediate repairs; (7) Increase the use of inline inspection tools by requiring that any pipeline that could affect a high consequence area be capable of accommodating these devices within 20 years, unless its basic construction will not permit that accommodation; and (8) Other regulations will also be clarified to improve compliance and enforcement. These changes will protect the public, property, and the environment by ensuring that additional pipelines are subject to regulation, increasing the detection and remediation of unsafe conditions, and mitigating the adverse effects of pipeline failures. This rule responds to a Congressional mandate in the 2011 Pipeline Reauthorization Act (sections 5, 8, 21, 29, 14); NTSB recommendation P–12–03 and P–12–04; and GAO recommendation 12–388.

Summary of Legal Basis: Congress established the current framework for regulating the safety of hazardous liquid pipelines in the Hazardous Liquid Pipeline Safety Act (HLPSA) of 1979 (Pub. L. 96–129). Like its predecessor, the Natural Gas Pipeline Safety Act of 1968 (Pub. L. 90–481), the HLPSA provided the Secretary of Transportation (Secretary) with the authority to prescribe minimum Federal safety standards for hazardous liquid pipeline facilities. That authority, as amended in subsequent reauthorizations, is currently codified in the Pipeline Safety Laws (49 U.S.C. 60101 *et seq.*).

Alternatives: The various alternatives analyzed included no action ''status quo'' and individualized alternatives based on the proposed amendments.

Anticipated Cost and Benefits: PHMSA cannot estimate costs or benefits precisely, but based on the information, the present value of costs and benefits over a 20-year period is approximately $56 million and $98 million, respectively at 7 percent. Thus, net benefits are approximately $46 million ($102 million − $56 million) over 20 years.

Risks: The proposed rule will provide increased safety for the regulated entities and reduce pipeline safety risks.

Timetable:

Action	Date	FR Cite
ANPRM	10/18/10	75 FR 63774
Comment Period Extended.	01/04/11	76 FR 303
ANPRM Comment Period End.	01/18/11	
Extended Comment Period End.	02/18/11	
NPRM	10/13/15	80 FR 61610
NPRM Comment Period End.	01/08/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0434, *Email:* *john.gale@dot.gov.*

RIN: 2137–AE66

DOT—PHMSA

100. +Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains

Priority: Other Significant.

Legal Authority: 33 U.S.C. 1321; 49 U.S.C. 5101 *et seq.*

CFR Citation: 49 CFR 130; 49 CFR 174; 49 CFR 171; 49 CFR 172; 49 CFR 173.

Legal Deadline: None.

Abstract: This rulemaking, developed in consultation with the Federal Railroad Administration, would revise PHMSA's regulations to expand the applicability of comprehensive oil spill response plans (OSRPs) based on thresholds of liquid petroleum oil that apply to an entire train. We are also proposing to revise the format and clarify requirements of a comprehensive OSRP and to require railroads to share information about high-hazard flammable train operations with state and tribal emergency response organizations (*i.e.,* State Emergency Response Commissions and Tribal Emergency Response Commissions) to improve community preparedness. Lastly, PHMSA is proposing an update to boiling point testing procedures to provide regulatory flexibility and promotes enhanced safety in transport through accurate packing group assignment.

Statement of Need: This rulemaking is important to mitigate the effects of potential train accidents involving the release of flammable liquid energy products by increasing planning and preparedness. The proposals in this rulemaking are shaped by public comments, National Transportation Safety Board (NTSB) Safety Recommendations, analysis of recent accidents, and input from stakeholder outreach efforts (including first responders). To this end, PHMSA will consider expanding the applicability of comprehensive oil spill response plans; clarifying the requirements for comprehensive oil spill response plans; requiring railroads to share additional information; and providing an alternative test method for determining the initial boiling point of a flammable liquid.

Summary of Legal Basis: The authority of 49 U.S.C. 5103(b), which authorizes the Secretary of Transportation to ''prescribe regulations for the safe transportation, including security, of hazardous materials in intrastate, interstate, and foreign commerce.'' The authority of 33 U.S.C. 1321, the Federal Water Pollution Control Act (FWPCA), which directs the President to issue regulations requiring owners and operators of certain vessels and onshore and offshore oil facilities to develop, submit, update and in some cases obtain approval of oil spill response plans. Executive Order 12777 delegated responsibility to the Secretary of Transportation for certain transportation-related facilities. The Secretary of Transportation delegated the authority to promulgate regulations to PHMSA and provides FRA the approval authority for railroad ORSPs.

Alternatives: PHMSA and FRA are committed to a comprehensive approach to addressing the risk and consequences of derailments involving flammable liquids by addressing not only oil spill response plans, but communication requirements between railroads and communities. Obtaining information and comments in a NPRM will provide the greatest opportunity for

public participation in the development of regulatory amendments, and promote greater exchange of information and perspectives among the various stakeholders to promote future regulatory action on these issues.

Anticipated Cost and Benefits: The ANPRM requested comments on both the path forward and the economic impacts. We have evaluated and accounted for comments in development of the NPRM, and once the NPRM is published the costs and benefits will be detailed.

Risks: DOT analyzed recent incidents, National Transportation Safety Board (NTSB) Safety Recommendations, received input from stakeholder outreach efforts (including first responders) to determine amending the applicability and requirements of comprehensive oil spill response plans and codifying requirements for information sharing is important. DOT will continue to research these topics and evaluate comment feedback prior to the final rule. DOT expects the highest ranked options will be low cost and most effective at providing better preparedness and planning to mitigate the effects of a derailment.

Timetable:

Action	Date	FR Cite
ANPRM	08/01/14	79 FR 45079
ANPRM Comment Period End.	09/30/14	
NPRM	07/29/16	81 FR 50067
NPRM Comment Period End.	09/27/16	
Final Action	07/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: HM–251B; SB—N, IC—N, SLT—N.

URL for More Information: www.regulations.gov.

URL for Public Comments: www.regulations.gov.

Agency Contact: Victoria Lehman, Transportation Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–8553, *Email: victoria.lehman@dot.gov.*

Related RIN: Related to 2137–AE91, Related to 2137–AF07.

RIN: 2137–AF08

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY

Statement of Regulatory Priorities

The primary missions of the Department of the Treasury are:

- To promote prosperous and stable American and world economies, including promoting domestic economic growth and maintaining our Nation's leadership in global economic issues, supervising national banks and thrift institutions, and helping to bring residents of distressed communities into the economic mainstream.
- To manage the Government's finances by protecting the revenue and collecting the correct amount of revenue under the Internal Revenue Code, overseeing customs revenue policies, financing the Federal Government and managing its fiscal operations, and producing our Nation's coins and currency.
- To safeguard the U.S. and international financial systems from those who would use these systems for illegal purposes or to compromise U.S. national security interests, while keeping them free and open to legitimate users.

Consistent with these missions, most regulations of the Department and its constituent bureaus are promulgated to interpret and implement the laws as enacted by the Congress and signed by the President. It is the policy of the Department to comply with applicable requirements to issue a notice of proposed rulemaking and carefully consider public comments before adopting a final rule. Also, the Department invites interested parties to submit views on rulemaking projects while a proposed rule is being developed.

To the extent permitted by law, it is the policy of the Department to adhere to the regulatory philosophy and principles set forth in Executive Orders 12866, 13563, and 13609 and to develop regulations that maximize aggregate net benefits to society while minimizing the economic and paperwork burdens imposed on persons and businesses subject to those regulations.

Alcohol and Tobacco Tax and Trade Bureau

The Alcohol and Tobacco Tax and Trade Bureau (TTB) issues regulations to implement and enforce the Federal laws relating to alcohol, tobacco, firearms, and ammunition excise taxes and certain non-tax laws relating to alcohol. TTB's mission and regulations are designed to:

(1) Collect the taxes on alcohol, tobacco, firearms, and ammunition;

(2) Protect the consumer by ensuring the integrity of alcohol products; and

(3) Prevent unfair and unlawful market activity for alcohol and tobacco products.

As part of TTB's ongoing efforts to modernize its regulations, TTB continuously identifies changes in the industries it regulates, as well as new technologies available in compliance enforcement. TTB's modernization efforts focus on removing outdated requirements and revising the regulations to facilitate industry growth and reduce burdens where possible, while at the same time ensuring that TTB collects revenue due and protects consumers from deceptive labeling and advertising of alcohol beverages.

On June 21, 2016, TTB published a notice of proposed rulemaking (81 FR 40404) to clarify and streamline import procedures, and support the implementation of the International Trade Data System (ITDS) and the filing of import information electronically in conjunction with an electronic import filing with U.S. Customs and Border Protection (CBP). The proposed amendments include providing the option for importers to file TTB-specific import-related data electronically when filing entry or entry summary data electronically with CBP, as an alternative to current TTB requirements that importers submit paper documents to CBP upon importation.

On August 30, 2016, TTB published a final rule to amend its regulations governing specially denatured alcohol (SDA) and completely denatured alcohol (CDA) to, among other things, eliminate the need for industry members to submit certain formulas to TTB for approval. Under the authority of the Internal Revenue Code of 1986 (IRC), TTB regulates denatured alcohol that is unfit for beverage use, which may be removed from a regulated distilled spirits plant free of tax. SDA and CDA are widely used in the American fuel, medical, and manufacturing sectors. The industrial alcohol industry far exceeds the beverage alcohol industry in size and scope, and it is a rapidly growing industry in the United States. Some concerns had been raised that the existing regulations may create significant roadblocks for industry members in getting products to the marketplace quickly and efficiently. TTB determined that it could amend its regulations to address these concerns and reduce regulatory burdens, while posing no added risk to the revenue. The final rule eliminates outdated formulas, reclassifies certain SDA formulas as CDA, and provides new general-use formulas for articles made

with SDA. TTB estimates that these changes will result in an 80 percent reduction in the formula approval submissions currently required from industry members.

On July 1, 2016, TTB published an interim final rule (81 FR 43062) to implement the provisions of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act), as amended by the Debt Collection Improvement Act of 1996 and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. This rulemaking increases the maximum civil monetary penalty for violations of the Alcoholic Beverage Labeling Act of 1988 from $10,000 to $19,787, in accordance with Federal law. The increased maximum penalty will help maintain the deterrent effect of the penalty, which is a stated goal of the Inflation Adjustment Act. As authorized under the law, TTB will announce future cost-of-living adjustments to the penalty by publishing a notice in the **Federal Register** and updating its Web site.

On June 21, 2016, TTB published a final rule (81 FR 40183) to adopt temporary regulations it had issued on June 27, 2013 (78 FR 38555) concerning permit and other requirements related to importers and manufacturers of tobacco products and processed tobacco. The regulatory amendments adopted in the final rule include an extension in the duration of new permits for importers of tobacco products and processed tobacco from three years to five years. Importers who wish to continue to engage in the business beyond the duration of the permit must renew their permits before expiration. Less frequent renewal reduces the regulatory burden on the importers. Temporary regulations issued under the IRC expire three years after the date of issuance, and publication of the final rule made permanent this extension of the duration of new importer permits.

In FY 2017, TTB will continue its multi-year Regulations Modernization effort by prioritizing projects that will update its Import and Export regulations, Labeling Requirements regulations, Nonbeverage Products regulations, and Distilled Spirits Plant Reporting requirements. Priority projects also include implementing new statutory provisions that go into effect in FY 2017 as a result of the Protecting Americans from Tax Hikes Act of 2015 (PATH Act).

This fiscal year TTB plans to give priority to the following regulatory matters:

Revisions to Import and Export Regulations Related to ITDS. TTB is currently preparing for the implementation of ITDS and, specifically, the transition to an all-electronic import and export environment. ITDS, as described in section 405 of the Security and Accountability for Every Port Act of 2006 (the ''SAFE Port Act'') (Pub. L. 109–347), is an electronic information exchange capability, or ''single window,'' through which businesses will transmit data required by participating Federal agencies for the importation or exportation of cargo. To enhance Federal coordination associated with the development of ITDS and put in place specific deadlines for implementation, President Obama, on February 19, 2014, signed an Executive Order on Streamlining the Export/Import Process for America's Businesses. In line with section 3(e) of the Executive Order, TTB was required to develop a timeline for ITDS implementation. Updating the regulations for transition to the all-electronic environment is part of the implementation process.

TTB completed its review of the relevant regulatory requirements and identified those that it intends to update. With regard to imports, as noted above, TTB published a notice of proposed rulemaking in June 2016 to amend its import regulations to support the implementation of ITDS and incorporate needed updates. TTB also continues to operate a pilot program (originally announced in August 2015) for importers who want to gain experience with the ITDS ''single window'' functionality for providing data on the TTB-regulated commodities. This pilot program helps familiarize both TTB and the public with the new environment and assists TTB and the public to refine the implementation of ITDS. The pilot program also provides valuable information for TTB's ongoing efforts to amend its regulations. In FY 2017, TTB intends to publish a final rule on the proposed changes to its import regulations.

In addition, in recent years, TTB has identified selected sections of its export regulations (27 CFR parts 28 and 44) that it intends to amend to clarify and update the requirements. Under the IRC, the products taxed by TTB may be removed for exportation without payment of tax or with drawback of any excise tax previously paid, subject to the submission of proof of export. However, the current export regulations require industry members to follow procedures that do not adequately reflect current technology or take into account current industry business practices. In FY 2017, TTB intends to publish a notice of proposed rulemaking that will address electronic submission of information through ITDS for exports and will include proposals to amend the regulations to provide industry members with clear and updated procedures for removal of alcohol and tobacco products for exportation, thus facilitating exportation of those products. Increasing U.S. exports benefits the U.S. economy and is consistent with Treasury and Administration priorities.

Revisions to the Regulations to Implement the PATH Act. On December 18, 2015, the President signed into law the PATH Act, which is Division Q of the Consolidated Appropriations Act, 2016. The PATH Act contains changes to certain statutory provisions that TTB administers in the IRC regarding excise tax due dates, bond requirements, and the definition of wine eligible for the hard cider tax rate. These amendments take effect beginning in January 2017, and TTB is currently working on two separate rulemaking projects to be published in FY 2017 that will implement these changes. First, TTB is implementing provisions that allow certain small alcohol beverage excise taxpayers to file tax returns less frequently and to qualify for an exemption from certain bond requirements. These provisions will reduce regulatory burdens on small businesses. Second, TTB is implementing changes to the definition of wine that is eligible for the hard cider tax rate. These changes will increase the allowable alcohol content and carbonation level of such wines and authorize the use of pears, pear juice concentrate, and pear products and flavorings.

Revisions to the Labeling Requirements (Parts 4 (Wine), 5 (Distilled Spirits), and 7 (Malt Beverages)). The Federal Alcohol Administration Act requires that alcohol beverages introduced in interstate commerce have a label issued and approved under regulations prescribed by the Secretary of the Treasury. In accordance with the mandate of Executive Order 13563 of January 18, 2011, regarding improving regulation and regulatory review, TTB conducted an analysis of its labeling regulations to identify any that might be outmoded, ineffective, insufficient, or excessively burdensome, and to modify, streamline, expand, or repeal them in accordance with that analysis. These regulations were also reviewed to assess their applicability to the modern alcohol beverage marketplace. As a result of this review, TTB plans to propose in FY 2017 revisions to modernize the

regulations concerning the labeling requirements for wine, distilled spirits, and malt beverages. TTB anticipates that these regulatory changes will assist industry in voluntary compliance, decrease industry burden, and result in the regulated industries being able to bring products to market without undue delay. TTB projects that it will receive over 160,000 label applications in FY 2016.

Revision of the Part 17 Regulations, Drawback on Taxpaid Distilled Spirits Used in Manufacturing Nonbeverage Products, to Allow Self-Certification of Nonbeverage Product Formulas. TTB is considering revisions to the regulations in 27 CFR part 17 governing nonbeverage products made with taxpaid distilled spirits. These nonbeverage products include foods, medicines, and flavors. This proposal, which TTB intends to publish in FY 2017, offers a new method of formula certification by incorporating quantitative standards into the regulations and establishing new voluntary procedures that would further streamline the formula review process for products that meet the standards. This proposal would provide adequate protection to the revenue because TTB would continue to receive submissions of certified formulas; however, TTB would not take action on certified formula submissions unless TTB discovered that the formulas require correction. By allowing for self-certification of certain nonbeverage product formulas, this proposal would eliminate the requirement for TTB to formally approve such formulas. These changes would result in significant cost savings for the nonbeverage alcohol industry, which currently must obtain formula approval from TTB, and reduce the number of formulas that TTB must review.

Revisions to Distilled Spirits Plant Reporting Requirements. In FY 2012, TTB published a notice of proposed rulemaking (NPRM) proposing to revise regulations in 27 CFR part 19 to replace the current four report forms used by distilled spirits plants to report their operations on a monthly basis with two new report forms that would be submitted on a monthly basis. (Plants that file taxes on a quarterly basis would submit the new reports on a quarterly basis.) This project will address concerns the distilled spirits industry has raised about reporting, and result in cost savings to industry and TTB by significantly reducing the number of monthly plant operations reports that must be completed and filed by industry members and processed by TTB. TTB preliminarily estimates that this project will result in a reduction of paperwork burden hours for industry members, as well as savings in processing hours and contractor time for TTB. In addition, TTB estimates that this project will result in additional savings in staff time because of the more efficient and effective processing of reports and the use of report data to reconcile industry member tax accounts. In FY 2017, TTB intends to publish a supplemental notice of proposed rulemaking that will include new proposals to address comments received in response to the initial notice of proposed rulemaking and incorporate additional improvements identified by TTB in the interim.

Community Development Financial Institutions Fund

The Community Development Financial Institutions Fund (CDFI Fund) was established by the Community Development Banking and Financial Institutions Act of 1994 (12 U.S.C. 4701 *et seq.*). The mission of the CDFI Fund is to expand economic opportunity for underserved people and communities by supporting the growth and capacity of a national network of community development lenders, investors, and financial service providers. The CDFI Fund currently administers the following programs: The Community Development Financial Institutions (CDFI) Program, the Bank Enterprise Award (BEA) Program, the Native American CDFI Assistance (NACA) Program, the New Markets Tax Credit (NMTC) Program, the Capital Magnet Fund (CMF), and the CDFI Bond Guarantee Program (BGP).

In FY 2017, the CDFI Fund will publish updated regulations for the Capital Magnet Fund and the CDFI Program to incorporate a variety of technical and policy changes.

Office of the Comptroller of the Currency

The Office of the Comptroller of the Currency (OCC) charters, regulates, and supervises all national banks and Federal savings associations (FSAs). The agency also supervises the Federal branches and agencies of foreign banks. The OCC's mission is to ensure that national banks and FSAs operate in a safe and sound manner, provide fair access to financial services, treat customers fairly, and comply with applicable laws and regulations.

Significant rules issued during fiscal year 2016 include:

Margin and Capital Requirements for Covered Swap Entities (12 CFR part 45). The banking agencies, Farm Credit Administration (FCA), and Federal Housing Finance Agency (FHFA) issued a final rule to establish minimum margin and capital requirements for registered swap dealers, major swap participants, security-based swap dealers, and major security-based swap participants for which one of the Agencies is the prudential regulator. The rule implements sections 731 and 764 of the Dodd-Frank Act, which require the Agencies to adopt rules jointly to establish capital requirements and initial and variation margin requirements for such entities on all non-cleared swaps and non-cleared security-based swaps in order to offset the greater risk to such entities and the financial system arising from the use of swaps and security-based swaps that are not cleared. The Agencies also issued an interim final rule that exempts certain non-cleared swaps and non-cleared security-based swaps with certain counterparties that qualify for an exception or exemption from clearing from the initial and variation margin requirements promulgated under sections 731 and 764 of the Dodd-Frank Act. The rule implements Title III of the Terrorism Risk Insurance Program Reauthorization Act of 2015, which exempts from the Agencies' swap margin rules non-cleared swaps and non-cleared security-based swaps in which a counterparty qualifies for an exemption or exception from clearing under the Dodd-Frank Act. The final and interim final rules were issued on November 30, 2015, 81 FR 74839 and 74915 and the interim final rule was finalized on August 2, 2016, 81 FR 50605.

Guidelines Establishing Standards for Recovery Planning by Certain Large Insured National Banks, Insured FSAs, and Insured Federal Branches (12 CFR part 30). The OCC issued a proposed rule setting forth enforceable guidelines establishing standards for recovery planning by insured national banks, insured FSAs, and insured Federal branches of foreign banks with average total consolidated assets of $50 billion or more (Guidelines). The Guidelines would be issued as an appendix to the OCC's 12 CFR part 30 safety and soundness standards regulations and would be enforceable by the terms of the Federal statute that authorizes the OCC to prescribe operational and managerial standards for national banks and FSAs. The proposed rule was issued on December 17, 2015, 80 FR 78681 and the final rule was issued on October 29, 2016, 81 FR 66791.

Incentive-Based Compensation Arrangements (12 CFR part 42). Section 956 of the Dodd-Frank Act requires the banking agencies, National Credit Union

Administration (NCUA), Securities and Exchange Commission (SEC), and FHFA to jointly prescribe regulations or guidance prohibiting any type of incentive-based payment arrangement, or any feature of any such arrangement, that the regulators determine encourages inappropriate risks by covered financial institutions by providing an executive officer, employee, director, or principal shareholder with excessive compensation, fees or benefits, or that could lead to material financial loss to the covered financial institution. The Dodd-Frank Act also requires such agencies to jointly prescribe regulations or guidelines requiring each covered financial institution to disclose to its regulator the structure of all incentive-based compensation arrangements offered by such institution sufficient to determine whether the compensation structure provides any executive officer, employee, director, or principal shareholder with excessive compensation or could lead to material financial loss to the institution. The proposed rule was issued on June 10, 2016, 81 FR 37669.

Net Stable Funding Ratio (12 CFR part 50). The banking agencies issued a proposed rule to implement the Basel net stable funding ratio standards. These standards would require large, internationally active banking organizations to maintain sufficient stable funding to support their assets, generally over a one-year time horizon. The proposed rule was issued on June 1, 2016, 81 FR 35123.

Economic Growth and Regulatory Paperwork Reduction Act of 1996 Amendments (12 CFR parts 4 to 5, 7, 9 to 12, 16, 18, 31, 150 to 151, 155, 162 to 163, 194, and 197). The OCC issued a proposed rule with the goal of removing provisions that are outdated, unnecessary, or unduly burdensome. The proposal would revise certain licensing rules related to chartering applications, business combinations involving Federal mutual savings associations, and notices for changes in permanent capital; clarify national bank director oath requirements; revise certain fiduciary activity requirements for national banks and FSAs; remove certain financial disclosure regulations for national banks; remove certain unnecessary regulatory reporting, accounting, and management policy regulations for FSAs; update the electronic activities regulation for FSAs; integrate and update OCC regulations for national banks and FSAs relating to municipal securities dealers, Securities Exchange Act disclosure rules, and securities offering disclosure rules; update and revise recordkeeping and confirmation requirements for national banks' and FSAs' securities transactions; integrate and update regulations relating to insider and affiliate transactions; and make other technical and clarifying changes. The proposed rule was issued on March 14, 2016, 81 FR 13608.

Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks (12 CFR part 4). The banking agencies issued an interim final rule to implement section 83001 of the Fixing America's Surface Transportation Act (the FAST Act). Section 83001 of the FAST Act permits a qualifying insured depository institution (institution) with up to $1 billion in total assets to be examined by its appropriate Federal banking agency no less than once during each 18-month period. The OCC's interim final rule expands eligibility for the 18-month examination cycle to qualifying national banks, Federal savings associations, and Federal branches and agencies with less than $500 million in total assets to those with less than $1 billion in total assets. The interim final rule was issued on February 29, 2016, 81 FR 10063.

Civil Money Penalty Inflation Adjustments (12 CFR parts 19 and 109). The OCC issued an interim final rule implementing the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Act) (Pub. L. 114–74, title VII, section 701(b), November 2, 2015) and Office of Management and Budget guidance issued on February 24, 2016. The 2015 Act amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (codified at 28 U.S.C. 2461 note). The 2015 Act changed the formula for calculating inflation adjustments and required agencies to adjust penalties for inflation on an annual basis. The interim final rule was issued on July 1, 2016, 81 FR 43021.

Appraisals for Higher-Priced Mortgage Loans Exemption Threshold (12 CFR part 34). The OCC, the FRB, and the CFPB issued a proposed rule amending the official interpretations for their regulations that implement section 129H of the Truth in Lending Act, which establishes special appraisal requirements for ''higher-risk mortgages.'' The banking agencies, the CFPB, the NCUA and the FHFA issued joint final rules implementing these requirements, which exempted, among other loan types, transactions of $25,000 or less, and required that this loan amount be adjusted annually based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). If there is no annual percentage increase in the CPI–W, the OCC, the FRB and the CFPB will not adjust this exemption threshold from the prior year. The proposal would memorialize this as well as the calculation method for determining the adjustment in years following a year in which there is no annual percentage increase in the CPI–W. The proposed rule was issued on August 4, 2016, 81 FR 51394.

Mandatory Contractual Stay Requirements for Qualified Financial Contracts (12 CFR parts 3, 47, and 50). The OCC issued a proposed rule to promote U.S. financial stability by enhancing the safety and soundness of the national banking system by mitigating potential negative impacts that could result from the disorderly resolution of certain systemically important national banks, FSAs, Federal branches and agencies, and the subsidiaries of these entities. A covered bank would be required to ensure that a covered qualified financial contract contains a contractual stay-and-transfer provision analogous to the statutory stay-and-transfer provision imposed under Title II of the Dodd-Frank Act and in the Federal Deposit Insurance Act and limits the exercise of default rights based on the insolvency of an affiliate of the covered bank. The proposed rule was issued on August 19, 2016, 81 FR 55381.

Regulatory priorities for fiscal year 2017 include finalizing any proposals listed above as well as the following rulemakings:

Automated Valuation Models (parts 34 and 164). The banking agencies, NCUA, FHFA and Consumer Financial Protection Bureau (CFPB), in consultation with the Appraisal Subcommittee (ASC) and the Appraisal Standards Board of the Appraisal Foundation, are required to promulgate regulations to implement quality-control standards required under the statute. Section 1473(q) of the Dodd-Frank Act requires that automated valuation models used to estimate collateral value in connection with mortgage origination and securitization activity, comply with quality-control standards designed to ensure a high level of confidence in the estimates produced by automated valuation models; protect against manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and account for other factors the agencies deem appropriate. The agencies plan to issue a proposed rule to implement the requirement to adopt quality-control standards.

Source of Strength (12 CFR part 47). The banking agencies plan to issue a

proposed rule to implement section 616(d) of the Dodd-Frank Act. Section 616(d) requires that bank holding companies, savings and loan holding companies and other companies that directly or indirectly control an insured depository institution serve as a source of strength for the insured depository institution. The appropriate Federal banking agency for the insured depository institution may require that the company submit a report that would assess the company's ability to comply with the provisions of the statute and its compliance.

Reporting and Recordkeeping Requirements for Covered Trading Activities (12 CFR part 44). The banking agencies, the Commodity Futures Trading Commission (CFTC), and the SEC are planning to issue a proposed rule that would modify the reporting and recordkeeping requirements for covered trading activities under Appendix A of the final rule implementing section 13 of the Bank Holding Company Act of 1956, which was added by section 619 of the Dodd-Frank Act.

Loans in Areas Having Special Flood Hazards-Private Flood Insurance (12 CFR part 22). The banking agencies, the FCA, and the NCUA are planning to issue a proposed rule to amend their regulations regarding loans in areas having special flood hazards to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act). The proposed rule was issued on November 7, 2016, 81 FR 78063.

Receiverships for Uninsured National Banks (12 CFR part 51). The OCC is planning to issue a proposed rule addressing the conduct of receiverships of national banks that are not insured by the FDIC and for which the FDIC would not be appointed as receiver.

Enhanced Cyber Risk Management Standards (12 CFR part 30). The banking agencies are considering issuing an advance notice of proposed rulemaking setting forth enhanced cyber risk management standards for the largest and most interconnected financial organizations in the United States.

The banking agencies and the NCUA plan to issue interim final rules to clarify the applicability of recent amendments to the Financial Crimes Enforcement Network (FinCEN) customer due diligence rules to the depository institutions under their supervision. FinCEN clarified and strengthened its customer due diligence requirements for covered financial institutions, including banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities (FinCEN Rule). As part of that rulemaking, FinCEN amended the elements of the anti-money laundering program financial institutions must implement and maintain in order to satisfy program requirements under 31 U.S.C. 5318(h)(1). The banking agencies and the NCUA are amending their anti-money laundering program rules to maintain consistency with the FinCEN Rule.

Customs Revenue Functions

The Homeland Security Act of 2002 (the Act) provides that, although many functions of the former United States Customs Service were transferred to the Department of Homeland Security, the Secretary of the Treasury retains sole legal authority over customs revenue functions. The Act also authorizes the Secretary of the Treasury to delegate any of the retained authority over customs revenue functions to the Secretary of Homeland Security. By Treasury Department Order No. 100–16, the Secretary of the Treasury delegated to the Secretary of Homeland Security authority to prescribe regulations pertaining to the customs revenue functions subject to certain exceptions. This Order further provided that the Secretary of the Treasury retained the sole authority to approve such regulations.

During the past fiscal year, among the customs-revenue function regulations issued were the Customs and Border Protection's Bond Program final rule, the United States-Australia Free Trade Agreement final rule, Investigation of Claims of Evasion of Antidumping and Countervailing Duties interim final rule, and the North American Free Trade Agreement Preference Override notice of proposed rulemaking. On November 13, 2015, U.S. Customs and Border Protection (CBP) published the final rule (80 FR 70154) to the CBP regulations which amended CBP regulations to reflect the centralization of the continuous bond program at CBP's Revenue Division. The changes support CBP's bond program by ensuring an efficient and uniform approach to the approval, maintenance, and periodic review of continuous bonds, as well as accommodating the use of information technology and modern business practices. On January 15, 2016, CBP published the United States-Australia Free Trade Agreement final rule (81 FR 2086) to the CBP regulations, which finalized the implementation of the preferential tariff treatment and other customs-related provisions of the United States-Australia Free Trade Agreement Implementation Act. In addition, on August 22, 2016, CBP and Treasury issued an interim final rule titled ''Investigation of Claims of Evasion of Antidumping and Countervailing Duties'' which amended CBP regulations implementing section 421 of the Trade Facilitation and Trade Enforcement Act of 2015. CBP and Treasury also issued on July 8, 2016, a proposed rule (81 FR 44555) titled ''North American Free Trade Agreement Preference Override'' which proposed amending CBP regulations to liberalize provisions of the North American Free Trade Agreement (NAFTA) preference rules of origin that relate to certain goods, including certain spices.

This past fiscal year, Treasury and CBP worked towards the implementation of the International Trade Data System (ITDS). The ITDS, as described in section 405 of the Security and Accountability for Every Port Act of 2006 (the ''SAFE Port Act'') (Pub. L. 109–347), is an electronic information exchange capability, or ''Single Window,'' through which businesses will transmit data required by participating agencies for the importation or exportation of cargo. To enhance Federal coordination associated with the development of the ITDS, Treasury and CBP issued an interim regulation (80 FR 61278) in connection with the establishment of the Automated Commercial Environment (ACE) as a CBP-authorized Electronic Data Interchange (EDI) System. This regulatory document informed the public that the Automated Commercial System (ACS) is being phased out as a CBP-authorized EDI System for the processing electronic entry and entry summary filings (also known as entry filings). CBP issued subsequent **Federal Register** notices announcing the dates when ACE replaced the Automated Commercial System (ACS) as the CBP-authorized EDI system for processing commercial trade data.

During fiscal year 2017, CBP and Treasury also plan to give priority to the following regulatory matters involving the customs revenue functions:

Disclosure of Information for Certain Intellectual Property Rights Enforced at the Border. Treasury and CBP plan to finalize interim amendments to the CBP regulations which provides a pre-seizure notice procedure for disclosing information appearing on the imported merchandise and/or its retail packing suspected of bearing a counterfeit mark to an intellectual property right holder for the limited purpose of obtaining the right holder's assistance in determining whether the mark is counterfeit or not.

Free Trade Agreements. Treasury and CBP also plan to issue final regulations this fiscal year to implement the preferential trade benefit provisions of the United States-Singapore Free Trade Agreement Implementation Act. Treasury and CBP also expect to issue final regulations implementing the liberalization of the NAFTA preference rules of origin that relate to certain goods, including certain spices.

In-Bond Process. Consistent with the practice of continuing to move forward with Customs Modernization provisions of the North American Free Trade Implementation Act to improve its regulatory procedures, Treasury and CBP plan to finalize this fiscal year the proposal to change the in-bond process by issuing final regulations to amend the in-bond regulations that were proposed on February 22, 2012 (77 FR 10622). The proposed changes, including the automation of the in-bond process, would modernize, simplify, and facilitate the in-bond process while enhancing CBP's ability to regulate and track in-bond merchandise to ensure that in-bond merchandise is properly entered or exported.

Inter-Partes Proceedings Concerning Exclusion Orders Based on Unfair Practices in Import Trade. Treasury and CBP plans to publish a proposal to amend its regulations with respect to administrative rulings related to the importation of articles in light of exclusion orders issued by the United States International Trade Commission (''Commission'') under section 337 of the Tariff Act of 1930, as amended. The proposed amendments seek to promote the speed, accuracy, and transparency of such rulings through the creation of an *inter partes* proceeding to replace the current *ex parte* process.

Financial Crimes Enforcement Network

As chief administrator of the Bank Secrecy Act (BSA), the Financial Crimes Enforcement Network (FinCEN) is responsible for developing and implementing regulations that are the core of the Department's anti-money laundering and counter-terrorism financing efforts. FinCEN's responsibilities and objectives are linked to, and flow from, that role. In fulfilling this role, FinCEN seeks to enhance U.S. national security by making the financial system increasingly resistant to abuse by money launderers, terrorists and their financial supporters, and other perpetrators of crime.

The Secretary of the Treasury, through FinCEN, is authorized by the BSA to issue regulations requiring financial institutions to file reports and keep records that are determined to have a high degree of usefulness in criminal, tax, or regulatory matters or in the conduct of intelligence or counter-intelligence activities to protect against international terrorism. The BSA also authorizes requiring designated financial institutions to establish anti-money laundering programs and compliance procedures. To implement and realize its mission, FinCEN has established regulatory objectives and priorities to safeguard the financial system from the abuses of financial crime, including terrorist financing, money laundering, and other illicit activity. These objectives and priorities include: (1) Issuing, interpreting, and enforcing compliance with regulations implementing the BSA; (2) supporting, working with, and as appropriate, overseeing compliance examination functions delegated to other Federal regulators; (3) managing the collection, processing, storage, and dissemination of data related to the BSA; (4) maintaining a government-wide access service to that same data and for network users with overlapping interests; (5) conducting analysis in support of policymakers, law enforcement, regulatory and intelligence agencies, and the financial sector; and (6) coordinating with and collaborating on anti-terrorism and anti-money laundering initiatives with domestic law enforcement and intelligence agencies, as well as foreign financial intelligence units.

During fiscal year 2016, FinCEN issued the following regulatory actions:

Civil Monetary Penalty Adjustment and Table. On June 30, 2016, FinCEN issued an Interim Final Rule amending the BSA regulations to adjust the maximum amount or range, as set by statute, of certain civil monetary penalties within its jurisdiction to account for inflation. The action was taken to implement the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

Customer Due Diligence Requirements. On May 11, 2016, FinCEN issued Final Rules under the BSA to clarify and strengthen customer due diligence requirements for banks, brokers or dealers in securities, mutual funds, and futures commission merchants and introducing brokers in commodities. The rules contain explicit customer due diligence requirements and include a new regulatory requirement to identify beneficial owners of legal entity customers, subject to certain exemptions.

Report of Foreign Bank and Financial Accounts. On March 10, 2016, FinCEN issued a Notice of Proposed Rulemaking to address requests from filers for clarification of certain requirements regarding the Report of Foreign Bank and Financial Accounts, including requirements with respect to employees, who have signature authority over, but no financial interest in, the foreign financial accounts of their employers.

Amendments to the Definitions of Broker or Dealer in Securities. On April 4, 2016, FinCEN issued an NPRM proposing amendments to the regulatory definitions of broker or dealer in securities under the BSA regulations. The proposed changes would expand the current scope of the definitions to include funding portals and would require them to implement policies and procedures reasonably designed to achieve compliance with all of the BSA requirements that are currently applicable to brokers or dealers in securities.

Anti-Money Laundering Program Requirements for Banks Lacking a Federal Functional Regulator. On August 25, 2016, FinCEN issued an NPRM to remove the anti-money laundering (AML) program exemption for banks that lack a Federal functional regulator, including, but not limited to, private banks, non-federally insured credit unions, and certain trust companies. The proposed rule would prescribe minimum standards for AML programs and would ensure that all banks, regardless of whether they are subject to Federal regulation and oversight, are required to establish and implement AML programs.

Imposition of Special Measure against FBME Bank Ltd., formerly known as Federal Bank of the Middle East, Ltd., as a Financial Institution of Primary Money Laundering Concern. On July 29, 2015, FinCEN issued a final rule imposing the fifth special measure under section 311 of the USA PATRIOT Act against FBME. This action followed a notice of finding issued on July 22, 2014 that FBME is a financial institution of primary money laundering concern and an NPRM proposing the imposition of the fifth special measure. FBME filed suit on August 7, 2015 in the U.S. District Court for the District of Columbia; FBME also moved for a preliminary injunction. On August 27, 2015, the Court granted the preliminary injunction and enjoined the rule from taking effect before the rule's effective date of August 28, 2015. On March 31, 2016, FinCEN issued a Final Rule imposing a prohibition on U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, FBME in place of the rule published in 2015. On July 22, 2016, the U.S. District Court for the District of Columbia ordered that the implementation of the Final Rule be stayed until further notice from the Court.

Administrative Rulings and Written Guidance. FinCEN published 4 written guidance pieces, and provided 17 responses to requests for administrative rulings and written inquiries/correspondence interpreting the BSA and providing clarity to regulated industries.

FinCEN's regulatory priorities for fiscal year 2017 include finalizing any initiatives mentioned above that are not finalized by fiscal year end, as well as the following in-process and potential projects:

Cross-Border Electronic Transmittal of Funds. On September 27, 2010, FinCEN issued an NPRM in conjunction with the feasibility study prepared pursuant to the Intelligence Reform and Terrorism Prevention Act of 2004 concerning the issue of obtaining information about certain cross-border funds transfers and transmittals of funds. As FinCEN has continued to work on developing the system to receive, store, and use this data, FinCEN is considering various regulatory actions to update the previously published proposed rule and provide additional information to those banks and money transmitters that will become subject to the rule.

Anti-Money Laundering Program and SAR Requirements for Investment Advisers. On August 25, 2015, FinCEN published in the **Federal Register** an NPRM to solicit public comment on proposed rules under the BSA that would prescribe minimum standards for anti-money laundering programs to be established by certain investment advisers and to require such investment advisers to report suspicious activity to FinCEN.

Registration Requirements of Money Services Businesses. FinCEN is considering issuing an NPRM to amend the requirements for money services businesses with respect to registering with FinCEN.

Changes to the Travel and Recordkeeping Requirements for Funds Transfers and Transmittals of Funds. FinCEN is considering changes to require that more information be collected and maintained by financial institutions on funds transfers and transmittals of funds and to lower the threshold.

Changes to the Currency and Monetary Instrument Report (CMIR) Reporting Requirements. FinCEN will research, obtain, and analyze relevant data to validate the need for changes aimed at updating and improving the CMIR and ancillary reporting requirements. Possible areas of study to be examined could include current trends in cash transportation across international borders, transparency levels of physical transportation of currency, the feasibility of harmonizing data fields with bordering countries, and information derived from FinCEN's experience with Geographic Targeting Orders.

Other Requirements. FinCEN also will continue to issue proposed and final rules pursuant to section 311 of the USA PATRIOT Act, as appropriate. Finally, FinCEN expects that it may propose various technical and other regulatory amendments in conjunction with its ongoing, comprehensive review of existing regulations to enhance regulatory efficiency, and as a result of the efforts of an interagency task force currently focusing on improvements to the U.S. regulatory framework for anti-money laundering.

Bureau of the Fiscal Service

The Bureau of the Fiscal Service (Fiscal Service) administers regulations pertaining to the Government's financial activities, including: (1) Implementing Treasury's borrowing authority, including regulating the sale and issue of Treasury securities; (2) administering Government revenue and debt collection; (3) administering Governmentwide accounting programs; (4) managing certain Federal investments; (5) disbursing the majority of Government electronic and check payments; (6) assisting Federal agencies in reducing the number of improper payments; and (7) providing administrative and operational support to Federal agencies through franchise shared services.

During fiscal year 2017, the Fiscal Service will accord priority to the following regulatory projects:

Notice of Proposed Rulemaking for Publishing Delinquent Debtor Information. The Debt Collection Improvement Act of 1996, Public Law 104–134, 110 Stat. 1321 (DCIA) authorizes Federal agencies to publish or otherwise publicly disseminate information regarding the identity of persons owing delinquent nontax debts to the United States for the purpose of collecting the debts, provided certain criteria are met. Treasury proposes to issue a notice of proposed rulemaking seeking comments on a proposed rule that would establish the procedures Federal agencies must follow before promulgating their own rules to publish information about delinquent debtors and the standards for determining when use of this debt collection remedy is appropriate.

Offset of Tax Refund Payments to Collect Past-Due Support. On December 30, 2015, the Fiscal Service published an Interim Final Rule, with request for comments, limiting the time period during which Treasury may recover certain tax refund offset collections from States to six months from the date of such collection. Previously, there was no time limit to recoup offset amounts that were collected from tax refunds to which the debtor taxpayer was not entitled. The Fiscal Service proposes to publish a Final Rule for this time limit for such recoupments in fiscal year 2017.

Management of Federal Agency Receipts, Disbursements and Operation of the Cash Management Improvements Fund. The Fiscal Service plans to publish a notice of proposed rulemaking to amend 31 CFR 206 governing the collection of public money, along with a request for public comments. This notice will propose implementing statutory authority which mandates that some or all nontax payments made to the Government, and accompanying remittance information, be submitted electronically. Receipt of such items electronically offers significant efficiencies and cost-savings to the government, compared to the receipt of cash, check or money order payments.

Internal Revenue Service

The Internal Revenue Service (IRS), working with the Office of Tax Policy, promulgates regulations that interpret and implement the Internal Revenue Code (Code) and related tax statutes. The purpose of these regulations is to carry out the tax policy determined by Congress in a fair, impartial, and reasonable manner, taking into account the intent of Congress, the realities of relevant transactions, the need for the Government to administer the rules and monitor compliance, and the overall integrity of the Federal tax system. The goal is to make the regulations practical and as clear and simple as possible.

During fiscal year 2017, the IRS will accord priority to the following regulatory projects:

Tax-Related Affordable Care Act Provisions. On March 23, 2010, the President signed the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148) and on March 30, 2010, the President signed the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152) (referred to collectively as the Affordable Care Act (ACA)). The ACA's reform of the health insurance system affects individuals, families, employers, health care providers, and health insurance providers. The ACA provides authority for Treasury and the IRS to issue regulations and other guidance to implement tax provisions in the ACA,

some of which are already effective and some of which will become effective over the next several years. Since enactment of the ACA, Treasury and the IRS have issued a series of temporary, proposed, and final regulations implementing over a dozen provisions of the ACA, including the premium tax credit under section 36B of the Code, the small-business health coverage tax credit under section 45R of the Code, new requirements for charitable hospitals under section 501(r) of the Code, limits on tax preferences for remuneration provided by certain health insurance providers under section 162(m)(6) of the Code, the employer shared responsibility provisions under section 4980H of the Code, the individual shared responsibility provisions under section 5000A of the Code, insurer and employer reporting under sections 6055 and 6056 of the Code, and several revenue-raising provisions, including fees on branded prescription drugs under section 9008 of the ACA, fees on health insurance providers under section 9010 of the ACA, the tax on indoor tanning services under 5000B of the Code, the net investment income tax under section 1411 of the Code, and the additional Medicare tax under sections 3101 and 3102 of the Code.

In fiscal year 2017, Treasury and the IRS will continue to provide guidance to implement tax provisions of the ACA, including:

- Proposed and final regulations related to numerous aspects of the premium tax credit under section 36B, including the determination of minimum value of eligible-employer-sponsored plans;
- Regulations related to the employer shared responsibility provisions under section 4980H;
- Regulations under section 4980I of the Code relating to the excise tax on high cost employer-provided coverage;
- Final regulations on expatriate health plans under the Expatriate Health Coverage Clarification Act of 2014 for purposes of sections 36B, 162(m)(6), 4377, 5000A, 6055, and 6056 of the Code, and section 9010 of the Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act;
- Final regulations regarding issues related to the net investment income tax under section 1411 of the Code.

Interest on Deferred Tax Liability for Contingent Payment Installment Sales. Section 453 of the Code generally allows taxpayers to report the gain from a sale of property in the taxable year or years in which payments are received, rather than in the year of sale. Section 453A of the Code imposes an interest charge on the tax liability that is deferred as a result of reporting the gain when payments are received. The interest charge generally applies to installment obligations that arise from a sale of property using the installment method if the sales price of the property exceeds $150,000, and the face amount of all such installment obligations held by a taxpayer that arose during, and are outstanding as of the close of, a taxable year exceeds $5,000,000. The interest charge provided in section 453A cannot be determined under the terms of the statute if an installment obligation provides for contingent payments. Accordingly, in section 453A(c)(6), Congress authorized the Secretary of the Treasury to issue regulations providing for the application of section 453A in the case of installment sales with contingent payments. Treasury and the IRS intend to issue proposed regulations that, when finalized, will provide guidance and reduce uncertainty regarding the application of section 453A to contingent payments.

Rules for Home Construction Contracts. In general, section 460(a) of the Code requires taxpayers to use the percentage-of-completion method (PCM) to account for taxable income from any long-term contract. Under the PCM, income is generally reported in installments as work is performed, and expenses are generally deducted in the taxable year incurred. However, taxpayers with contracts that meet the definition of a ''home construction contract,'' under section 460(e)(4), are not required to use the PCM for those contracts and may, instead, use an exempt method. Exempt methods include the completed contract method (CCM) and the accrual method. Under the CCM, for example, a taxpayer generally takes into account the entire gross contract price and all incurred allocable contract costs in the taxable year the taxpayer completes the contract. Treasury and the IRS believe that amended rules are needed to reduce uncertainty and controversy, including litigation, regarding when a contract qualifies as a ''home construction contract'' and when the income and allocable deductions are taken into account under the CCM. On August 4, 2008, Treasury and the IRS published proposed regulations on the types of contracts that are eligible for the home construction contract exemption. The preamble to those regulations stated that Treasury and the IRS expected to propose additional rules specific to home construction contracts accounted for using the CCM. After considering comments received and the need for additional and clearer rules to reduce ongoing uncertainty and controversy, Treasury and the IRS have determined that it would be beneficial to taxpayers to present all of the proposed changes to the current regulations in a single document. Treasury and the IRS plan to withdraw the 2008 proposed regulations and replace them with new, more comprehensive proposed regulations.

Research Expenditures. Section 41 of the Code provides a credit against taxable income for certain expenses paid or incurred in conducting research activities. To assist in resolving areas of controversy and uncertainty with respect to research expenses, Treasury and the IRS plan to issue final regulations with respect to the definition and credit eligibility of expenditures for internal use software. In addition, on December 18, 2015, the President signed the Protecting Americans from Tax Hikes of 2015 (the PATH Act), which added new section 41(h). That section allows qualified small businesses to elect to claim a portion of the section 41 credit against the employer's portion of certain payroll taxes. Treasury and the IRS plan to provide guidance on eligibility for the election, how and where to claim the election, and how the credit will be recaptured in certain situations.

Domestic Production Activities Income. Section 199 of the Code provides a deduction for certain income attributable to domestic production activities. To assist in resolving areas of controversy and uncertainty with respect to the eligibility of income from online computer software, Treasury and the IRS plan to issue regulations regarding the application of section 199 to online computer software.

Consistent Basis Reporting between Estate and Person Acquiring Property from Decedent. On July 31, 2015, the President signed H.R. 3236, Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (Act) (Pub. L. 114–41), into law. Section 2004 of the Act added new Code sections 1014(f), 6035, and 6662(k). Section 1014(f) provides rules requiring that the basis of certain property acquired from a decedent be consistent with the estate tax value of the property. Section 6035 requires executors who are required to file a return under section 6018(a) of the Code (and other persons required to file a return under section 6018(b)) after July 31, 2015, to file statements with the IRS and furnish statements to certain estate beneficiaries providing information regarding the value of certain property acquired from a decedent. Section 6662(k) provides a

penalty for certain recipients of property acquired from an estate required to file a return after July 31, 2015, who report a basis that is inconsistent with the value determined under section 1014(f) when the property is sold (or deemed sold). Treasury and the IRS published three notices and proposed and temporary regulations under sections 1014, 6035, and 6662(k) providing, respectively, guidance on the compliance date under section 6035 and guidance regarding: (1) The requirement that a recipient's basis in certain property acquired from a decedent be consistent with the value of the property as finally determined for Federal estate tax purposes; and (2) the accompanying filing requirements for certain executors and other persons. On August 21, 2015, Notice 2015–57 (2015–36 IRB 294) was issued delaying the due date for any statements required by section 6035 to February 29, 2016. On February 11, 2016, Treasury and IRS issued Notice 2016–19 (2016–9 IRB 362), providing that statements required under section 6035 need not be filed until March 31, 2016, and on March 23, 2016, issued Notice 2016–27 (2016–15 IRB 576), providing that statements under section 6035 need not be filed until June 30, 2016. For statements required under sections 6035(a)(1) and (a)(2) that are required to be filed after June 30, 2016, those statements are to be filed in no case at a time later than the earlier of (i) the date which is 30 days after the date on which the return under section 6018 was required to be filed (including extensions, if any) or (ii) the date which is 30 days after the date such return is filed. The IRS is in the process of finalizing the regulations, the applicable form, schedule, and instructions to facilitate compliance with sections 1014(f), 6035, and 6662(k). It is expected that Treasury and IRS will issue final regulations within 18 months of July 31, 2015.

Definition of Issue Price for Tax-Exempt Bonds. On September 16, 2013, Treasury and the IRS published proposed regulations (78 FR 56842) to address certain issues involving the arbitrage investment restrictions under section 148 of the Code, including guidance on the issue price definition used in the computation of bond yield. On June 24, 2015, Treasury and the IRS published proposed regulations (80 FR 36301) that revised the 2013 guidance on the issue price definition. Treasury and the IRS plan to finalize the 2015 proposed regulations.

Guidance on the Definition of Political Subdivision for Tax-Exempt, Tax-Credit, and Direct-Pay Bonds. A political subdivision may be a valid issuer of tax-exempt, tax-credit, and direct-pay bonds. Concerns have been raised about what is required for an entity to be a political subdivision for purposes of section 103 of the Code. Proposed regulations (REG–129067–15) were published in the **Federal Register** on February 23, 2016 (81 FR 8870). Treasury and the IRS are considering comments on the proposed regulations and expect to issue regulations on this issue in fiscal year 2017.

Contingent Notional Principal Contract Regulations. Notice 2001–44 (2001–2 CB 77) outlined four possible approaches for recognizing nonperiodic payments made or received on a notional principal contract (NPC) when the contract includes a nonperiodic payment that is contingent in fact or in amount. The Notice solicited further comments and information on the treatment of such payments. After considering the comments received in response to Notice 2001–44, Treasury and the IRS published proposed regulations (69 FR 8886) (the 2004 proposed regulations) that would amend section 1.446–3 and provide additional rules regarding the timing and character of income, deduction, gain, or loss with respect to such nonperiodic payments, including termination payments. On December 7, 2007, Treasury and the IRS released Notice 2008–2 (2008–1 CB 252) requesting comments and information with respect to transactions frequently referred to as prepaid forward contracts. On May 8, 2015, Treasury and the IRS published temporary and proposed regulations (80 FR 26437) relating to the treatment of nonperiodic payments. Treasury and the IRS plan to finalize the temporary regulations and to re-propose regulations to address issues relating to the timing and character of nonperiodic contingent payments on NPCs, including termination payments and payments on prepaid forward contracts.

Tax Treatment of Distressed Debt. A number of tax issues relating to the amount, character, and timing of income, expense, gain, or loss on distressed debt remain unresolved. During the fiscal year, Treasury and the IRS plan to address certain of these issues in published guidance.

Definition of Real Property and Qualifying Income for REIT Purposes. A taxpayer must satisfy certain asset and income requirements to qualify as a real estate investment trust (REIT) under section 856 of the Code. REITs have sought to invest in various types of assets that are not directly addressed by the current regulations or other published guidance. On May 14, 2014, Treasury and the IRS published proposed regulations (79 FR 27508) to update and clarify the definition of real property for REIT qualification purposes, including guidance addressing whether a component of a larger item is tested on its own or only as part of the larger item, the scope of the asset to be tested, and whether certain intangible assets qualify as real property. Treasury and the IRS plan to finalize the proposed regulations in the fiscal year. Treasury and the IRS also plan to provide guidance clarifying the definition of income for purposes of section 856.

Treatment of Certain Interests in Corporations as Stock or Indebtedness. Section 385 of the Code grants the Secretary of the Treasury the authority to prescribe regulations as necessary or appropriate to determine whether an interest in a corporation is to be treated as stock or indebtedness or as part stock and part indebtedness for Federal income tax purposes. On April 4, 2016, Treasury and the IRS issued proposed regulations under section 385 that would establish threshold documentation requirements for determining whether certain related party interests in a corporation are characterized as stock or indebtedness for Federal tax purposes. The proposed regulations also would treat certain related party interests that otherwise would be treated as indebtedness for Federal income tax purposes as stock. Treasury and the IRS issued final and temporary regulations on these issues on October 21, 2016 (81 FR 72858).

Corporate Spin-offs and Split-offs. Section 355 and related provisions of the Code allow for the tax-free distribution of stock or securities of a controlled corporation if certain requirements are met. For example, both the distributing and controlled corporations must be engaged in the active conduct of a trade or business immediately after the distribution, and the transaction must not be used as a device for the distribution of earnings and profits or to circumvent Congress' intent in repealing the *General Utilities* doctrine. Treasury and the IRS have published proposed regulations that address (a) whether the active trade or business requirement is met when a distribution involves small active businesses relative to other assets and (b) whether a distribution raises device concerns because either the distributing or controlled corporation has a substantial percentage of nonbusiness assets. Treasury and the IRS intend to issue final regulations on these issues. Treasury and the IRS also intend to issue additional guidance addressing: (a) When a distribution, otherwise qualifying under section 355, circumvents Congress' intent in repealing the *General Utilities* doctrine; and (b) the tax treatment under sections 355 and 361 when debt of the distributing corporation is issued and

such debt is retired using stock or securities of the controlled corporation, and (c) the tax treatment when cash or property is transferred between a distributing or controlled corporation and its shareholder(s) in connection with the distribution. Treasury and the IRS also intend to finalize proposed regulations that would define predecessor and successor corporations for purposes of the exception to tax-free treatment under section 355(e).

Assistance to Troubled Financial Institutions. Section 597 grants the Secretary of the Treasury wide latitude to prescribe regulations determining the treatment of any transaction in which Federal financial assistance is provided to a bank or domestic building and loan association. Treasury and the IRS have issued final regulations under section 597. In the wake of the most recent financial crisis and changes in the form of government assistance that have developed since the final regulations were issued, Treasury and the IRS published proposed regulations that would reflect those changes. Treasury and the IRS intend to issue final regulations on these issues.

Redetermination of the Consolidated Net Unrealized Built-in Gain and Net Unrealized Built-in Loss. Section 382 limits the amount of taxable income that can be offset by net operating loss carryovers. Treasury and the IRS published proposed regulations modifying the application of section 382 to consolidated groups, specifically regarding the time that recognized built-in loss is treated as reducing consolidated net unrealized built-in loss. Treasury and the IRS intend to issue final regulations on these issues.

Disguised Payments for Services. Section 707(a)(2)(A) of the Code provides that if a partner performs services for a partnership and receives a related direct or indirect allocation and distribution, and the performance of services and the allocation and distribution, when viewed together, are properly characterized as a transaction occurring between the partnership and a partner acting other than in its capacity as a partner, the transfer will be treated as occurring between the partnership and one who is not a partner. Treasury and the IRS published proposed regulations on July 23, 2015, to provide guidance on when an arrangement that is purported to be a distributive share under section 704(b) of the Code will be recharacterized as a disguised payment for services under section 707(a)(2)(A). The proposed regulations also provide for modifications to the regulations governing guaranteed payments under section 707(c) to make those regulations consistent with the proposed regulations under section 707(a)(2)(A). Treasury and the IRS expect to issue final regulations during Fiscal Year 2017.

Transfers of Property to Partnerships with Related Foreign Partners. Section 721(c) of the Code provides authority to issue regulations that prevent the use of a partnership to shift gain to a foreign person. On August 6, 2015, Treasury and the IRS issued Notice 2015–54 (2015–34 IRB 210) describing regulations to be issued under that authority. By the end of 2016, Treasury and the IRS plan to issue temporary and proposed regulations implementing the guidance described in Notice 2015–52. Treasury and the IRS intend to finalize the temporary and proposed regulations in this fiscal year.

Reporting requirements applicable to certain foreign-owned entities. On May 5, 2016, Treasury and the IRS issued proposed regulations that would require foreign-owned entities that are disregarded entities for tax purposes, including foreign-owned single-member limited liability companies (LLCs), to obtain an employer identification number (EIN) with the IRS. These changes are intended to provide the IRS with improved access to information that will allow the United States to comply with international standards on tax and transparency, as well as strengthen the enforcement of U.S. tax laws. Treasury and the IRS intend to finalize the proposed regulations in this fiscal year.

Currency. On September 6, 2006, Treasury and the IRS published a notice of proposed rulemaking under section 987 of the Code that proposes rules for translating a section 987 qualified business unit's income or loss into the taxpayer's functional currency for each taxable year, as well as for determining the amount of section 987 currency gain or loss that must be recognized when a section 987 qualified business unit makes a remittance. Treasury and the IRS expect to finalize the proposed regulations in this fiscal year. In addition, Treasury and the IRS intend to issue proposed regulations in Fiscal Year 2017 to provide guidance on the treatment of foreign currency gain or loss of a controlled foreign corporation (CFC) under the exclusion from foreign personal holding company income for income from transactions directly related to the business needs of the CFC, as well as related timing and other issues.

Disguised Sale and Allocation of Liabilities. A contribution of property by a partner to a partnership may be recharacterized as a sale under section 707(a)(2)(B) of the Code if the partnership distributes to the contributing partner cash or other property that is, in substance, consideration for the contribution. The allocation of partnership liabilities to the partners under section 752 of the Code may impact the determination of whether a disguised sale has occurred and whether gain is otherwise recognized upon a distribution. Treasury and the IRS published proposed regulations on January 30, 2014, to address certain issues that arise in the disguised sale context and other issues regarding the partners' shares of partnership liabilities. Treasury and the IRS are considering comments on the proposed regulations and expect to issue regulations on this issue in fiscal year 2017.

Certain Partnership Distributions Treated as Sales or Exchanges. In 1954, Congress enacted section 751 to prevent the use of a partnership to convert potential ordinary income into capital gain. In 1956, Treasury and the IRS issued regulations implementing section 751 of the Code. The current regulations, however, do not always achieve the purpose of the statute. In 2006, Treasury and the IRS published Notice 2006–14 (2006–1 CB 498) to propose and solicit alternative approaches to section 751 that better achieve the purpose of the statute while providing greater simplicity. Treasury and the IRS published proposed regulations following up on Notice 2006–14 on November 3, 2014. These regulations were intended to provide guidance on determining a partner's interest in a partnership's section 751 property and how a partnership recognizes income required by section 751. Treasury and the IRS expect to issue final regulations during fiscal year 2017.

Penalties and Limitation Periods. Congress amended several penalty provisions in the Internal Revenue Code in the past several years. Treasury and the IRS intend to publish a number of guidance projects in this fiscal year addressing these penalty provisions. Specifically, Treasury and the IRS intend to publish final regulations under section 6708 of the Code regarding the penalty for failure to make available upon request a list of advisees that is required to be maintained under section 6112 of the Code. The proposed regulations were published on March 8, 2013. Treasury and the IRS also intend to publish proposed regulations under sections 6662, 6662A, and 6664 of the Code to provide further guidance on the circumstances under which a taxpayer

could be subject to the accuracy-related penalty on underpayments or reportable transaction understatements and the reasonable cause exception.

Inversion Transactions. On January 17, 2014, Treasury and the IRS issued temporary and proposed regulations providing guidance on the application of the ownership test under section 7874(a)(2)(B)(ii). On April 4, 2016, Treasury and the IRS issued temporary and proposed regulations providing further guidance on the application of sections 7874 and 367 of the Code to inversion transactions, as well as on certain tax avoidance transactions that are commonly undertaken after an inversion transaction. In this fiscal year, Treasury and the IRS expect to issue additional guidance to further limit inversion transactions that are contrary to the purposes of section 7874 and the benefits of post-inversion tax avoidance transactions.

Information Reporting for Foreign Accounts of U.S. Persons. In March 2010, chapter 4 (sections 1471 to 1474) was added to subtitle A of the Code as part of the Hiring Incentives to Restore Employment Act (HIRE Act) (Pub. L. 111–147). Chapter 4 was enacted to address concerns with offshore tax evasion by U.S. citizens and residents and generally requires foreign financial institutions (FFIs) to enter into an agreement (FFI Agreement) with the IRS to report information regarding financial accounts of U.S. persons and certain foreign entities with significant U.S. ownership. An FFI that does not enter into an FFI Agreement, or that is not otherwise deemed compliant with FATCA, generally will be subject to a withholding tax on the gross amount of certain payments from U.S. sources. Treasury and the IRS have issued proposed, temporary, and final regulations under chapter 4, followed by proposed and temporary regulations modifying certain provisions of the final regulations; proposed and temporary regulations under chapters 3 and 61, and section 3406, to coordinate with those chapter 4 regulations; and implementing revenue procedures and other guidance. Treasury and the IRS expect to issue further guidance with respect to FATCA and related provisions in this fiscal year, including finalizing the aforementioned chapter 3, 4 and 61 regulations; issuing proposed regulations covering the compliance requirements of entities acting as sponsoring entities on behalf of certain foreign entities; issuing updated agreements for foreign financial institutions, qualified intermediaries (including qualified derivatives dealers), and withholding foreign partnerships and withholding foreign trusts; and issuing regulations on refunds and credits.

Foreign Tax Credits and Covered Asset Acquisitions. Section 901(m) of the Code limits the availability of foreign tax credits in certain cases in which U.S. tax law and foreign tax law provide different rules for recognizing income and gain. In 2014, Treasury and the IRS issued two notices providing guidance under section 901(m) regarding the treatment of gains and losses from dispositions. By the end of 2016, Treasury and the IRS expect to issue temporary and proposed regulations setting forth the rules described in those notices. Treasury and the IRS also plan to issue proposed regulations setting forth substantial additional guidance under section 901(m). Treasury and the IRS expect to finalize the proposed regulations during this fiscal year.

Transfers of Property to Foreign Corporations. Section 367 of the Code provides special rules to address the transfer of property, including intangible property, by U.S. persons to foreign corporations in certain nonrecognition transactions. Under existing temporary regulations issued in 1986, favorable treatment is afforded to the outbound transfer of ''foreign goodwill and going concern value,'' which has created incentives for taxpayers to categorize transfers of high-value intangible property as such. On September 14, 2015, Treasury and the IRS released proposed regulations that would eliminate that favorable treatment. Treasury and the IRS intend to finalize the proposed section 367 regulations in this fiscal year.

ABLE Account guidance. On December 19, 2014, Congress passed The Stephen Beck, Jr., Achieving a Better Life Experience (ABLE) Act of 2014, adding section 529A to the Code to enable states to create qualified ABLE programs under which disabled individuals may establish a tax-advantaged account to pay for disability-related expenses. To be eligible to establish an ABLE account, the individual must have become disabled prior to age 26. As required by the statute, Treasury and the IRS on June 19, 2015, published proposed regulations implementing the provision. States may rely on the proposed regulations for establishing a qualified ABLE program. Treasury and the IRS intend to finalize the regulations during the 2017 fiscal year, taking into account all comments received.

Certified Professional Employer Organization guidance. On May 6, 2016, Treasury and the IRS published final, temporary, and proposed regulations which set forth the Federal employment tax liabilities and other obligations of persons certified by the IRS as certified professional employer organizations (CPEOs) in accordance with provisions enacted as part of the ABLE Act. The temporary regulations address the requirements relating to applying for and maintaining certification as a CPEO and some related definitions. In July 2016, the IRS opened the application process for being certified as a CPEO. Treasury and the IRS intend to finalize the temporary and proposed regulations during the 2017 fiscal year, taking into account all comments received.

Guidance Relating to Publicly Traded Partnerships. Section 7704 of the Code provides that a partnership whose interests are traded on either an established securities market or on a secondary market (a ''publicly traded partnership'') is generally treated as a corporation for Federal tax purposes. However, section 7704(c) permits publicly traded partnerships to be treated as partnerships for Federal tax purposes if 90 percent or more of partnership income consists of ''qualifying income.'' Section 7704(d) provides that income is generally qualifying income if it is passive income or is derived from exploration, development, mining or production, processing, refining, transportation, or marketing of a mineral or natural resource. Treasury and the IRS issued proposed regulations in 2015 to provide guidance and reduce uncertainty regarding the scope of the natural resource exception. After considering comments on the proposed regulations, Treasury and the IRS expect to issue final regulations in fiscal year 2017.

Guidance implementing the Bipartisan Budget Act of 2015. The Bipartisan Budget Act of 2015 repealed the current procedures governing audits of partnerships and replaced them with new procedures. Treasury and the IRS intend to publish regulations implementing these new procedures. Proposed regulations will provide guidance on electing out of the new procedures, partner reporting and adjustments, designation of a partnership representative, imputed underpayments, and requests for administrative adjustments.

Guidance on User Fees. Treasury and the IRS intend to publish regulations charging (or updating) user fees for certain applications made by individuals to the IRS, including for an installment agreement, an offer in compromise, and a preparer tax identification number, as well as to take

the special enrollment examination to become an enrolled agent.

Guidance under the Protecting Americans from Tax Hikes Act of 2015. On December 25, 2015, Congress passed the Protecting Americans from Tax Hikes Act (PATH Act). The Path Act made changes to numerous provisions of the Code. Treasury and the IRS intend to publish guidance implementing these changes, including guidance on the issuance of individual taxpayer identifying numbers, an update to the revenue procedure on acceptance agents, proposed regulations on the use of truncated taxpayer identification numbers on the Form W–2, and regulations under sections 6721 and 6722 regarding de minimis errors on information returns.

BILLING CODE 4810–25–P

DEPARTMENT OF VETERANS AFFAIRS (VA)

Statement of Regulatory Priorities

The Department of Veterans Affairs (VA) administers benefit programs that recognize the important public obligations to those who served this Nation. VA's regulatory responsibility is almost solely confined to carrying out mandates of the laws enacted by Congress relating to programs for veterans and their families. VA's major regulatory objective is to implement these laws with fairness, justice, and efficiency.

Most of the regulations issued by VA involve at least one of three VA components: The Veterans Benefits Administration, the Veterans Health Administration, and the National Cemetery Administration. The primary mission of the Veterans Benefits Administration is to provide high-quality and timely nonmedical benefits to eligible veterans and their dependents. The primary mission of the Veterans Health Administration is to provide high-quality health care on a timely basis to eligible veterans through its system of medical centers, nursing homes, domiciliaries, and outpatient medical and dental facilities. The primary mission of the National Cemetery Administration is to bury eligible veterans, members of the Reserve components, and their dependents in VA National Cemeteries and to maintain those cemeteries as national shrines in perpetuity as a final tribute of a grateful Nation to commemorate their service and sacrifice to our Nation.

VA Regulatory Priorities

VA's most important significant regulatory actions are identified and discussed in the following chart. These actions are identified as helping to implement VA's policies and priorities, and embody the core of VA's regulatory priorities.

RIN	Title	Summary of rulemaking
2900–AP66	Diseases Associated With Exposure to Contaminated Water at Camp Lejeune.	The Department of Veterans Affairs (VA) proposed to amend its adjudication regulations relating to presumptive service connection to add certain diseases associated with contaminants present in the base water supply at U.S. Marine Corps Base Camp Lejeune (Camp Lejeune), North Carolina, from August 1, 1953 to December 31, 1987. The chemical compounds involved have been associated by various scientific organizations with the development of certain diseases. The effect of this rule would be to establish that veterans, former reservists, and former National Guard members, who served at Camp Lejeune during this period, and who have been diagnosed with any of nine associated diseases, are presumed to have a service-connected disability for purposes of entitlement to VA benefits. In addition, VA proposed establishing a presumption that these individuals were disabled during the relevant period of service, thus establishing active military service for benefit purposes. Under this presumption, affected former reservists and National Guard members would have veteran status for purposes of entitlement to some VA benefits. The proposal would implement a decision by the Secretary of Veterans Affairs that service connection on a presumptive basis is warranted for claimants who served at Camp Lejeune and later develop certain diseases. VA plans to finalize this proposal after considering public comments.
2900–AP54	VA Homeless Providers Grant and Per Diem Program.	The Department of Veterans Affairs (VA) is proposing to amend its regulations concerning the VA Homeless Providers Grant and Per Diem Program (GPD). These amendments would provide GPD with increased flexibility to (1) respond to the changing needs of homeless veterans; (2) repurpose existing and future funds more efficiently; and (3) allow grant providers the ability to add, modify, or eliminate components of funded programs. We are proposing these amendments to better serve our homeless veteran population and the grantees who serve them.
2900–AO53	Fiduciary Activities	VA proposed to amend its fiduciary program regulations, which govern the oversight of beneficiaries who, because of injury, disease, the infirmities of advanced age, or minority, are unable to manage their VA benefits and the appointment and oversight of fiduciaries for these vulnerable beneficiaries. The proposed amendments would update and reorganize regulations consistent with current law, VA policies and procedures, and VA's reorganization of its fiduciary activities. They would also clarify the rights of beneficiaries in the program and the roles of VA and fiduciaries in ensuring that VA benefits are managed in the best interest of beneficiaries and their dependents.

RIN	Title	Summary of rulemaking
2900–AP72	Veterans Employment Pay for Success Program.	The Department of Veterans Affairs (VA) established a grant program (Veterans Employment Pay for Success (VEPFS)) under the authority of 38 U.S.C. 3119 to award grants to eligible entities to fund projects that are successful in accomplishing employment rehabilitation for Veterans with service-connected disabilities. VA will award grants on the basis of an eligible entity's proposed use of a Pay for Success (PFS) strategy to achieve goals. This interim final rule established regulations for awarding a VEPFS grant, including the general process for awarding the grant, criteria and parameters for evaluating grant applications, priorities related to the award of a grant, and general requirements and guidance for administering a VEPFS grant program.
2900–AP35	Tiered Pharmacy Copayments for Medications.	The Department of Veterans Affairs (VA) proposes to amend its regulations concerning copayments charged to certain veterans for medication required on an outpatient basis to treat nonservice-connected conditions. This rulemaking would establish three classes of medications for copayment purposes, identified as Tier 1, Tier 2, and Tier 3. These tiers would distinguish in part based on whether the medications are available from multiple sources or a single source, with some exceptions. Copayment amounts would be fixed, and would be dependent upon the class of medication. For most veterans these copayment amounts would result in lower out-of-pocket costs, thereby encouraging greater adherence to prescribed medications and reducing the risk of fragmented care that results when veterans use multiple pharmacies to fill their prescriptions.
2900–AP57	Repayment by VA of Educational Loans for Certain Psychiatrists (Clay Hunt Act).	The Department of Veterans Affairs (VA) has added to its medical regulations a program for the repayment of educational loans for certain psychiatrists who agree to a period of obligated service with VA. This program is intended to increase the pool of qualified VA psychiatrists and increase veterans' access to mental health care.
2900–AO88	Per Diem Paid to States for Care of Eligible Veterans in State Homes.	The Department of Veterans Affairs (VA) proposed to reorganize, update (based on revisions to statutory authority), and clarify its regulations that govern paying per diem to State homes providing nursing home and adult day health care to eligible veterans. The reorganization will improve consistency and clarity throughout these State home programs. We believe that these proposed regulations will clarify current law and policy, which should improve and simplify the payment of per diem to State homes, and encourage participation in these programs. VA plans to finalize this proposal after considering public comments.
2900–AP60	Expanded Access to Non-VA Care Through the Veterans Choice Program (VCP).	The Department of Veterans Affairs (VA) revised its medical regulations that implement section 101 of the Veterans Access, Choice, and Accountability Act of 2014 (hereafter referred to as ''the Choice Act''), which requires VA to establish a program to furnish hospital care and medical services through eligible non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration (VHA) or who qualify based on their place of residence (hereafter referred to as ''the Veterans Choice Program'' or ''the Program''). These regulatory revisions are required by the most recent amendments to the Choice Act made by the Construction Authorization and Choice Improvement Act of 2014, and by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015. The Construction Authorization and Choice Improvement Act of 2014 amended the Choice Act to define additional criteria that VA may use to determine that a veteran's travel to a VA medical facility is an ''unusual or excessive burden,'' and the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 amended the Choice Act to cover all veterans enrolled in the VA health care system, remove the 60-day limit on an episode of care, modify the wait-time and 40-mile distance eligibility criteria, and expand provider eligibility based on criteria as determined by VA.
2900–AP44	Advanced Practice Registered Nurses ...	The Department of Veterans Affairs (VA) proposed to amend its medical regulations to permit full practice authority of all VA advanced practice registered nurses (APRNs) when they are acting within the scope of their VA employment. This rulemaking would increase veterans' access to VA health care by expanding the pool of qualified health care professionals who are authorized to provide primary health care and other related health care services to the full extent of their education, training, and certification, without the clinical supervision of physicians. This rule would permit VA to use its health care resources more effectively and in a manner that is consistent with the role of APRNs in the non-VA health care sector, while maintaining the patient-centered, safe, high-quality health care that veterans receive from VA. VA will finalize its proposal after considering public comments.

Retrospective Review of Existing Regulations

Consistent with guidance from section 6 of Executive Order 13563, VA identifies rules that are to be ''modified, streamlined, expanded, or repealed so as to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives.'' In addition, consistent with Executive Order 13610, initiatives that are discussed in those plans are identified below.

RIN	Title	Significantly reduce burdens on small businesses	Summary of rulemaking
Multiple RINs	Revise and Streamline VA Acquisition Regulation to Adhere to Federal Acquisition.	No	VA is proposing to amend VA Acquisition Regulation (VAAR) as part of a project to update the VAAR. Under this initiative all parts of the regulation are being reviewed and updated in phased increments to incorporate any new regulations or policies and to remove any procedural guidance that is internal to VA. This project aims to streamline the VAAR to implement and supplement the Federal Acquisition Regulation (FAR) only when required, and to eliminate internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations.
2900–AO53	Fiduciary Activities	No	VA proposes to amend its fiduciary program regulations, which govern the oversight of beneficiaries who, because of injury, disease, the infirmities of advanced age, or minority, are unable to manage their VA benefits, and the appointment and oversight of fiduciaries for these vulnerable beneficiaries. The proposed amendments would update and reorganize regulations consistent with current law, VA policies and procedures, and VA's reorganization of its fiduciary activities. They would also clarify the rights of beneficiaries in the program and the roles of VA and fiduciaries in ensuring that VA benefits are managed in the best interest of beneficiaries and their dependents.
Multiple RINs	VA Schedule for Rating Disabilities (With Specific Body System).	No	VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

VA

Proposed Rule Stage

101. Schedule for Rating Disabilities: the Genitourinary Diseases and Conditions

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.115; 38 CFR 4.115(a); 38 CFR 4.115(b).

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the Schedule for Rating Disabilities (VASRD) that addresses the genitourinary system. The purpose of this change is to update current medical terminology, incorporate medical advances that have occurred since the last review, and provide well-defined criteria in accordance with actual, standard medical clinical practice. The proposed rule reflects the most up-to-date medical knowledge and clinical practice of nephrology and urology specialties, as well as comments from subject matter experts and the public garnered during a public forum held January 27–28, 2011.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Dr. Jerry Hersh, Medical Officer, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9487, *Email: jerry.hersh@va.gov.*

RIN: 2900–AP16

VA

102. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V001, Parts 803, 814, 822)

Priority: Other Significant.

Legal Authority: 40 U.S.C. 121(c); 38 U.S.C. 501; 41 U.S.C. 1121(c)(3); . . .

CFR Citation: 48 CFR 801; 48 CFR 802; 48 CFR 803; 48 CFR 812; 48 CFR 814; 48 CFR 822; 48 CFR 852; 48 CFR 1.301 to 1.304; . . .

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its VA Acquisition Regulation (VAAR) to update the VAAR to current FAR requirements, thresholds, definitions, and titles; it provides new definitions, updated VA titles and offices; it corrects inconsistencies, removes redundancies and duplicate material already covered by the FAR; it deletes outdated material or information and appropriately renumbers VAAR text and clauses and provisions where required to comport with FAR format, numbering and arrangement; and, it provides VA acquisition regulations necessary to implement FAR policies and procedures within VA, as well as additional policies, procedures, solicitation provisions, or contract clauses that supplement the FAR to satisfy VA mission needs. This proposed rule revises VAAR parts 803, 814, and 822. Other revisions to the entirety of the affected parts are planned in later proposed rules when those parts are revised in full.

Statement of Need: The needed changes include proposing to remove an information collection burden from the VAAR because it is based on an outdated practice in providing bid envelopes. We propose to add additional definitions to ensure a common understanding and meaning of terms related to debarment and suspensions in the department. We are proposing to update the policy governing improper business practices and personal conflicts of interests and to clarify the language regarding the prohibition of contractors from making reference in its commercial advertising regarding VA contracts to avoid implying that the Government approves or endorses products or services.

Summary of Legal Basis: 38 U.S.C. 501, 40 U.S.C. 121(c), 41 U.S.C. 1121(c)(3), 48 CFR 301–1.304.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Ricky L. Clark, Senior Procurement Analyst, Department of Veterans Affairs, 425 I Street NW., Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov.*

RIN: 2900–AP50

VA

103. VA Homeless Providers Grant and Per Diem Program

Priority: Other Significant.

Legal Authority: 38 U.S.C. 501; 38 U.S.C. 2001; 38 U.S.C. 2011; 38 U.S.C. 2012; 38 U.S.C. 2061; 38 U.S.C. 2064

CFR Citation: 38 CFR 61.1; 38 CFR 61.5; 38 CFR 61.33; 38 CFR 61.61.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its regulations concerning the VA Homeless Providers Grant and Per Diem Program (GPD). These amendments would provide GPD with increased flexibility to: (1) Respond to the changing needs of homeless veterans; (2) repurpose existing and future funds more efficiently; and (3) allow grant providers the ability to add, modify, or eliminate components of funded programs. We are proposing these amendments to better serve our homeless veteran population and the grantees who serve them.

Statement of Need: The Department of Veterans Affairs (VA) proposes to amend its regulations concerning the VA Homeless Providers Grant and Per Diem Program (GPD) to better serve our homeless veteran population and the grantees who serve them. For example, VA is proposing to increase flexibility for transitioning homeless veterans into permanent housing, such as by recognizing ''bridge housing'', a short-term housing option for veterans who have accepted a permanent housing placement that is not immediately available.

Summary of Legal Basis: 38 U.S.C. 501, 2001, 2011, 2012, 2061 and 2064.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Guy A. Liedke, Program Specialist, Department of Veterans Affairs, Grant and Per Diem Field Office, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 877 332–0334, *Fax:* 813 979–3569, *Email: guy.liedke@med.va.gov.*

RIN: 2900–AP54

VA

104. Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V005, Parts 812, 813)

Priority: Other Significant.

Legal Authority: 40 U.S.C. 121(c)

CFR Citation: 48 CFR 1.3; 48 CFR 812; 48 CFR 813; 48 CFR 852.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) is proposing to amend its VA Acquisition Regulation (VAAR) as part of a project to update the VAAR. Under this initiative, all parts of the regulation are being reviewed and updated in phased increments to incorporate any new regulations or policies and to remove any procedural guidance that is internal to the VA. This project aims to streamline the VAAR to implement and supplement the Federal Acquisition Regulation (FAR) only when required, and to eliminate internal agency guidance in keeping with the FAR principles concerning agency acquisition regulations.

Statement of Need: The Department of Veterans Affairs (VA) is proposing to revise the VAAR to add new policy or regulatory requirements and to remove any guidance that is applicable only to VA's internal operating processes or procedures. FAR 1.302, Limitations, requires that agency acquisition regulations shall be limited only to those necessary to implement the FAR policies and procedures within the agency and to any additional information needed to supplement the FAR to satisfy the specific needs of the agency. The needed changes include proposing to delete paragraphs when adequately addressed in the FAR, add new subsections to clarify that FAR applies to specific parts, and to remove sections such as the section that deals with internal procedures for obtaining a waiver to tailor solicitations, to be inconsistent with customary commercial practice.

Summary of Legal Basis: 40 U.S.C. 121(c).

Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Agency Contact: Ricky L. Clark, Senior Procurement Analyst, Department of Veterans Affairs, 425 I Street NW., Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov.*
RIN: 2900–AP58

VA

105. Diseases Associated With Exposure to Contaminants in the Water Supply at Camp Lejeune

Priority: Economically Significant. Major under 5 U.S.C. 801.
Legal Authority: 38 U.S.C. 501(a)
CFR Citation: 38 CFR 3.307; 38 CFR 3.309.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) has proposed to amend its adjudication regulations relating to presumptive service connection to add certain diseases associated with contaminants present in the base water supply at U.S. Marine Corps Base Camp Lejeune (Camp Lejeune), North Carolina, from August 1, 1953 to December 31, 1987. The chemical compounds involved have been associated by various scientific organizations with the development of certain diseases. The proposed rule would establish that veterans, former reservists, and former National Guard members, who served at Camp Lejeune during this period, and who have been diagnosed with any of nine associated diseases, are presumed to have a service-connected disability for purposes of entitlement to VA benefits. In addition, VA would establish a presumption that these individuals were disabled during the relevant period of service, thus establishing active military service for benefit purposes. Under this presumption, affected former reservists and National Guard members have veteran status for purposes of entitlement to some VA benefits. This amendment implements a decision by the Secretary of Veterans Affairs that service connection on a presumptive basis is warranted for claimants who served at Camp Lejeune and later develop certain diseases. VA plans to finalize this proposal after considering public comments.
Statement of Need: VA is responding to health concerns based on potentially service-connected exposure to contaminants in the drinking water at Camp Lejeune. Environmental Protection Agency standards came out in the early 1980s. In 1982, the Marine Corps discovered elevated levels of the VOCs in two of the eight on-base water supply systems at Camp Lejeune. These water systems served housing, administrative, and recreational facilities, as well as the base hospital.
Summary of Legal Basis: 38 U.S.C. 501(a).
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
NPRM	09/09/16	81 FR 62419
NPRM Comment Period End.	10/11/16	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
URL For Public Comments: www.regulations.gov.
Agency Contact: Eric Mandle, Policy Analyst, Regulations Staff (211D), Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9694, *Email: eric.mandle@va.gov.*
RIN: 2900–AP66

VA

106. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles VAAR Case 2014–V004 (Parts 811, 832)

Priority: Other Significant.
Legal Authority: 40 U.S.C. 121(c); 48 CFR 1.3
CFR Citation: 48 CFR 801; 48 CFR 811; 48 CFR 832; 48 CFR 852.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) is proposing to amend its VA Acquisition Regulation (VAAR) to update the VAAR to current FAR requirements, thresholds, definitions, and titles; it provides new definitions, updated VA titles and offices; it corrects inconsistencies, removes redundancies and duplicate material already covered by the FAR; it deletes outdated material or information and appropriately renumbers VAAR text and clauses and provisions where required to comport with FAR format, numbering and arrangement; and, it provides VA acquisition regulations necessary to implement FAR policies and procedures within VA, as well as additional policies, procedures, solicitation provisions, or contract clauses that supplement the FAR to satisfy VA mission needs.
Statement of Need: Included in the proposed changes that are needed are removing a significant portion of subpart 811.1, Selecting and Developing Requirements Documents, as it includes information that is redundant to the FAR. In addition, we propose to add a new section to implement the Office of Management and Budget's (OMB) Memorandum M–11–32, dated September 14, 2011, and to encourage making payments to small business contractors within 15 days of receipt of invoice.
Summary of Legal Basis: 40 U.S.C. 121(c), 48 CFR 1.3.
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
Agency Contact: Ricky L. Clark, Senior Procurement Analyst, Department of Veterans Affairs, 425 I Street NW., Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov.*
RIN: 2900–AP81

VA

107. • Revise and Streamline VA Acquisition Regulation To Adhere to Federal Acquisition Regulation Principles (VAAR Case 2014–V002, Parts 816, 828)

Priority: Other Significant.
Legal Authority: 40 U.S.C. 121(c); 48 CFR 1.3
CFR Citation: 48 CFR 816; 48 CFR 828; 48 CFR 852.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) is proposing to amend its VA Acquisition Regulation (VAAR) to update the VAAR to current FAR requirements, thresholds, definitions, and titles; it provides new definitions, updated VA titles and offices; it corrects

inconsistencies, removes redundancies and duplicate material already covered by the FAR; it deletes outdated material or information and appropriately renumbers VAAR text and clauses and provisions where required to comport with FAR format, numbering and arrangement; and, it provides VAARs necessary to implement FAR policies and procedures within VA, as well as additional policies, procedures, solicitation provisions, or contract clauses that supplement the FAR to satisfy VA mission needs. This proposed rule revises VAAR parts 816 and 828, and as a result of these changes revises small portions of VAAR part 852 (Solicitation provisions and contract clauses), as appropriate.

Statement of Need: The proposed needed changes include adding a section on consignment agreements which defines and describes the consignment agreement acquisition method used for satisfying the need for immediate and on-going requirements. We propose to remove the section, Letters of Availability, as that procurement method is no longer in use in VA. Also, we propose to revise the section, Insurance Under Fixed-Price Contracts, to clarify the provision prescription for when insurance is required for solicitations when utilizing term or continuing fixed priced contracts for ambulance, automobile and aircraft service.

Summary of Legal Basis: 40 U.S.C. 121(c), 48 CFR 1.3.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Ricky L. Clark, Senior Procurement Analyst, Department of Veterans Affairs, 425 I Street NW., Washington, DC 20001, *Phone:* 202 632–5276, *Email: ricky.clark@va.gov.*

RIN: 2900–AP82

VA

Final Rule Stage

108. Schedule for Rating Disabilities: The Hematologic and Lymphatic Systems

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.117.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (Rating Schedule) that addresses the hematologic and lymphatic systems. The intended effect of this change is to incorporate medical advances that have occurred since the last review, update medical terminology, add medical conditions not currently in the Rating Schedule, and refine criteria for further clarity and ease of rater application.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	08/06/15	80 FR 46888
NPRM Comment Period End.	10/05/15	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL For Public Comments: www.regulations.gov.

Agency Contact: Dr. Ioulia Vvedenskaya, Medical Officer, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9882, *Email: ioulia.vvedenskaya@va.gov.*

RIN: 2900–AO19

VA

109. Schedule for Rating Disabilities: The Endocrine System

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.119.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to revise the portion of the VA Schedule for Rating Disabilities (Rating Schedule) that addresses the endocrine system. The intended effect of this change is to update medical terminology, add medical conditions not currently in the Rating Schedule, revise the criteria to reflect medical advances since the last revision in 1996, and clarify the criteria.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	07/08/15	80 FR 39011
NPRM Comment Period End.	09/08/15	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL For Public Comments: www.regulations.gov.

Agency Contact: Dr. Ioulia Vvedenskaya, Medical Officer, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9882, *Email: ioulia.vvedenskaya@va.gov.*

RIN: 2900–AO44

VA

110. Fiduciary Activities

Priority: Other Significant.
Legal Authority: 38 U.S.C. 501; 38 U.S.C. 55; 38 U.S.C. 61; 38 U.S.C. 5502; 38 U.S.C. 5506–5510; 38 U.S.C. 6101; 38 U.S.C. 6106–6108; 38 U.S.C. 512; 38 U.S.C. 5301; 38 U.S.C. 5711; 38 U.S.C. 5504
CFR Citation: 38 CFR 13.10 to 13.600; 38 CFR 3.850 to 3.857; 38 CFR 3.353; 38 CFR 3.401, 3.403; 38 CFR 3.452 ; 38 CFR 3.500, 3.501.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) proposed to amend its fiduciary program regulations, which govern the oversight of beneficiaries who, because of injury, disease, the infirmities of advanced age, or minority, are unable to manage their VA benefits and the appointment and oversight of fiduciaries for these vulnerable beneficiaries. The proposed amendments would update and reorganize regulations consistent with current law, VA policies and procedures, and VA's reorganization of its fiduciary activities. They would also clarify the rights of beneficiaries in the program and the roles of VA and fiduciaries in ensuring that VA benefits are managed in the best interest of beneficiaries and their dependents.
Statement of Need: This final rule would amend VA fiduciary regulations, 38 CFR part 13, and removes 3.850 through 3.857 pertaining to fiduciary matters, from part 3. This amendment would implement the statutory provisions of 38 U.S.C. 55 and 61, reflect current VA policies, and prescribe the rights of beneficiaries and the roles of VA and fiduciaries in the fiduciary program.
Summary of Legal Basis: 38 U.S.C. chapters 55 and 61.
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
NPRM	01/03/14	79 FR 430
NPRM Comment Period End.	03/04/14	
Final Action	03/00/17	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
URL For Public Comments: *www.regulations.gov.*
Agency Contact: Savitri Persaud, Analyst, Pension and Fiduciary Service, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 632–8863, *Email:* *savitri.persaud@va.gov.*
RIN: 2900–AO53

VA

111. Per Diem Paid to States for Care of Eligible Veterans in State Homes

Priority: Other Significant
Legal Authority: 38 U.S.C. 101, 501 and 1710; 38 U.S.C. 1741 to 1743; 38 U.S.C. 1745; 38 U.S.C. 7104 and 7105; 42 U.S.C. 1395(cc)
CFR Citation: 38 CFR 51.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) proposed to reorganize, update (based on revisions to statutory authority), and clarify its regulations that govern paying per diem to State homes providing nursing home and adult day health care to eligible veterans. The reorganization will improve consistency and clarity throughout these State home programs. We believe that these proposed regulations will clarify current law and policy, which should improve and simplify the payment of per diem to State homes, and encourage participation in these programs. VA plans to finalize this proposal after considering public comments.
Statement of Need: The proposed reorganization would improve consistency and clarity throughout these State home programs. Currently, we require States to operate these programs exclusively using a medical supervision model. We expect that these liberalizing changes will result in an increase in the number of States that have adult day health care programs. Moreover, we proposed to eliminate the regulations governing per diem for State home hospitals because there are no longer any State home hospitals.
Summary of Legal Basis: 38 U.S.C. 101, 501, 1710, 1741 to 1743, 1745, 7104, 7105, and 42 U.S.C. 1395(cc).
Alternatives:
Anticipated Cost and Benefits:
Risks:
Timetable:

Action	Date	FR Cite
NPRM	06/17/15	80 FR 34793
NPRM; Correction and Clarification.	06/24/15	80 FR 36305
NPRM Comment Period End.	08/17/15	
Final Action	05/00/17	

Regulatory Flexibility Analysis Required: No.
Small Entities Affected: No.
Government Levels Affected: None.
URL For Public Comments: *www.regulations.gov.*
Agency Contact: Richard Allman, Chief Consultant, Geriatrics and Extended Care Services, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–6750.
RIN: 2900–AO88

VA

112. Schedule for Rating Disabilities; Dental and Oral Conditions

Priority: Other Significant.
Legal Authority: 38 U.S.C. 1155
CFR Citation: 38 CFR 4.150.
Legal Deadline: None.
Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (VASRD or rating schedule) that addresses dental and oral conditions. The purpose of these changes is to incorporate medical advances that have occurred since the last review, update current medical terminology, and provide clear evaluation criteria for application of this portion of the rating schedule. The proposed rule reflects advances in medical knowledge, recommendations from the Dental and Oral Conditions Work Group (''Work Group''), which is comprised of subject matter experts from both the Veterans Benefits Administration (VBA) and the Veterans Health Administration (VHA), and comments from experts and the public gathered as part of a public forum. The public forum, focusing on revisions to the dental and oral conditions section of the VASRD, was held on January 25–26, 2011.
Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public

has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	07/28/15	80 FR 44913
NPRM Comment Period End.	09/28/15	
Final Action	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Dr. Ioulia Vvedenskaya, Medical Officer, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9882, *Email:* *ioulia.vvedenskaya@va.gov.*

RIN: 2900–AP08

VA

113. Schedule for Rating Disabilities: Gynecological Conditions and Disorders of the Breast

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.116.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (VASRD or rating schedule) that addresses gynecological conditions and disorders of the breast. The purpose of these changes is to incorporate medical advances that have occurred since the last review, update current medical terminology, and provide clear evaluation criteria. The proposed rule reflects advances in medical knowledge, recommendations from the Gynecological Conditions and Disorders of the Breast Work Group (''Work Group''), which is comprised of subject matter experts from both the Veterans Benefits Administration (VBA) and the Veterans Health Administration (VHA), and comments from experts and the public gathered as part of a public forum. The public forum, focusing on revisions to the gynecological conditions and disorders of the breast section of the VASRD, was held on January 24, 2012.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	02/27/15	80 FR 10637
NPRM Comment Period End.	04/28/15	
Final Action	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Dr. Ioulia Vvedenskaya, Medical Officer, Department of Veterans Affairs, Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9882, *Email:* *ioulia.vvedenskaya@va.gov.*

RIN: 2900–AP13

VA

114. Schedule for Rating Disabilities: The Organs of Special Sense and Schedule of Ratings—Eye

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.77; 38 CFR 4.78; 38 CFR 4.79.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (VASRD or rating schedule) that addresses the organs of special sense and schedule of ratings—eye. The purpose of these changes is to incorporate medical advances that have occurred since the last review, update current medical terminology, and provide clear evaluation criteria. The proposed rule reflects advances in medical knowledge, recommendations from the National Academy of Sciences (NAS), and comments from subject matter experts and the public garnered as part of a public forum. The public forum, focusing on revisions to the organs of special sense and schedule of ratings for eye disabilities, was held on January 19–20, 2012.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	06/09/15	80 FR 32513
NPRM Comment Period End.	08/10/15	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for public comments: *www.regulations.gov.*

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Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–9698, *Email: gary.reynolds3@va.gov.*

RIN: 2900–AP14

VA

115. Schedule for Rating Disabilities: Skin Conditions

Priority: Other Significant.

Legal Authority: 38 U.S.C. 1155

CFR Citation: 38 CFR 4.118.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposes to amend the portion of the VA Schedule for Rating Disabilities (VASRD or Rating Schedule) that addresses skin conditions. The purpose of these changes is to incorporate medical advances that have occurred since the last review, update current medical terminology, and provide clear evaluation criteria. The proposed rule reflects advances in medical knowledge, recommendations from the Skin Disorders Work Group (Work Group), which is comprised of subject matter experts from both the Veterans Benefits Administration and the Veterans Health Administration, and comments from experts and the public gathered as part of a public forum. The public forum, focusing on revisions to the skin conditions section of the VASRD, was held in January 2012.

Statement of Need: VA is updating its Schedule for Rating Disabilities (VASRD, or Rating Schedule) to better reflect modern medicine. The VASRD, which is part 4 of title 38, Code of Federal Regulations, governs how claims processors evaluate the severity of disabilities. While VA has routinely updated parts of the VASRD, this proposal is the first time VA is working to update the entire VASRD since 1945. In 2009, a formal project management plan was created to outline how to update the VASRD. A working group of specialized physicians (VA and non-VA), stakeholders, and claims processors reviews each of the 15 body systems and provides analysis to assist VA in developing updates. The public has 60 days to provide VA with comments. VA will introduce the proposed updates to the VASRD incrementally and is committed to an update of the entire VASRD.

Summary of Legal Basis: 38 U.S.C. 1155.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	08/12/16	81 FR 53353
NPRM Comment Period End.	10/11/16	
Final Action	07/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov.*

URL for Public Comments: *www.regulations.gov.*

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RIN: 2900–AP27

VA

116. Tiered Pharmacy Copayments for Medications

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 38 U.S.C. 501

CFR Citation: 38 CFR 17.110.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) adopts as a final rule, with changes, a proposal to amend its regulations concerning copayments charged to certain veterans for medication required on an outpatient basis to treat nonservice-connected conditions. This rulemaking establishes three classes of medications for copayment purposes, identified as Tier 1, Tier 2, and Tier 3. These tiers are distinguished in part based on whether the medications are available from multiple sources or a single source, with some exceptions. Copayment amounts are fixed and would vary depending upon the class of medication. The following medication copayment amounts are applicable on the effective date of this final rule: $5 for a 30-day or less supply of a Tier 1 medication, $8 for a 30-day or less supply of a Tier 2 medication, and $11 for a 30-day or less supply of a Tier 3 medication.

Statement of Need: This rulemaking will result in lower out-of-pocket costs for most veterans, thereby encouraging greater adherence to prescribed medications and reducing the risk of fragmented care that results when veterans use multiple pharmacies to fill their prescriptions.

Summary of Legal Basis: 38 U.S.C. 501.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	01/05/16	81 FR 196
NPRM Comment Period End.	03/07/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Kristin Cunningham, Chief, Business Office (16), Department of Veterans Affairs, Veterans Health Administration, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–1599, *Email: kristin.cunningham@va.gov.*

RIN: 2900–AP35

VA

117. Advanced Practice Registered Nurses

Priority: Other Significant.

Legal Authority: 38 U.S.C. 7301; 38 U.S.C. 7304; 38 U.S.C. 7402; 38 U.S.C. 7403; 38 U.S.C. 501; . . .

CFR Citation: 38 CFR 17.415.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) proposed to amend its medical regulations to permit full practice authority of all VA advanced practice registered nurses (APRNs) when they are acting within the scope of their VA employment. This rulemaking would increase veterans' access to VA health care by expanding the pool of qualified health care professionals who are authorized to provide primary health care and other related health care services to the full extent of their education, training, and certification, without the clinical supervision of physicians. This rule would permit VA to use its health care resources more effectively and in a manner that is consistent with the role of APRNs in the non-VA health care sector, while maintaining the patient-centered, safe, high-quality health care that veterans receive from VA.

Statement of Need: The Department of Veterans Affairs (VA) is proposing to amend its medical regulations to remove barriers to the full practice authority of all VA advanced practice registered nurses (APRNs) when they are acting within the scope of their VA employment. This rulemaking would increase veterans' access to VA health care by expanding the pool of qualified health care professionals who are fully authorized to provide comprehensive primary health care and other related

health care services to veterans. This rule would permit VA to use its health care resources more effectively and in a manner that is consistent with the non-VA health care sector, while maintaining the patient-centered, safe, high quality health care that veterans receive from VA.

Summary of Legal Basis: 38 U.S.C. 7301, 7304, 7402 and 7403.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	05/25/16	81 FR 33155
NPRM Comment Period End.	07/25/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Federalism: Undetermined.

Agency Contact: David J. Shulkin, Under Secretary for Health, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, *Phone:* 202 461–7000.

RIN: 2900–AP44

VA

118. Expanded Access to Non-VA Care Through The Veterans Choice Program

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: Sec. 101 Pub. L. 113–146, 128 stat. 1754; sec. 4005 Pub. L. 114–41, 129 stat. 443; 38 U.S.C. 501

CFR Citation: 38 CFR 17.1505; 38 CFR 17.1510; 38 CFR 17.1525; 38 CFR 17.1530.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) revised its medical regulations that implement section 101 of the Veterans Access, Choice, and Accountability Act of 2014 (hereafter referred to as ''the Choice Act''), which requires VA to establish a program to furnish hospital care and medical services through eligible non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration (VHA) or who qualify based on their place of residence (hereafter referred to as the ''Veterans Choice Program'' or ''the Program''). These regulatory revisions are required by the most recent amendments to the Choice Act made by the Construction Authorization and Choice Improvement Act of 2014, and by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.

Statement of Need: The Department of Veterans Affairs (VA) amends its medical regulations concerning its authority for eligible veterans to receive care from non-VA entities and providers as required by certain new laws. The Veterans Access, Choice, and Accountability Act of 2014 (the Choice Act) directs VA to establish a program to furnish hospital care and medical services through non-VA care health care providers. The Construction Authorization and Choice Improvement Act defined additional criteria to determine that a veteran's travel to a VA medical facility is an unusual or excessive burden, and the Surface Transportation and Veterans Health Care Choice Improvement Act added further requirements.

Summary of Legal Basis: Pub. L. 113–146, section 101 (38 U.S.C. 1701 note); Pub. L. 114–19, section 3(a)(2); Pub. L. 114–41, section 4005.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/01/15	80 FR 74991
Interim Final Rule Effective.	12/01/15	
Interim Final Rule Comment Period End.	03/30/16	
Interim Final Rule; Correcting Amendment.	04/25/16	81 FR 24026
Final Rule	09/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for More Information: *www.regulations.gov*.

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RIN: 2900–AP60

VA

119. Veterans Employment Pay For Success Grant Program

Priority: Other Significant.

Legal Authority: 38 U.S.C. 501; 38 U.S.C. 3119; 38 U.S.C. 501(a), ch 31; 38 U.S.C. 501(a), ch 18

CFR Citation: 38 CFR 21.440 to 21.449.

Legal Deadline: None.

Abstract: The Department of Veterans Affairs (VA) established a grant program (Veterans Employment Pay for Success (VEPFS)) under the authority of 38 U.S.C. 3119 to award grants to eligible entities to fund projects that are successful in accomplishing employment rehabilitation for Veterans with service-connected disabilities. VA will award grants on the basis of an eligible entity's proposed use of a Pay for Success (PFS) strategy to achieve goals. This interim final rule established regulations for awarding a VEPFS grant, including the general process for awarding the grant, criteria and parameters for evaluating grant applications, priorities related to the award of a grant, and general requirements and guidance for administering a VEPFS grant program.

Statement of Need: There is a need to find new, innovative methods for rehabilitating Veterans with compensable service-connected disabilities who qualify for benefits under VA's Vocational Rehabilitation & Employment (VR&E) program so that they become employable and are ultimately able to obtain and maintain suitable employment. Through Pay For Success (PFS) grant programs, which may serve various Veteran populations including those Veterans with noncompensable service-connected disabilities who do not qualify for VR&E benefits, we hope to obtain information to establish new, innovative methods for rehabilitating Veterans who qualify for VR&E benefits. PFS offers an economical mechanism, which can save taxpayers' money, for exploring the resources and techniques that are available for rehabilitating Veterans with service-connected disabilities with regard to employment.

Summary of Legal Basis: 38 U.S.C. 501, 3119.

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/16	81 FR 52770
Interim Final Rule Effective.	08/10/16	
Interim Final Rule Comment Period End.	10/11/16	
Final Action	03/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 2900–AP72

BILLING CODE 8320–01–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

FY 2017 Regulatory Plan

Statement of Regulatory and Deregulatory Priorities

The Architectural and Transportation Barriers Compliance Board (Access Board) is an independent federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792). The Access Board is responsible for developing accessibility guidelines and standards under various laws to ensure that individuals with disabilities have access to and use of buildings and facilities, transportation vehicles, information and communication technology, and medical diagnostic equipment. Other federal agencies adopt the accessibility guidelines and standards issued by the Access Board as mandatory requirements for entities under their jurisdiction.

This plan highlights five rulemaking priorities for the Access Board in FY 2017: (A) Information and Communication Technology Accessibility Standards and Guidelines; (B) Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles; (C) Medical Diagnostic Equipment Accessibility Standards; (D) Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way; and (E) Passenger Vessel Accessibility Guidelines. The guidelines and standards would enable individuals with disabilities to achieve greater participation in our society, independent living, and economic self-sufficiency, and would promote our national values of equity, human dignity, and fairness, the benefits of which are difficult to quantify.

The rulemakings are summarized below.

A. Information and Communication Technology Accessibility Standards and Guidelines (RIN: 3014–AA37)

This rulemaking would update in a single document the accessibility standards for electronic and information technology covered by section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794d) (Section 508), and the accessibility guidelines for telecommunications equipment and customer premises equipment covered by section 255 of the Communications Act of 1934 (47 U.S.C. 255) (Section 255). Section 508 requires the Federal Acquisition Regulatory Council (FAR Council) and each appropriate federal department or agency to revise their procurement policies and directives no later than 6 months after the Access Board's publication of standards. The FAR Council has incorporated the accessibility standards for electronic and information technology in the Federal Acquisition Regulation (48 CFR Chapter 1). Under section 255, the Federal Communications Commission (FCC) is responsible for issuing implementing regulations and enforcing section 255. The FCC has promulgated enforceable standards (47 CFR parts 6 and 7) implementing section 255 that are consistent with the Access Board's accessibility guidelines for telecommunications equipment and customer premises equipment.

The Access Board's 2010 ANPRM included a proposal to amend section 220 of the Americans with Disabilities Act Accessibility Guidelines (ADAAG), but, based on public comments, the ADAAG proposal is no longer included in this rulemaking and will be pursued separately at a later date.

A.1. *Statement of Need:* The Access Board issued the Electronic and Information Technology Accessibility Standards in 2000 (65 FR 80500, December 21, 2000), and the Telecommunications Act Accessibility Guidelines for telecommunications equipment and customer premises equipment in 1998 (63 FR 5608, February 3, 1998). Since the standards and the guidelines were issued, technology has evolved and changed. Telecommunications products and electronic and information technology products have converged. For example, smartphones can perform many of the same functions as computers. Real time text technologies and video relay services are replacing TTY's (text telephones). The Access Board is updating the standards and guidelines together to address changes in technology and to make them consistent.

A.2. *Summary of the Legal Basis:* Section 508 and Section 255 require the Access Board to develop accessibility standards for electronic and information technology and accessibility guidelines for telecommunications equipment and customer premises equipment, and to periodically review and update the standards and guidelines to reflect technological advances and changes.

Section 508 requires that when developing, procuring, maintaining, or using electronic and information technology, each federal department or agency must ensure, unless an undue burden would be imposed on the department or agency, that electronic and information technology (regardless of the type of medium) allows individuals with disabilities to have access to and use of information and data that is comparable to the access and use of the information and data by others without disabilities. Section 255 requires telecommunications manufacturers to ensure that telecommunications equipment and customer premises equipment are designed, developed, and fabricated to be accessible to and usable by individuals with disabilities when it is readily achievable to do so.

A.3. *Alternatives:* The Access Board established a Telecommunications and Electronic and Information Technology Advisory Committee to recommend changes to the existing standards and guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives from industry, disability groups, and government agencies from the U.S., the European Commission, Canada, Australia, and Japan. Recognizing the importance of standardization across markets worldwide, the advisory committee coordinated its work with standard-setting bodies in the U.S. and abroad, such as the World Wide Web Consortium (W3C). The Access Board expects that the Information and Communication Technology Standards and Guidelines will have international influences. The Access Board first published Advance Notices of Proposed Rulemaking (ANPRMs) in the **Federal Register** in 2010 and 2011 requesting public comments on draft updates to the standards and guidelines (75 FR 13457, March 22, 2010; and 76 FR 76640, December 8, 2011). The NPRM was published in the **Federal Register** on February 27, 2015 (80 FR 10880). The comment period closed on May 28, 2015. The proposed rule, comments on the proposed rule, records and transcripts from three public hearings, and the preliminary regulatory impact analysis are available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2015-0002*. The final rule will address and incorporate comments submitted in response to the NPRM.

A.4. *Anticipated Costs and Benefits:* The Access Board worked with a contractor to assess costs and benefits and prepare a preliminary regulatory impact assessment to accompany the NPRM. Baseline cost estimates of complying with Section 508 and Section 255 are made, and incremental costs

due to the revised or new requirements are estimated for federal agencies and telecommunications equipment manufacturers. Anticipated benefits are also numerous, including hard-to quantify benefits such as increased ability for people with disabilities to obtain information and conduct transactions electronically. The Access Board will prepare a final regulatory impact assessment to accompany the final rule, which will incorporate information received from commenters to the NPRM.

B. Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles (RIN: 3014–AA38)

This rulemaking would update the accessibility guidelines for buses, over-the-road buses, and vans covered by the Americans with Disabilities Act (ADA). The accessibility guidelines for other transportation vehicles covered by the ADA, including vehicles operated in fixed guideway systems (*e.g.,* rapid rail, light rail, commuter rail, high speed rail and intercity rail) would be updated in a future rulemaking. The guidelines ensure that transportation vehicles covered by the ADA are readily accessible to and usable by individuals with disabilities. The U.S. Department of Transportation (DOT) has issued enforceable standards (49 CFR part 37) that apply to the acquisition of new, used, and remanufactured transportation vehicles, and the remanufacture of existing transportation vehicles covered by the ADA. DOT is expected to update its standards in a separate rulemaking to be consistent with the updated guidelines.

B.1. *Statement of Need:* The Access Board issued the ADA Accessibility Guidelines for Transportation Vehicles in 1991, and amended the guidelines in 1998 to include additional requirements for over-the-road buses. Level boarding bus systems were introduced in the U.S. after the 1991 guidelines were issued. We are revising the 1991 guidelines to include new requirements for level boarding bus systems, automated stop and route announcements, and other changes.

B.2. *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.) Bus rapid transit systems, including level boarding bus systems, that provide public transportation services, are covered by the ADA.

The Access Board is required by the ADA and the Rehabilitation Act to establish and maintain guidelines for the accessibility standards adopted by DOT for transportation vehicles acquired or manufactured by entities covered by the ADA. Compliance with the new guidelines is not required until DOT revises its accessibility standards for transportation vehicles acquired or remanufactured by entities covered by the ADA to be consistent with the new guidelines.

B.3. *Alternatives:* The Access Board issued a Notice of Proposed Rulemaking to revise the 1991 guidelines for buses, over-the-road buses, and vans in 2010 (75 FR 43748, July 26, 2010). The proposed rule, comments on the proposed rule, transcripts from public hearings and an information meeting, and other related documents are available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2010-0004*. The final rule will address and incorporate comments submitted in response to the NPRM.

B.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a report entitled ''Cost Estimates for Automated Stop and Route Announcements'' (July 2010), which is available on the agency Web site (*www.access-board.gov*) and the rulemaking docket. A final regulatory assessment will be prepared to accompany the final rule. The final regulatory assessment will evaluate estimated incremental costs for new or revised requirements for buses, over-the-road buses, and vans in the final rule, as well as provide a description of qualitative benefits. It is anticipated that this rule will improve access to wheeled transportation vehicles for persons who have mobility disabilities, persons who have difficulty hearing or are deaf, and persons who have difficulty seeing or are blind to make better use of transportation services.

C. Medical Diagnostic Equipment Accessibility Standards (RIN: 3014–AA40)

The Access Board plans to issue a final rule establishing accessibility standards for medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals. The standards will contain minimum technical criteria to ensure that medical diagnostic equipment, including examination tables, examination chairs, weight scales, mammography equipment, and other imaging equipment used by health care providers for diagnostic purposes are accessible to and usable by individuals with disabilities. The Access Board published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** in 2012 (77 FR 6916, February 9, 2012).

C.1. *Statement of Need:* A national survey of a diverse sample of individuals with a wide range of disabilities, including mobility and sensory disabilities, showed that the respondents had difficulty getting on and off examination tables and chairs, radiology equipment and weight scales, and experienced problems with physical comfort, safety and communication. Focus group studies of individuals with disabilities also provided information on barriers that affect the accessibility and usability of various types of medical diagnostic equipment. The national survey and focus group studies are discussed in the NPRM.

C.2. *Summary of the Legal Basis:* Section 4203 of the Patient Protection and Affordable Care Act (Pub. L. 111–148, 124 Stat. 570) amended title V of the Rehabilitation Act, which establishes rights and protections for individuals with disabilities, by adding section 510 to the Rehabilitation Act (29 U.S.C. 794f) (Section 510). Section 510 requires the Access Board, in consultation with the Commissioner of the Food and Drug Administration (FDA), to develop standards that contain minimum technical criteria to ensure that medical diagnostic equipment used in or in conjunction with medical settings such as physicians' offices, clinics, emergency rooms, and hospitals are accessible to and usable by individuals with disabilities.

Section 510 does not address who is required to comply with the standards. However, the Americans with Disabilities Act requires health care providers to provide individuals with disabilities full and equal access to their health care services and facilities. The U.S. Department of Justice (DOJ) is responsible for issuing regulations to implement the Americans with Disabilities Act and enforcing the law. The NPRM discusses DOJ activities related to health care providers and medical diagnostic equipment.

C.3. *Alternatives:* The Access Board worked with the FDA and DOJ in developing the standards. The Access Board considered the Association for the Advancement of Medical

Instrumentation's ANSI/AAMI HE 75:2009, ''Human factors engineering-Design of medical devices,'' which includes recommended practices to provide accessibility for individuals with disabilities. The Access Board also established a Medical Diagnostic Equipment Accessibility Standards Advisory Committee that included representatives from the disability community and manufacturers of medical diagnostic equipment to make recommendations on issues raised in public comments and responses to questions in the NPRM. The Advisory Committee report, completed in December 2013, is available at *http://www.access-board.gov/guidelines-and-standards/health-care/about-this-rulemaking/advisory-committee-final-report*. The final rule will be based recommendations of the advisory committee, and will also address and incorporate comments submitted in response to the NPRM.

C.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a preliminary regulatory assessment of the proposed MDE standards. The Access Board is working on a final regulatory assessment, which will evaluate the incremental costs and benefits of the final rule from quantitative and qualitative perspectives as information permits. It is anticipated that the final MDE standards will address many of the barriers that have been identified as affecting the accessibility and usability of diagnostic equipment by individuals with disabilities. The standards aim to facilitate independent transfers by individuals with disabilities onto and off of diagnostic equipment, and enable them to maintain their independence, confidence, and dignity, lessening the need for health care personnel to assist individuals with disabilities when transferring on and off of diagnostic equipment. The standards also are expected to improve the quality of health care for individuals with disabilities and ensure that they receive examinations, diagnostic procedures, and other health care services equivalent to those received by individuals without disabilities.

D. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way (RIN: 3014–AA26)

The rulemaking would establish accessibility guidelines to ensure that sidewalks and pedestrian facilities in the public right-of-way are accessible to and usable by individuals with disabilities. A Supplemental Notice of Proposed Rulemaking consolidated this rulemaking with RIN 3014–AA41; accessibility guidelines for shared use paths (which are multi-use paths designed primarily for use by bicyclists and pedestrians—including persons with disabilities—for transportation and recreation purposes). The U.S. Department of Justice, U.S. Department of Transportation, and other federal agencies are expected to adopt the accessibility guidelines for pedestrian facilities in the public right-of way and for shared use paths, as enforceable standards in separate rulemakings for the construction and alteration of facilities covered by the Americans with Disabilities Act, section 504 of the Rehabilitation Act, and the Architectural Barriers Act.

D.1. *Statement of Need:* While the Access Board has issued accessibility guidelines for the design, construction, and alteration of buildings and facilities covered by the Americans with Disabilities Act (ADA) and the Architectural Barriers Act (ABA) (36 CFR part 1191), these guidelines were developed primarily for buildings and facilities on sites. Some of the provisions in these guidelines can be readily applied to pedestrian facilities in the public right-of-way such as curb ramps. However, other provisions need to be adapted or new provisions developed for pedestrian facilities that are built in the public right-of-way as well as shared use paths.

D.2. *Summary of the Legal Basis:* Section 502(b)(3) of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 792(b)(3), requires the Access Board to establish and maintain minimum guidelines for the standards issued by other agencies pursuant to the ADA and ABA. In addition, section 504 of the ADA, 42 U.S.C. 12204, required the Access Board to issue accessibility guidelines for buildings and facilities covered by that law.

D.3. *Alternatives:* The Access Board established a Public Rights-of-Way Access Advisory Committee to make recommendations for the guidelines. The advisory committee was comprised of a broad cross-section of stakeholders, including representatives of state and local government agencies responsible for constructing facilities in the public right-of-way, transportation engineers, disability groups, and bicycling and pedestrian organizations. The Access Board released two drafts of the guidelines for public comment, an NPRM (76 FR 44664, July 11, 2011) based on the advisory committee report and public comments on the draft guidelines, and a supplemental notice of proposed rulemaking (SNPRM) regarding shared use paths (78 FR 10110, February 13, 2013). The final rule will address and incorporate comments submitted in response to the NPRM and SNPRM.

D.4. *Anticipated Costs and Benefits:* In conjunction with the NPRM, the Access Board published a preliminary regulatory assessment of the proposed accessibility guidelines for pedestrian facilities in the public right-of-way, which is available in the rulemaking docket at *http://www.regulations.gov/#!docketDetail;D=ATBCB-2011-0004*. The Access Board identified four provisions in the NPRM that were expected to have more than minimal monetary impacts on state and local governments. Three of these four requirements are related to: (1) Detectable warning surfaces on newly constructed and altered curb ramps and blended transitions at pedestrian street crossings; (2) accessible pedestrian signals and pushbuttons when pedestrian signals are newly installed or replaced at signalized intersections; and (3) pedestrian activated signals at roundabouts with multi-lane pedestrian crossings. In addition, the fourth requirement for provision of a 2 percent maximum cross slope on pedestrian access routes within pedestrian street crossings with yield or stop control was estimated to have more than minimal monetary impacts on state and local governments when constructing roadways with pedestrian crossings in hilly areas. The NPRM included questions requesting information to assess the costs and benefits of these provisions, as well as other provisions that may have cost impacts. The Access Board will prepare a final regulatory impact assessment to accompany the final rule based on information provided in response to questions in the NPRM and other sources.

E. Americans with Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels (RIN: 3014–AA11)

The rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans with Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

E.1. *Statement of Need:* Section 504 of the ADA requires the Access Board to issue accessibility guidelines for the construction and alteration of passenger vessels covered by the law to ensure that the vessels are readily accessible to

and usable by individuals with disabilities (42 U.S.C. 12204).

E.2. *Summary of the Legal Basis:* Title II of the ADA applies to state and local governments and title III of the ADA applies to places of public accommodation operated by private entities. The ADA covers designated public transportation services provided by state and local governments and specified public transportation services provided by private entities that are primarily engaged in the business of transporting people and whose operations affect commerce. (See 42 U.S.C. 12141 to 12147 and 12184.)

Titles II and III of the ADA require the DOT and DOJ to issue accessibility standards for the construction and alteration of passenger vessels covered by the law that are consistent with the guidelines issued by the Access Board. (See 42 U.S.C. 12134(c), 12149(b), 12186(c).) The DOT has reserved a subpart in its ADA regulations for accessibility standards for passenger vessels in anticipation of the Access Board issuing these guidelines. (See 49 CFR part 39, subpart E.) Once DOT and DOJ issue accessibility standards for the construction and alteration of passenger vessels covered by the ADA, vessel owners and operators are then required to comply with the standards.

E.3. *Alternatives:* In developing the proposed accessibility guidelines, the Access Board has received and considered extensive input from passenger vessel owners and operators, individuals with disabilities, and other interested parties for more than a decade. The Access Board convened an advisory committee comprised of passenger vessel industry trade groups, passenger vessel owners and operators, disability advocacy groups, and state and local government agencies to advise how to develop the accessibility guidelines. The committee submitted its report to the Access Board in 2000. In addition, over the years, the Access Board issued an ANPRM and three versions of draft accessibility guidelines and conducted in-depth case studies on various passenger vessels. The Access Board solicited and analyzed public comments on these documents in developing the proposed guidelines and regulatory impact analysis. All the published documents together with public comments are available at: *http://www.access-board.gov*.

E.4. *Anticipated Costs and Benefits:* The proposed guidelines would address the discriminatory effects of architectural, transportation, and communication barriers encountered by individuals with disabilities on passenger vessels. The estimated compliance costs for certain types of vessels include: (1) The incremental impact of constructing a vessel in compliance with the guidelines; and (2) any additional costs attributable to the operation and maintenance of accessible features. For certain large cruise ships, the compliance costs would include loss of guest rooms and gross revenues attributed to a proposed requirement for a minimum number of guest rooms that provide mobility features. The proposed guidelines would significantly benefit individuals with disabilities by affording them equal opportunity to travel on passenger vessels for employment, transportation, public accommodation, and leisure. Other benefits, which are difficult to quantify, include equity, human dignity, and fairness values.

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ENVIRONMENTAL PROTECTION AGENCY (EPA)

Statement of Priorities

Overview

For more than 40 years, the U.S. Environmental Protection Agency (EPA) has worked to protect people's health and the environment. By taking advantage of the best thinking, the newest technologies and the most cost-effective, sustainable solutions, EPA and its Federal, tribal, State, local, and community partners have made important progress to address pollution where people live, work, play, and learn. From cleaning up contaminated waste sites to reducing greenhouse gases, mercury and other air emissions, to investing in water and wastewater treatment, the American people have seen and felt tangible benefits to their health and surroundings. Efforts to reduce air pollution alone have produced hundreds of billions of dollars in benefits in the United States.

To keep up this momentum in the coming year, EPA will use regulatory authorities, along with grant- and incentive-based programs, technical and compliance assistance and tools, research and educational initiatives to address the priorities set forth in EPA' Strategic Plan:

- Addressing Climate Change and Improving Air Quality
- Protecting America's Waters
- Cleaning up Communities and Advancing Sustainable Development
- Ensuring the Safety of Chemicals and Preventing Pollution
- Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

All of this work will be undertaken with a strong commitment to science, law and transparency.

Highlights of EPA'S Regulatory Plan

EPA's more than 40 years of protecting public health and the environment demonstrates our nation's commitment to reducing pollution that can threaten the air we breathe, the water we use and the communities we live in. This Regulatory Plan contains information on some of our most important upcoming regulatory actions. As always, our Semiannual Regulatory Agenda contains information on a broader spectrum of EPA's upcoming regulatory actions.

Guiding Priorities

The EPA's success depends on supporting innovation and creativity in both what we do and how we do it. To guide the agency's efforts, the Agency has established several guiding priorities. These priorities are enumerated in the list that follows, along with recent progress and future objectives for each.

Goal 1: Addressing Climate Change and Improving Air Quality

The Agency will continue to deploy existing regulatory tools where appropriate and warranted. Using the Clean Air Act, EPA will continue to develop standards, as appropriate, for both mobile and stationary sources, to reduce emissions of greenhouse gases and other pollutants, including sulfur dioxide, particulate matter, nitrogen oxides, and toxics.

Greenhouse Gas Emissions from Power Plants. As part of the President's Climate Action Plan, in July 2015, the EPA promulgated the Clean Power Plan final rules setting guidelines for states to follow in reducing carbon emissions from existing power plants, as well as finalizing emission standards for new plants. On February 9, 2016, the Supreme Court stayed implementation of these standards and guidelines pending judicial review. The Court's decision was not on the merits of the rules.

For the states that choose to continue to work to cut carbon pollution from power plants and seek the Agency's guidance and assistance, EPA will continue to provide tools and support, including issuing Model Trading Rules as a tool for states to use in developing plans that achieve carbon reductions. These Model Trading Rules were proposed in July 2015, and will be finalized in late 2016. The Clean Energy Incentive Program (CEIP), which was

proposed in 2016, will be finalized in 2017.

Renewable Fuels. The Clean Air Act requires EPA to promulgate regulations that specify the annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: Cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. In May of 2016, EPA issued a proposal to set the applicable volumes for all renewable fuel categories for 2017 and the BBD standard for 2018. EPA will finalize that rule in late 2016. EPA also intends to propose RFS volume requirements for 2018 and the 2019 BBD standard in May of 2017. Also in 2016, EPA proposed to make numerous changes to promote the production of renewable fuels and clarify certain requirements under the RFS program. When finalized in early 2017, that action will provide substantial additional flexibility for ethanol flex fuel producers that accommodate current market realities while continuing to ensure that flex fuel quality is consistent with controlling pollution when used in flexible fuel vehicles.

Implementing Air Quality Standards. The National Ambient Air Quality Standards (NAAQS) for ozone were strengthened in 2015, and EPA is developing an implementation rule to help states implement those standards. This rule, which will also cover ozone classifications, will be proposed late in 2016 and finalized in 2017.

Emissions from Aircraft. In 2017, EPA plans to issue a proposed finding, under Clean Air Act section 231, to determine whether lead emissions from aircraft operating on leaded fuel cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare.

Radiation Protection. In the fall of 2016, EPA will issue final rules to protect public health, safety and the environment from radiological hazards associated with uranium processing. The first of these rules, under Clean Air Act section 112, establishes standards or management practices to limit air emissions of radon from uranium byproduct material or tailings. The second rule, under the Uranium Mill Tailings Radiation Control Act, establishes groundwater restoration and monitoring requirements for uranium in-situ recovery, which is now the dominant form of uranium recovery in the United States.

Goal 2: Protecting America's Waters

Despite considerable progress, America's waters remain at risk. Water quality protection programs face complex challenges: An aging national water infrastructure, widespread nutrient pollution, stormwater runoff and threats to drinking water safety. These challenges require both traditional and innovative strategies.

Lead and Copper NPDWR Revisions (LCR). The Lead and Copper Rule, promulgated in 1991, has resulted in substantial reductions in lead in drinking water. This critically important rule, however, is now 25 years old and is in need of substantive revisions to strengthen the rule's protections for public health. EPA has conducted extensive engagement with state, tribal and local government representatives, stakeholder groups and the public to obtain input to inform revisions to the LCR. Most recently, EPA received comprehensive recommendations from the National Drinking Water Advisory Council (NDWAC) and other concerned stakeholders on potential steps to strengthen the LCR.

Credit Assistance for Water Infrastructure Projects. EPA plans to issue an interim final rule that establishes the guidelines for a new credit assistance program for water infrastructure projects and the process by which EPA will administer such credit assistance. The rule will implement a new program authorized under the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). WIFIA authorizes EPA to provide secured (direct) loans and loan guarantees to eligible water infrastructure projects. The interim final rule primarily clarifies statutory language and establishes approaches to specific procedural issues left to EPA's discretion. Once projects are selected by the EPA Administrator, individual credit agreements will be developed through negotiations between the project sponsors and EPA.

Federal Baseline Water Quality Standards for Indian Reservations. EPA published an advanced notice of proposed rulemaking (ANPRM) requesting public comment on the establishment of baseline water quality standards under the Clean Water Act for waters on Indian reservations that currently do not have EPA-approved WQS in place to protect water quality. The ANPRM provides information on EPA's current thinking and is a way to get specific and clear guidance from the full range of tribal governments and stakeholders. EPA will consider comments received on this ANPRM prior to determining whether to develop a proposed rule on this topic. This ANPRM effort is one of several initiatives the EPA is undertaking to improve how we work with tribes to ensure that they have access to clean and safe waters.

Goal 3: Cleaning Up Communities and Advancing Sustainable Development

EPA's regulatory program recognizes the progress in environmental protection and incorporates new technologies and approaches that allow us to provide for an environmentally sustainable future more efficiently and effectively.

CERCLA Section 108(b)—Hardrock Mining. Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain authorities concerning financial responsibility requirements. The Agency has identified classes of facilities within the hardrock mining industry as those for which financial responsibility requirements will be first developed. (EPA's 108(b) rules will address the degree and duration of risks associated with aspects of hazardous substance management at hardrock mining and mineral processing facilities.) EPA intends for these regulations to help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and to encourage businesses to improve their management of hazardous substances.

Modernization of the Accidental Release Prevention Regulations under Clean Air Act. On August 1, 2013, President Obama signed Executive Order 13650, entitled *Improving Chemical Facility Safety and Security* (EO 13650 or the EO). This Executive Order 13650 directs the federal government to carry out a number of tasks whose overall aim is to prevent chemical accidents. Among the tasks discussed, the Executive order directs agencies to consider possible changes to existing chemical safety regulations, such as the EPA's Risk Management Plan (RMP) regulation (40 CFR part 68).

Both EPA and the Occupational Safety & Health Administration (OSHA) had previously issued regulations, as required by the Clean Air Act Amendments of 1990, in response to a number of catastrophic chemical accidents occurring worldwide that had resulted in public and worker fatalities and injuries, environmental damage, and other community impacts. OSHA published the Process Safety Management (PSM) standard (29 CFR

part 1910.119) in 1992. EPA modeled the RMP regulation after OSHA's PSM standard and published the RMP rule in two stages: A list of regulated substances and threshold quantities in 1994; and the RMP final regulation, containing risk management requirements, in 1996. Both the OSHA PSM standard and the EPA RMP regulation aim to prevent, or minimize the consequences of, accidental chemical releases to workers and the community.

The EPA is considering modifications to the current RMP regulations in order to (1) reduce the likelihood and severity of accidental releases, (2) improve emergency response when those releases occur, and (3) enhance state and local emergency preparedness and response in an effort to mitigate the effects of accidents.

Goal 4: Ensuring the Safety of Chemicals and Preventing Pollution

One of EPA's highest priorities is to make significant progress in assuring the safety of chemicals. Using sound science as a compass, EPA protects individuals, families, and the environment from potential risks of pesticides and other chemicals. In its implementation of these programs, EPA uses several different statutory authorities, including the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Federal Food, Drug and Cosmetic Act (FFDCA), the Toxic Substances Control Act (TSCA) and the Pollution Prevention Act (PPA), as well as collaborative and voluntary activities. In FY 2017, the Agency will continue to satisfy its overall directives under these authorities and highlights the following actions in this Regulatory Plan:

Frank R. Lautenberg Chemical Safety for the 21st Century Act Implementation. Enacted on June 22, 2016, the Frank R. Lautenberg Chemical Safety for the 21st Century Act amended TSCA with immediate effect. The Agency is working aggressively to carry out the requirements of the new law. Among other things, EPA is now required to evaluate existing chemicals purely on the basis of the health risks they pose—including risks to vulnerable groups like children and the elderly, and to workers who use chemicals daily as part of their jobs—and then take steps to eliminate any unreasonable risks that are found. Based on efforts initiated prior to the enactment of the new law, EPA plans to propose risk management actions under TSCA section 6 related to several specific uses of trichloroethylene (TCE), methylene chloride, and n-methylpyrrolidone (NMP) to protect the human health and the environment from the risks presented by those chemicals.

In addition, EPA is now required to systematically prioritize and evaluate chemicals on a specific and enforceable schedule. Within a few years, EPA's chemicals program will have to assess at least 20 chemicals at a time, beginning another chemical review as soon as one is completed. The new law provides a consistent source of funding for EPA to carry out its new responsibilities. EPA will now be able to collect up to $25 million a year in user fees from chemical manufacturers and processers, supplemented by Congressional budgeting, to pay for these improvements. The Agency initiated stakeholder discussions in August 2016 and is developing regulations that will identify how EPA will carry out the various provisions of the new law.

Lead-Based Paint Program. EPA is developing a final rule that would implement several amendments to the EPA lead-based paint program that would improve efficiencies and save resources for those involved. EPA proposed changes in 2014 to the EPA lead-based paint program that would, among other things, amend the renovation, repair and painting rule by removing the requirement for hands-on refresher training for renovators so that they can take the refresher course online and without the need to travel to a training facility for the hands-on portion. EPA also proposed to amend the lead-based paint abatement program by removing the requirement for firms, training providers and individuals to apply for and be certified or accredited in each EPA-administered jurisdiction where they work (*i.e.,* state, tribe or territory where EPA runs the abatement program). In addition, as directed by TSCA section 402(c)(3), EPA is developing a proposed rule to address renovation or remodeling activities that create lead-based paint hazards in pre-1978 public buildings and commercial buildings. EPA previously issued a final rule to address lead-based paint hazards created by these activities in target housing and child-occupied facilities.

Reassessment of PCB Use Authorizations. When enacted in 1978, TSCA banned the manufacture, processing, distribution in commerce, and use of polychlorinated biphenyls (PCBs), except when uses would pose no unreasonable risk of injury to health or the environment. EPA is reassessing certain ongoing, authorized uses of PCBs that were established by regulation in 1979, including the use, distribution in commerce, marking and storage for reuse of liquid PCBs in electric equipment, to determine whether those authorized uses still meet TSCA's ''no unreasonable risk'' standard. EPA plans to propose the revocation or revision of any PCBs use authorizations included in this reassessment that no longer meet the TSCA standard, with an initial emphasis on PCB-containing fluorescent ballasts in schools and daycares.

Strengthening Pesticide Applicator Safety. As part of EPA's effort to enhance the pesticide worker safety program, the Agency is also developing final revisions to the existing regulation concerning the certification of applicators of restricted-use pesticides. This rulemaking is intended to ensure that the federal certification standards adequately protect applicators, the public and the environment from potential risks associated with use of restricted use pesticides. The rule changes are intended to improve the competency of certified applicators of restricted use pesticides, increase protection for noncertified applicators of restricted use pesticides operating under the direct supervision of a certified applicator through enhanced pesticide safety training and standards for supervision of noncertified applicators, and establish a minimum age requirement for such noncertified applicators. Also, in keeping with EPA's commitment to work more closely with tribal governments to strengthen environmental protection in Indian Country, certain rule changes are intended to provide more practical options for establishing certification programs in Indian Country.

Evaluating Pesticide Risks to Bees and Other Pollinators. As part of the efforts outlined in the ''National Strategy to Promote the Health of Honey Bees and Other Pollinators,'' EPA is working to update its pesticide data requirements to provide the Agency with data needed to determine the potential exposure and effects of pesticides on bees and other important non-target insect pollinators. Pollinator insects are ecologically and economically important. Recognizing heightened concerns for honey bees due to pollinator declines and that the science has now evolved to where additional toxicity and exposure protocols are available, EPA issued interim study guidance for bees in 2011. EPA developed finalized guidance in 2014 on the conduct of exposure and effect studies used to characterize the potential risk of pesticides to bees. The development and implementation of updates data requirements is intended to provide the information the Agency needs to evaluate whether a proposed or existing use of a pesticide may have an unreasonable adverse effect on these

important insects and support pesticide registration decisions under FIFRA.

Goal 5: Protecting Human Health and the Environment by Enforcing Laws and Assuring Compliance

Today's pollution challenges require a modern approach to compliance, taking advantage of new tools and approaches while strengthening vigorous enforcement of environmental laws. Next Generation Compliance is EPA's integrated strategy to do that, designed to bring together the best thinking from inside and outside EPA.

EPA's Next Generation Compliance consists of five interconnected components, each designed to improve the effectiveness of our compliance program:

- Design regulations and permits that are easier to implement, with a goal of improved compliance and environmental outcomes.
- Use and promote advanced emissions/pollutant detection technology so that regulated entities, the government, and the public can more easily see pollutant discharges, environmental conditions, and noncompliance.
- Shift toward electronic reporting to help make environmental reporting more accurate, complete, and efficient while helping EPA and co-regulators better manage information, improve effectiveness and transparency.
- Expand transparency by making information more accessible to the public.
- Develop and use innovative enforcement approaches (*e.g.,* data analytics and targeting) to achieve more widespread compliance.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following EPA actions have been identified as associated with retrospective review and analysis in the Agency's final plan for retrospective review of regulations, or one of its subsequent updates. Some of the entries on this list may not appear in *The Regulatory Plan* but appear in EPA's semiannual regulatory agenda. These rulemakings can also be found on *Regulations.gov*. EPA's final agency plan can be found at: *http://www.epa.gov/regdarrt/retrospective/*.

Rulemaking title	Regulatory Identifier No. (RIN)
New Source Performance Standards for Grain Elevators—Amendments	2060–AP06
Treatment of Data Influenced by Exceptional Events—Rule Revisions	2060–AS02
Public Notice Provisions in CAA Permitting Programs	2060–AS59
Regional Haze Regulations—Revision to SIP Submission Date and Requirements for Progress Reports	2060–AS55
Title V Petitions Process Improvement Rulemaking	2060–AS61
National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions	2040–AF15
National Pollutant Discharge Elimination System (NPDES) Application and Program Updates Rule	2040–AF25
National Primary Drinking Water Regulations: Group Regulation of Carcinogenic Volatile Organic Compound (VOCs)	2040–AF29
Management Standards for Hazardous Waste Pharmaceuticals	2050–AG39
Hazardous Waste Export-Import Revisions Rule	2050–AG77
Improvements to the Hazardous Waste Generator Regulatory Program (Parts 261–265)	2050–AG70
Pesticides; Certification of Pesticide Applicators	2070–AJ20

2016—Aggregation of Benefits and Costs From Monetized Rules Reported in the Regulatory Plan

Rule	Base year	Benefits (millions $/year)		Costs (millions $/year)		Net benefits (millions $/year)	
		Low	High	Low	High	Low	High
Discount Rate = 3%							
Modernization of the Accidental Release Prevention Regulations Under Clean Air Act	2014	$274.7	$274.7	$158.3	$158.3	$116.4	$116.4
Health and Environmental Standards for Uranium and Thorium Mill Tailings (40 CFR 192): Revisions [1]	2014	Not Monetized	Not Monetized	6.6	13.4	Not Computed	Not Computed
Technical and Regulatory Support to Develop the NESHAP Subpart W Standard for Radon Emissions for Radon Emissions From Operating Uranium Mills (40 CFR 61.250) [2]	2014	Not Monetized	Not Monetized	15.8	17.9	Not Computed	Not Computed
Pesticides; Certification of Pesticide Applicators	2014	20.8	21.2	48.8	48.8	(28.0)	(27.6)
Aggregate Estimates [4]	2014	295.5	295.9	229.6	238.4	88.4	88.8
Discount Rate = 7%							
Modernization of the Accidental Release Prevention Regulations Under Clean Air Act	2014	274.7	274.7	161.0	161.0	113.7	113.7

2016—AGGREGATION OF BENEFITS AND COSTS FROM MONETIZED RULES REPORTED IN THE REGULATORY PLAN—Continued

Rule	Base year	Benefits (millions $/year)		Costs (millions $/year)		Net benefits (millions $/year)	
		Low	High	Low	High	Low	High
Health and Environmental Standards for Uranium and Thorium Mill Tailings (40 CFR 192): Revisions [1]	2014	Not Monetized	Not Monetized	4.1	8.3	Not Computed	Not Computed
Technical and Regulatory Support to develop the NESHAP Subpart W Standard for Radon Emissions for Radon Emissions From Operating Uranium Mills (40 CFR 61.250) [2]	2014	Not Monetized	Not Monetized	15.8	17.9	Not Computed	Not Computed
Pesticides; Certification of Pesticide Applicators [3]	2014	Not Reported	Not Reported	Not Reported	Not Reported	Not Reported	Not Reported
Aggregate Estimates [4]	2014	274.7	274.7	180.9	187.2	113.7	113.7

[1] National net benefits for Health and Environmental Standards for Uranium and Thorium Mill Tailings (40 CFR 192) Revisions were not computed because most categories of benefits, including health and ecosystem benefits, were not monetized.
[2] The Economic Impact Analysis for the NESHAP Subpart W Standard does not monetize benefits such as the value of reduced cancer risk, so net benefits were not computed.
[3] The Economic Analysis for the Certification of Pesticide Applicators did not estimate annual costs using a 7% discount rate. Using a 7% discount rate is expected to have little effect on annualized costs as most of the costs recur annually.
[4] Aggregate Net Benefits are estimated by summing the column of net benefits reported for each discount rate.

Burden Reduction

As described above, EPA continues to review its existing regulations in an effort to achieve its mission in the most efficient means possible. To this end, the Agency is committed to identifying areas in its regulatory program where significant savings or quantifiable reductions in paperwork burdens might be achieved, as outlined in Executive Orders 13563 and 13610, while protecting public health and our environment.

Rules Expected To Affect Small Entities

By better coordinating small business activities, EPA aims to improve its technical assistance and outreach efforts, minimize burdens to small businesses in its regulations, and simplify small businesses' participation in its voluntary programs. Actions that may affect small entities can be tracked on EPA's Regulatory Development and Retrospective Review Tracker (*http://www.epa.gov/regdarrt/*) at any time. This Plan includes the following rules that may be of particular interest to small entities:

Rulemaking title	Regulatory Identifier No. (RIN)
Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hard Rock Mining Industry.	2050–AG61
Modernization of the Accidental Release Prevention Regulations Under Clean Air Act.	2050–AG82
Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing.	2070–AK11
N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a).	2070–AK07
Polychlorinated Biphenyls (PCBs); Reassessment of Use Authorizations for PCBs in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares.	2070–AK12
National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions.	2040–AF15
N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a).	2070–AK07

International Regulatory Cooperation Activities

EPA has considered international regulatory cooperation activities as described in Executive Order 13609 and has identified the following international activity that is anticipated to lead to a significant regulation in the following year:

EPA—OFFICE OF WATER (OW)

Prerule Stage

120. Federal Baseline Water Quality Standards for Indian Reservations

Priority: Other Significant.
Unfunded Mandates: Undetermined.
Legal Authority: 33 U.S.C. 1313(c)(4)(B)
CFR Citation: 40 CFR 131.
Legal Deadline: None.
Abstract: EPA published an advance notice of proposed rulemaking (ANPRM) requesting public comment on the establishment of baseline water quality standards (WQS) under the Clean Water Act (CWA) for waters on Indian reservations that currently do not have EPA-approved WQS in place to protect water quality. EPA will consider comments received on this ANPRM prior to determining whether to develop a proposed rule on this topic. This ANPRM effort is one of several initiatives the EPA is undertaking that recognize the importance of protecting waters on which tribes rely.
Statement of Need: Currently, fewer than 50 of over 300 tribes with

reservations have WQS effective under the CWA. Virtually all of the reservations with existing coverage have WQS established by tribes that have obtained treatment in a manner similar to a state (TAS) under CWA section 518, however, many tribes face obstacles on this pathway to WQS. The resulting gap in EPA-approved WQS in Indian reservation waters is not insignificant. Tribal reservations without CWA-effective WQS account for as much land area and population as the state of North Dakota. Federal baseline WQS would define water quality goals for unprotected reservation waters and serve as the foundation for CWA actions to protect human health and the environment.

Summary of Legal Basis: The CWA establishes the basis for the water quality standards (WQS) regulation and program. CWA section 303 addresses the development of state and authorized tribal WQS that serve the CWA objective for waters of the United States. The core components of WQS are designated uses, water quality criteria that support the uses, and antidegradation requirements. Designated uses establish the environmental objectives for a water body and water quality criteria define the conditions sufficient to achieve those environmental objectives. The antidegradation requirements provide a framework for maintaining and protecting water quality that has already been achieved. The CWA creates a partnership between states and authorized tribes, and EPA, by assigning states and authorized tribes the primary role of adopting WQS (CWA sections 101(b) and 303), and EPA the oversight role of reviewing and approving or disapproving state and authorized tribal WQS (CWA section 303(c)). Absent state or authorized tribal adoption or submission of new or revised WQS, section 303(c)(4)(B) of the CWA gives EPA the authority to determine that new or revised WQS are necessary to meet the requirements of the Act. Once the Administrator makes such a determination, EPA must promptly propose regulations setting forth new or revised WQS for the waters of the United States involved, and must then promulgate such WQS, unless a state or authorized tribe adopts and EPA approves such WQS first.

Alternatives: To Be Determined.

Anticipated Cost and Benefits: To Be Determined.

Risks: To Be Determined.

Timetable:

Action	Date	FR Cite
ANPRM	09/29/16	81 NFR 66900
ANPRM Comment Period End.	12/28/16	
NPRM	To Be	Determined

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, State, Tribal.

Federalism: Undetermined.

URL for More Information: http://tcots.epa.gov/oita/tconsultation.nsf/.

Agency Contact: Danielle Anderson, Environmental Protection Agency, Office of Water, 4305T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–1631, *Email: anderson.danielle@epa.gov*.

RIN: 2040–AF62

EPA—OFFICE OF AIR AND RADIATION (OAR)

Proposed Rule Stage

121. Renewables Enhancement and Growth Support Rule

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7429 Clean Air Act

CFR Citation: 40 CFR 80.

Legal Deadline: None.

Abstract: This action proposes to make numerous changes to promote the production of renewable fuels and clarify certain requirements under the RFS program. This action would propose to allow for feedstocks partially converted at a facility other than a renewable fuel production facility to be fully converted at a renewable fuel production facility into finished renewable fuel. These partially converted feedstocks are referred to as biointermediate feedstocks. Further, this action would also propose to add new registration, recordkeeping, and reporting requirements for certain renewable fuel production facilities using carbon capture and storage (CCS) if the EPA were to allow CCS as a lifecycle GHG emissions reduction technology in the context of the RFS program. Additionally, this action also proposes to require obligated parties to report a breakdown of their gasoline, diesel, and heating oil production; provide an additional RIN-generating pathway that is an extension of an existing pathway; and make numerous technical corrections. Finally, this action would implement fuel quality specifications for blends containing 16 to 83 volume percent ethanol. This action would provide substantial additional flexibility for ethanol flex fuel (EFF) producers that accommodate current market realities while continuing to ensure EFF quality is consistent with controlling pollution when used in flexible fuel vehicles.

Statement of Need: This action proposes various changes to our fuel and renewable fuel regulations to remove barriers to the production and use of renewable fuels. First, this action would resolve several outstanding issues and provide clarification on certain Renewable Fuel Standard (RFS) requirements. Second, this action would propose to allow for a feedstock partially converted at one facility (referred to as a biointermediate) to be fully converted into finished renewable fuel at another facility. Finally, this action would provide production flexibilities and carry over gasoline fuel quality standards to gasoline-ethanol blends containing 16 to 83 volume percent ethanol (referred to as ethanol flex fuel (EFF)). The increased flexibility provided by this rule for biointermediates and EFF could result in the increased production and use of renewable fuels in support of the RFS program.

Summary of Legal Basis: Statutory authority for this action comes from Clean Air Act sections 203 to 205, 208, 211, and 301.

Alternatives: This action to proposes to establish fuel quality standards for EFF that are equivalent to those already in place for gasoline. Producers would demonstrate compliance based on their ability to affect fuel quality and certain types of producers would be able to use natural gasoline as a blendstock to produce EFF. Alternatively, EPA also considered a simplified approach that would restrict EFF blendstocks to gasoline, blendstocks for oxygenate blending (BOBs), and denatured fuel ethanol. EPA is seeking comment on this alternative approach.

Anticipated Cost and Benefits: The two main areas where this proposal would have economic impacts are the proposed provisions for EFF and gasoline produced at blender pumps, and the proposed provisions for biointermediates. The proposal would provide significant additional regulatory flexibility, streamlined compliance provisions, and the opportunity for increased biofuel production at reduced cost. The cost savings are anticipated to far outweigh the minor costs imposed for demonstrating compliance. In most cases, the associated costs would only apply to those parties that elect to take advantage of the proposed flexibilities because the potential economic benefits

outweigh the costs. This proposal contains minor additional registration, reporting, and recordkeeping requirements that would apply to some parties in the biofuel production and distribution system that do not take advantage of the proposed flexibilities as well as those that do.

Risks: This proposed rule does not affect the level of protection provided to human health or the environment by applicable air quality standards. This action does not relax the control measures on sources regulated by the fuel programs and RFS regulations and therefore will not cause emissions increases from these sources.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
Final Rule	12/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Sectors Affected: 325199 All Other Basic Organic Chemical Manufacturing; 325193 Ethyl Alcohol Manufacturing; 454310 Fuel Dealers; 221210 Natural Gas Distribution; 424690 Other Chemical and Allied Products Merchant Wholesalers; 325110 Petrochemical Manufacturing; 424710 Petroleum Bulk Stations and Terminals; 324110 Petroleum Refineries; 424720 Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals).

URL for More Information: http://www2.epa.gov/renewable-fuel-standard-program.

Agency Contact: Nick Parsons, Environmental Protection Agency, Office of Air and Radiation, N19, Ann Arbor, MI 48105, *Phone:* 734 214–4479, *Email: parsons.nick@epa.gov*.

Paul Argyropoulos, Environmental Protection Agency, Office of Air and Radiation, 6401A, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–1123, *Email: argyropoulos.paul@epa.gov*.

RIN: 2060–AS66

EPA—OAR

122. Implementation of the 2015 National Ambient Air Quality Standards for Ozone: Nonattainment Area Classifications and State Implementation Plan Requirements

Priority: Other Significant.

Legal Authority: 23 U.S.C. 101 42 U.S.C. 7401–7671q

CFR Citation: 40 CFR 50 to 51.

Legal Deadline: None.

Abstract: This proposed rule will address a range of implementation requirements for the 2015 National Ambient Air Quality Standards (NAAQS) for ozone, including the nonattainment area classification system, and the timing of State Implementation Plan (SIP) submissions. It will also discuss and outline relevant guidance on meeting the Clean Air Act's requirements pertaining to attainment demonstrations, reasonable further progress, reasonably available control measures, nonattainment new source review, and emission inventories. Other issues addressed in this proposed rule are the potential revocation of the 2008 ozone NAAQS and anti-backsliding requirements that would apply if the 2008 NAAQS are revoked. The items covered in this rulemaking have been covered in similar rulemakings for two prior 8-hour ozone NAAQS (1997 and 2008).

Statement of Need: This rule is needed to clarify and establish implementation requirements for the 2015 ozone NAAQS, including the nonattainment area classification system, and those elements that states must include in their state implementation plans (SIPs) to bring nonattainment areas into compliance with the 2015 ozone NAAQS. There is no court-ordered deadline for this final rule. However, the CAA requires that EPA promulgate area designations no later than 2 years from the date of promulgation of the revised ozone NAAQS, and this rule is needed to establish the air quality thresholds to classify areas designated nonattainment, in this case by October 1, 2017.

Summary of Legal Basis: The CAA requires states to plan for the attainment and maintenance the NAAQS. EPA establishes implementing regulations that states follow to fulfill these CAA requirements.

Alternatives: The EPA plans to solicit comments on a number of proposals, including nonattainment area classification thresholds, SIP submission requirements for states with nonattainment areas and states in the Ozone Transport Region, milestone compliance demonstrations, plan submission and implementation deadlines for attainment planning and emissions control requirements, flexible new source emissions offsets for preconstruction permitting, clarification of emissions inventory and emissions statement requirements, and state demonstration requirements under CAA section 179B. The rule also includes alternatives for treatment of outstanding state planning requirements for the previous ozone NAAQS.

Anticipated Cost and Benefits: The annual information collection burden for ozone-related state planning averaged over the first 3 years is estimated to be a total of 41,800 labor hours per year at an annual labor cost of $2.5 million (present value) over the 3-year period, or approximately $107,000 per state for the 23 anticipated state respondents. There are no capital or operating and maintenance costs associated with the proposed rule requirements.

Risks: Ozone concentrations that exceed the National Ambient Air Quality Standards (NAAQS) to can cause adverse public health and welfare effects, as discussed in the October 26, 2015 Final Rule for NAAQS for Ozone (80 FR 65292).

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Agency Contact: Robert Lingard, Environmental Protection Agency, Office of Air and Radiation, C539–01, 109 T.W. Alexander Drive, Research Triangle Park, NC 27709, *Phone:* 919 541–5272, *Email: lingard.robert@epa.gov*.

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RIN: 2060–AS82

EPA—OAR

123. • Renewable Fuel Volume Standards for 2018 and Biomass Based Diesel Volume (BBD) for 2019

Priority: Other Significant.

Legal Authority: Clean Air Act

CFR Citation: 40 CFR 80.

Legal Deadline: None.

Abstract: The Clean Air Act requires EPA to promulgate regulations that specify the annual standards requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: Cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30

of the year prior to the year in which the standards would apply. In the case of biomass based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply.

Statement of Need: The Clean Air Act Section 211(o) requires the Agency set annual renewable fuel standards.

Summary of Legal Basis: Clean Air Act section 211(o).

Alternatives: Alternatives will be assessed as the proposal is developed.

Anticipated Cost and Benefits: Costs and benefits will be analyzed as the proposal is developed.

Risks: Risk information will be developed as the proposal is developed.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	
Final Rule	12/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 2060–AT04

EPA—OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

Proposed Rule Stage

124. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(A)

Priority: Other Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: NYD.

Legal Deadline: None.

Abstract: Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. The EPA identified trichloroethylene (TCE) for risk evaluation as part of its Work Plan for Chemical Assessment under TSCA. TCE is used in industrial and commercial processes, and also has some limited uses in consumer products. In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial degreasing and some consumer uses. EPA proposes that the use of TCE in vapor degreasing presents unreasonable risks to human health, and is initiating rulemaking under TSCA section 6 to address the risks of TCE when used as a spotting agent in dry cleaning and in commercial and consumer aerosol spray degreasers. A separate Regulatory Agenda entry (RIN 2070–AK11) addresses the EPA's consideration of a rulemaking to address the risks associated with TCE when used in vapor degreasing operations.

Statement of Need: In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial degreasing and some consumer uses. The EPA is initiating a rulemaking under TSCA section 6 to address these risks. Specifically, the EPA will determine whether the continued use of TCE in some commercial degreasing uses, as a spotting agent in dry cleaning, and in certain consumer products would pose an unreasonable risk to human health and the environment.

Summary of Legal Basis: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: In the published TCE Risk Assessment, the EPA identified significant risks to human health in occupational, consumer and residential settings. The risk assessment identified health risks from TCE exposures to consumers using aerosol degreasers and spray fixatives, and health risks to workers when TCE is used in commercial shops and as a stain removing agent in dry cleaning.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: This action may have federalism implications as defined in EO 13132.

Sectors Affected: 325 Chemical Manufacturing; 334 Computer and Electronic Product Manufacturing; 335 Electrical Equipment, Appliance, and Component Manufacturing; 332 Fabricated Metal Product Manufacturing; 337 Furniture and Related Product Manufacturing; 333 Machinery Manufacturing; 339 Miscellaneous Manufacturing; 928 National Security and International Affairs; 32411 Petroleum Refineries; 326 Plastics and Rubber Products Manufacturing; 331 Primary Metal Manufacturing; 323 Printing and Related Support Activities; 811 Repair and Maintenance; 488 Support Activities for Transportation; 314 Textile Product Mills; 336 Transportation Equipment Manufacturing; 493 Warehousing and Storage; 321 Wood Product Manufacturing.

URL for More Information: https://www.epa.gov/chemical-data-under-toxic-substance-control-act-tsca.

Agency Contact: Toni Krasnic, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7405M, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–0984, *Email: krasnic.toni@epa.gov*.

Joel Wolf, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–2228, *Fax:* 202 566–0471, *Email: wolf.joel@epa.gov*.

RIN: 2070–AK03

EPA—OCSPP

125. N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(A)

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: Section 6 of the Toxic Substances Control Act provides authority of EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical, as well as any manner or method of disposal of chemicals. EPA identified N-methylpyrrolidone (NMP) and methylene chloride for risk evaluation as part of its TSCA Work Plan for

Chemical Assessments. NMP and methylene chloride are uses in commercial processes and in consumer products in residential settings. In the August 2014 TSCA Work Plan Chemical Risk Assessment for methylene chloride and the March 2015 TSCA Work Plan Chemical Risk Assessment for NMP, EPA identified risks of concern from paint and coating removal. EPA proposes that the use of NMP and methylene chloride in paint and coating presents unreasonable risks to human health, and is initiating rulemaking under TSCA section 6 to address these risks.

Statement of Need: The EPA identified n-methylpyrrolidone and methylene chloride for risk evaluation as part of its Work Plan for Chemical Assessments under TSCA. In the August 2014 Risk Assessment for methylene chloride and March 2015 Risk Assessment for NMP, the EPA identified risks associated with commercial and consumer paint removal uses. The EPA is initiating rulemaking under TSCA section 6 to address these risks. Specifically, the EPA will determine whether the use of NMP or methylene chloride in commercial and consumer paint removal poses an unreasonable risk to human health and the environment.

Summary of Legal Basis: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemicals, as well as any manner or method of disposal.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: As indicated in the published Risk Assessments and supplemental analyses for these chemicals, the EPA determined that there is risk of adverse human health effects (acute and chronic) for methylene chloride and NMP in occupational, consumer and residential settings.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: This action may have federalism implications as defined in EO 13132.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Sectors Affected: 336411 Aircraft Manufacturing; 811121 Automotive Body, Paint, and Interior Repair and Maintenance; 325 Chemical Manufacturing; 238330 Flooring Contractors; 711510 Independent Artists, Writers, and Performers; 712110 Museums; 238320 Painting and Wall Covering Contractors; 811420 Reupholstery and Furniture Repair; 336611 Ship Building and Repairing.

URL for More Information: https://www.epa.gov/chemical-data-under-toxic-substance-control-act-tsca.

Agency Contact: Niva Kramek, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7506P, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 703 605–1193, *Fax:* 703 305–5884, *Email: kramek.niva@epa.gov.*

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RIN: 2070–AK07

EPA—OCSPP

126. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(A); Vapor Degreasing

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: Section 6(a) of the Toxic Substances Control Act (TSCA) provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal. The EPA identified trichloroethylene (TCE) for risk evaluation as part of its Work Plan for Chemical Assessment under TSCA. TCE is used in industrial and commercial processes, and also has some limited uses in consumer products. In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial vapor degreasing. EPA proposes that the use of TCE in vapor degreasing presents unreasonable risks to human health, and is initiating rulemaking under TSCA section 6 to address these risks. A separate Regulatory Agenda entry (RIN 2070–AK03) covers the EPA's consideration of a rulemaking to address the risks associated with TCE when used as a spotting agent in dry cleaning and in commercial and consumer aerosol spray degreasers.

Statement of Need: In the June 2014 TSCA Work Plan Chemical Risk Assessment for TCE, the EPA identified risks associated with commercial degreasing and some consumer uses. The EPA is initiating a rulemaking under TSCA section 6 to address these risks. Specifically, the EPA will determine whether the continued use of TCE in some commercial degreasing uses, as a spotting agent in dry cleaning, and in certain consumer products would pose an unreasonable risk to human health and the environment.

Summary of Legal Basis: Section 6 of the Toxic Substances Control Act provides authority for the EPA to ban or restrict the manufacture (including import), processing, distribution in commerce, and use of chemical substances, as well as any manner or method of disposal.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: Significant adverse human health effects have been found in occupational settings and in consumer and residential settings.

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Federalism: This action may have federalism implications as defined in EO 13132.

Sectors Affected: 33641 Aerospace Product and Parts Manufacturing; 336411 Aircraft Manufacturing; 325199 All Other Basic Organic Chemical Manufacturing; 33299 All Other Fabricated Metal Product Manufacturing; 325998 All Other Miscellaneous Chemical Product and Preparation Manufacturing; 332999 All Other Miscellaneous Fabricated Metal Product Manufacturing; 333999 All Other Miscellaneous General Purpose Machinery Manufacturing; 33999 All Other Miscellaneous Manufacturing; 339999 All Other Miscellaneous

Manufacturing; 32799 All Other Nonmetallic Mineral Product Manufacturing; 326299 All Other Rubber Product Manufacturing; 325220 Artificial and Synthetic Fibers and Filaments Manufacturing; 334512 Automatic Environmental Control Manufacturing for Residential, Commercial, and Appliance Use; 332722 Bolt, Nut, Screw, Rivet, and Washer Manufacturing; 334416 Capacitor, Resistor, Coil, Transformer, and Other Inductor Manufacturing; 311812 Commercial Bakeries; 323111 Commercial Printing (except Screen and Books); 811310 Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance; 81131 Commercial and Industrial Machinery and Equipment (except Automotive and Electronic) Repair and Maintenance; 339114 Dental Equipment and Supplies Manufacturing; 332813 Electroplating, Plating, Polishing, Anodizing, and Coloring; 332912 Fluid Power Valve and Hose Fitting Manufacturing; 333511 Industrial Mold Manufacturing; 333413 Industrial and Commercial Fan and Blower and Air Purification Equipment Manufacturing; 337127 Institutional Furniture Manufacturing; 334515 Instrument Manufacturing for Measuring and Testing Electricity and Electrical Signals; 332111 Iron and Steel Forging; 331210 Iron and Steel Pipe and Tube Manufacturing from Purchased Steel; 339910 Jewelry and Silverware Manufacturing; 332431 Metal Can Manufacturing; 332812 Metal Coating, Engraving (except Jewelry and Silverware), and Allied Services to Manufacturers; 332119 Metal Crown, Closure, and Other Metal Stamping (except Automotive); 332811 Metal Heat Treating; 332215 Metal Kitchen Cookware, Utensil, Cutlery, and Flatware (except Precious) Manufacturing; 339 Miscellaneous Manufacturing; 33634 Motor Vehicle Brake System Manufacturing; 336310 Motor Vehicle Gasoline Engine and Engine Parts Manufacturing; 335312 Motor and Generator Manufacturing; 928110 National Security; 331410 Nonferrous Metal (except Aluminum) Smelting and Refining; 336413 Other Aircraft Parts and Auxiliary Equipment Manufacturing; 424690 Other Chemical and Allied Products Merchant Wholesalers; 333318 Other Commercial and Service Industry Machinery Manufacturing; 334419 Other Electronic Component Manufacturing; 332618 Other Fabricated Wire Product Manufacturing; 333249 Other Industrial Machinery Manufacturing; 334519 Other Measuring and Controlling Device Manufacturing; 3399 Other Miscellaneous Manufacturing; 332313 Plate Work Manufacturing; 332913 Plumbing Fixture Fitting and Trim Manufacturing; 325612 Polish and Other Sanitation Good Manufacturing; 332721 Precision Turned Product Manufacturing; 332216 Saw Blade and Handtool Manufacturing; 334511 Search, Detection, Navigation, Guidance, Aeronautical, and Nautical System and Instrument Manufacturing; 332994 Small Arms, Ordnance, and Ordnance Accessories Manufacturing; 325611 Soap and Other Detergent Manufacturing; 331512 Steel Investment Foundries; 339112 Surgical and Medical Instrument Manufacturing.

URL for More Information: https://www.epa.gov/chemical-data-under-toxic-substance-control-act-tsca.

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RIN: 2070–AK11.

EPA—OCSPP

127. Polychlorinated Biphenyls (PCBS); Reassessment of Use Authorizations for PCBS in Small Capacitors in Fluorescent Light Ballasts in Schools and Daycares

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect State, local or tribal governments.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: 40 CFR 761.

Legal Deadline: None.

Abstract: The EPA's regulations governing the use of Polychlorinated Biphenyls (PCBs) in electrical equipment and other applications were first issued in the late 1970s and have not been updated since 1998. The EPA has initiated rulemaking to reassess the ongoing authorized use of PCBs in small capacitors. In particular, the reassessment of the use authorization will focus on the use of liquid PCBs in small capacitors in fluorescent light ballasts. A separate Regulatory Agenda entry (RIN 2070–AJ38) addresses the proposed reassessment of other PCB use authorizations.

Statement of Need: Since the commercial manufacture of PCBs in the United States ceased in the 1970s, PCB-containing equipment is at least 30 years old and may be nearing the end of its expected useful life. Several international treaties have recognized the hazards of PCBs and the risks they pose to human health and the environment. EPA has recently learned that there was widespread use of PCBs at levels at or above 50 ppm, prior to the 1979 TSCA ban, in the formulation of caulk used in schools and other commercial buildings. In the current regulations PCBs are excluded from the TSCA ban only if found below 50 ppm. Thus, many schools and other building owners are now facing an unauthorized use of PCBs that has been present in their buildings for many years. This ANPR will solicit comment as to whether the current threshold of 50 ppm should be revised so that PCBs in caulk found at other levels could be authorized for use and, if so, under what conditions. EPA is required to make a finding that the authorized use will not present an unreasonable risk to human health and the environment. Needless to say, many changes have taken place in the industry sectors that use such equipment, and EPA believes that the balance of risks and benefits from the continued use of remaining equipment containing PCBs may have changed enough to consider amending the current regulations.

Summary of Legal Basis: TSCA section 6(e)(2)(A) provides that ''no person may manufacture, process, or distribute in commerce or use any polychlorinated biphenyl in a manner other than in a totally enclosed manner'' after January 1, 1978. However, TSCA section 6(e)(2)(B) provides EPA with the authority to issue regulations allowing the use and distribution in commerce of PCBs in a manner other than a totally enclosed manner if the EPA Administrator finds that the use and distribution in commerce ''will not present an unreasonable risk of injury to health or the environment.'' EPA published the first regulations addressing the use of equipment containing PCBs on May 31, 1979.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: PCB exposures can cause significant human health and ecological effects. The EPA and the International Agency for Research on Cancer (IARC) have characterized some commercial PCB mixtures as probably carcinogenic to humans. In addition to

carcinogenicity, potential effects of PCB exposure include neurotoxicity, reproductive and developmental toxicity, immune system suppression, liver damage, skin irritation, and endocrine disruption. PCBs persist in the environment for long periods of time and bioaccumulate, especially in fish and marine animals. PCBs are also readily transported across long distances in the environment, and can easily cycle between air, water, and soil.

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions, Organizations.

Government Levels Affected: State, Local, Tribal.

Federalism: This action may have federalism implications as defined in EO 13132.

Sectors Affected: 31–33 Manufacturing; 811 Repair and Maintenance; 92 Public Administration.

URL for More Information: http://www.epa.gov/pcbs.

Agency Contact: Peter Gimlin, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 566–0515, *Fax:* 202 566–0473, *Email: gimlin.peter@epa.gov.*

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RIN: 2070–AK12

EPA—OCSPP

128. • Procedures for Evaluating Existing Chemical Risks Under the Toxic Substances Control Act

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2601 *et seq.* Toxic Substances Control Act

CFR Citation: Not Yet Determined.

Legal Deadline: Final, Statutory, June 22, 2017.

Abstract: On June 22, 2016, President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act which amends the Toxic Substance Control Act (TSCA), the Nation's primary chemicals management law. A summary of the new law, which includes much needed improvements to TSCA, is available at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act.* This particular rulemaking effort involves the revised TSCA section 6(b)(4), which requires EPA to promulgate a final rule within 1 year of enactment to establish EPA's process for evaluating the risk of existing chemical substances and determining whether they present an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.

Statement of Need: As required by statute, the EPA must establish EPA's process for evaluating the risk of existing chemical substances and determining whether they present an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.

Summary of Legal Basis: This particular rulemaking effort involves the revised TSCA section 6(b)(4), which requires EPA to promulgate a final rule within 1 year of enactment to establish EPA's process for evaluating the risk of existing chemical substances and determining whether they present an unreasonable risk of injury to health or the environment, without consideration of costs or other non-risk factors, including an unreasonable risk to a potentially exposed or susceptible subpopulation identified as relevant to the risk evaluation by the Administrator, under the conditions of use.

Alternatives: Alternatives will be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: This will be a procedural rule related to risk evaluations. It is not intended to address any particular risk.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Sectors Affected: 325 Chemical Manufacturing.

URL for More Information: https://www.epa.gov/assessing-and-managing-chemicals-under-tsca.

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RIN: 2070–AK20

EPA—OCSPP

129. • Procedures for Prioritization of Chemicals for Risk Evaluation Under the Toxic Substances Control Act

Priority: Other Significant.

Legal Authority: 15 U.S.C. 2605 Toxic Substances Control Act

CFR Citation: 40 CFR NYD.

Legal Deadline: None.

Abstract: On June 22, 2016, President Obama signed into law the Frank R. Lautenberg Chemical Safety for the 21st Century Act which amends the Toxic Substance Control Act (TSCA), the Nation's primary chemicals management law. A summary of the new law, which includes much needed improvements to TSCA, is available at *https://www.epa.gov/assessing-and-managing-chemicals-under-tsca/frank-r-lautenberg-chemical-safety-21st-century-act.* This particular rulemaking effort involves the revised TSCA section 6(b)(1), which requires that EPA promulgate a final rule within 1 year of enactment to establish a risk-based screening process, including criteria for designating chemical substances as high-priority substances for risk evaluations or low-priority substances for which risk evaluations are not warranted at the time. As required by statute, the process to designate the priority of chemical substances must include a consideration of the hazard and exposure potential of a chemical substance or a category of chemical substances (including consideration of persistence and bioaccumulation, potentially exposed or susceptible subpopulations and storage near significant sources of drinking water), the conditions of use or significant changes in the conditions of use of the chemical substance, and the volume or significant changes in the volume of the chemical substance manufactured or processed.

Statement of Need: As required by statute, the process to designate the priority of chemical substances must include a consideration of the hazard

and exposure potential of a chemical substance or a category of chemical substances (including consideration of persistence and bioaccumulation, potentially exposed or susceptible subpopulations and storage near significant sources of drinking water), the conditions of use or significant changes in the conditions of use of the chemical substance, and the volume or significant changes in the volume of the chemical substance manufactured or processed.

Summary of Legal Basis: This action is mandated by the Frank R. Lautenberg Chemical Safety for the 21st Century Act which amended the Toxic Substance Control Act (TSCA), on June 22, 2016. This particular rulemaking effort involves the revised TSCA section 6(b)(1), which requires that EPA promulgate a final rule within 1 year of enactment to establish a risk-based screening process, including criteria for designating chemical substances as high-priority substances for risk evaluations or low-priority substances for which risk evaluations are not warranted at the time.

Alternatives: Alternatives will not be developed as part of the development of a proposed rule.

Anticipated Cost and Benefits: The EPA will prepare a regulatory impact analysis as part of the development of a proposed rule.

Risks: This action will not address any particular risk. It will establish a risk-based screening process, including criteria for designating chemical substances as high-priority substances for risk evaluations or low-priority substances for which risk evaluations are not warranted at the time.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Federal, State, Tribal.

Sectors Affected: 325 Chemical Manufacturing.

URL for More Information: https://www.epa.gov/assessing-and-managing-chemicals-under-tsca.

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RIN: 2070–AK23

EPA—OFFICE OF LAND AND EMERGENCY MANAGEMENT (OLEM)

Proposed Rule Stage

130. Financial Responsibility Requirements Under Cercla Section 108(B) for Classes of Facilities in the Hardrock Mining Industry

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under PL 104–4.

Legal Authority: 42 U.S.C. 9601 *et seq.;* 42 U.S.C. 9608(b)

CFR Citation: 40 CFR 320.

Legal Deadline: NPRM, Judicial, December 1, 2016, Notice of proposed rulemaking.

Abstract: Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain authorities concerning financial responsibility requirements. The agency has identified classes of facilities within the hardrock mining industry as those for which financial responsibility requirements will be first developed. The EPA intends to include requirements for financial responsibility, as well as notification and implementation.

Statement of Need: EPA's 108(b) rules will address the degree and duration of risks associated with aspects of hazardous substance management at hardrock mining and mineral processing facilities. These regulations will help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and encourage businesses to improve their management of hazardous substances.

Summary of Legal Basis: Section 108(b) of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, establishes certain regulatory authorities concerning financial responsibility requirements. Specifically, the statutory language addresses the promulgation of regulations that require classes of facilities to establish and maintain evidence of financial responsibility consistent with the degree and duration of risk associated with the production, transportation, treatment, storage, or disposal of hazardous substances.

Alternatives: The EPA is considering proposing for comment alternatives for allowable types of financial instruments.

Anticipated Cost and Benefits: The EPA expects that the primary costs of the rule will be the costs to facilities for procuring required financial instruments. The EPA also expects to incur administrative and oversight costs. These regulations will help ensure that businesses make financial arrangements to address risks from hazardous substances at their sites, and encourage businesses to improve their management of hazardous substances.

Risks: EPA's 108(b) rules are intended to address the risks associated with the production, transportation, treatment, storage or disposal of hazardous substances at hardrock mining and mineral processing facilities.

Timetable:

Action	Date	FR Cite
Notice	07/28/09	74 FR 37213
NPRM	12/00/16	
Final Rule	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: Federal.

Additional Information: Docket No.: EPA–HQ–SFUND–2015–0781. Split from RIN 2050–AG56.

Sectors Affected: 212 Mining (except Oil and Gas); 331 Primary Metal Manufacturing.

URL for More Information: https://www.epa.gov/superfund/superfund-financial-responsibility.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-SFUND-2009-0265-0001.

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RIN: 2050–AG61

EPA—OFFICE OF WATER (OW)

Proposed Rule Stage

131. National Primary Drinking Water Regulations for Lead and Copper: Regulatory Revisions

Priority: Economically Significant. Major status under 5 U.S.C. 801 is undetermined.

Unfunded Mandates: Undetermined.

Legal Authority: 42 U.S.C. 300f *et seq.* Safe Drinking Water Act

CFR Citation: 40 CFR 141; 40 CFR 142.

Legal Deadline: None.

Abstract: Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review consisted of several elements, including a series of workshops designed to solicit issues, comments, and suggestions from stakeholders on particular issues; a review of monitoring data to evaluate the effectiveness of the LCR; and a review of the LCR implementation by States and water utilities. As a result of this multi-part review, EPA identified seven targeted rules changes and EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. This action addresses the remaining regulatory revisions. EPA's goal for the LCR revisions is to improve the effectiveness of public health protections while maintaining a rule that can be effectively implemented by the 68,000 drinking water systems that are covered by the rule.

Statement of Need: Beginning in 2004, EPA conducted a wide-ranging review of implementation of the Lead and Copper Rule (LCR) to determine if there is a national problem related to elevated lead levels. EPA's comprehensive review consisted of several elements, including a series of workshops designed to solicit issues, comments, and suggestions from stakeholders on particular issues; a review of monitoring data to evaluate the effectiveness of the LCR; and a review of the LCR implementation by States and water utilities. As a result of this multi-part review, EPA identified seven targeted rules changes and EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. EPA's goal for the LCR revisions is to improve the effectiveness of public health protections while maintaining a rule that can be effectively implemented by the 68,000 drinking water systems that are covered by the rule.

Summary of Legal Basis: The Safe Drinking Water Act (SDWA) (42 U.S.C. 300f *et seq.*) requires EPA to establish maximum contaminant level goals (MCLGs) and National Primary Drinking Water Regulations (NPDWRs) for contaminants that may have an adverse effect on the health of persons, may occur in public water systems at a frequency and level of public concern, and in the sole judgment of the Administrator, regulation of the contaminant would present a meaningful opportunity for health risk reduction for persons served by public water systems (section 1412(b)(1)(A)). The 1986 amendments to SDWA established a list of 83 contaminants for which EPA is to develop MCLGs and NPDWRs, which included lead and copper. The 1991 NPDWR for Lead and Copper (56 FR 26460, U.S. EPA, 1991a) fulfilled the requirements of the 1986 SDWA amendments with respect to lead and copper. EPA promulgated a set of short-term regulatory revisions and clarifications on October 10, 2007, to strengthen implementation of the existing Lead and Copper Rule. In developing the short-term revisions, EPA identified several regulatory changes to be considered as part of identifying more comprehensive changes to the rule. These considerations are longer-term in nature as they require additional data collection, research, analysis, and stakeholder involvement to support decisions. Changes will be made to improve the effectiveness of public health protections while maintaining a rule that can be effectively implemented.

Alternatives: To be determined.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	
Final Rule	12/00/18	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

Additional Information: This action includes retrospective review under Executive Order 13563; see: *http://www.epa.gov/regdarrt/retrospective/history.html*.

URL for More Information: http://water.epa.gov/lawsregs/rulesregs/sdwa/lcr/index.cfm.

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RIN: 2040–AF15

EPA—OW

132. • Fees for Water Infrastructure Project Applications Under the Water Infrastructure Finance and Innovation Act

Priority: Other Significant.

Legal Authority: 33 U.S.C. 3901 *et seq.* WRDDA

CFR Citation: TBD.

Legal Deadline: None.

Abstract: EPA is proposing this rule to establish fees for applying for federal credit assistance under the Water Infrastructure Finance and Innovation Act (WIFIA) program. As specified under 33 U.S.C. 3908(b)(7), 3909(b), and 3909(c)(3), EPA is authorized to charge fees to recover all or a portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments. EPA is proposing an initial application fee, credit processing fee, and servicing fee and is seeking comment on these.

Statement of Need: EPA is proposing to establish fees for applying for federal credit assistance under the Water Infrastructure Finance and Innovation Act (WIFIA) program. As specified under 33 U.S.C. 3908(b)(7), 3909(b), and 3909(c)(3), EPA is authorized to charge fees to recover all or a portion of the Agency's cost of providing credit assistance and the costs of retaining expert firms, including counsel, in the field of municipal and project finance to assist in the underwriting and servicing of Federal credit instruments. EPA is proposing an initial application fee, credit processing fee, and servicing fee and is seeking comment on these.

Summary of Legal Basis: The Water Infrastructure Finance and Innovation Act (WIFIA) program authorizes EPA to

provide secured (direct) loans and loan guarantees to eligible water infrastructure projects. WIFIA was passed as part of the Water Resources Reform and Development Act of 2014, Pub. L. 113–121. The fees are specified under 33 U.S.C. 3908(b)(7), 3909(b), and 3909(c)(3).

Alternatives: To Be Determined.

Anticipated Cost and Benefits: To Be Determined.

Risks: To Be Determined.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
Final Rule	07/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: None.

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Related RIN: Related to 2040–AF63

RIN: 2040–AF64

EPA—OFFICE OF AIR AND RADIATION (OAR)

Final Rule Stage

133. National Emission Standards for Hazardous Air Pollutants (NESHAP) Subpart W: Standards for Radon Emissions From Operating Uranium Mill Tailings: Review

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act.

CFR Citation: 40 CFR 61.

Legal Deadline: None.

Abstract: National Emission Standards for Hazardous Air Pollutants (NESHAP) subpart W protects human health and the environment by setting radon emission standards and work practices for operating uranium mill tailings impoundments. The EPA is in the process of reviewing this standard. If necessary, the Agency will revise the NESHAP requirements for radon emissions from operating uranium mill tailings.

Statement of Need: This radionuclide NESHAP promulgated in 1989 limits radon emissions from operating impoundments that manage uranium byproduct material. This review of the rule is prompted by a settlement agreement based on EPA's failure to review the rule within 10 years of the 1990 Clean Air Act Amendments.

Summary of Legal Basis: The authority for this action comes from Clean Air Act section 112(q)(1).

Alternatives: The rule proposed to establish Generally Available Control Technologies (GACT) or management practices for conventional impoundments, non-conventional impoundments, and heap leach piles. EPA proposed to: Eliminate the radon flux standard and monitoring at older conventional impoundments; to require non-conventional impoundments to retain one meter of liquid; to regulate heap leach piles from the initial application of leaching solution; and to require heap leach piles to maintain 30% moisture content. A specific alternative was discussed only in relation to regulating heap leach piles. The alternative was to not regulate the piles under subpart W until the leaching (extraction) process was completed and the heap leach pile contained only uranium byproduct material.

Anticipated Cost and Benefits: Costs attributable to the proposed rule include the cost to maintain one meter of liquid in non-conventional impoundments and the cost to maintain 30% moisture content in heap leach piles. These costs represent less than 0.1% of baseline facility costs. The primary benefit is maintaining air quality in the vicinity of uranium recovery facilities to levels consistent with the 1989 rule.

Risks: The proposed rule maintains the estimated individual lifetime risk of fatal cancer at approximately $1 \times 10–4$ or below, consistent with the 1989 rule. Population risk is estimated at between 0.0015 and 0.0026 fatal cancers per year, or approximately 1 case every 385 to 667 years for the 4 million persons living within 80 km of uranium recovery facilities.

Timetable:

Action	Date	FR Cite
NPRM	05/02/14	79 FR 25387
NPRM Comment Period Extended.	07/21/14	79 FR 42275
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Tribal.

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RIN: 2060–AP26

EPA—OAR

134. Revision of 40 CFR 192—Health and Environmental Protection Standards for Uranium and Thorium Mill Tailings and Uranium In Situ Leaching Processing Facilities

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2011 *et seq.* Atomic Energy Act

CFR Citation: 40 CFR 192.

Legal Deadline: None.

Abstract: The EPA's regulations in 40 CFR 192 establish standards for the protection of public health, safety, and the environment from radiological and nonradiological hazards associated with uranium ore processing and disposal of resulting waste materials. These cross-media standards, which apply to pollutant emissions and site restoration, must be adopted by the Nuclear Regulatory Commission, their Agreement States, and the Department of Energy. The EPA reviewed the standards in the existing rule and proposed to revise the regulations in January 2016 (80 FR 4155), taking into particular account the significant changes in uranium industry extraction technologies and their potential impacts to groundwater. In addition, new facilities being proposed in states from Virginia to Alaska add to the importance of this effort. The final rule will incorporate comments from industry and public stakeholders received during the proposal, as well as the intra-agency workgroup.

Statement of Need: In-situ uranium recovery (ISR) is now the dominant form of uranium recovery. ISR involves injection of chemical solutions to alter groundwater chemistry and mobilize uranium, which is then extracted. Monitoring and groundwater restoration must be conducted to limit the potential for contamination during operations and after facility closure. Rules specific to ISR do not exist at the federal level. The current rulemaking will provide national consistency in protecting groundwater at ISR facilities.

Summary of Legal Basis: EPA's authority to establish standards of

general application to protect public health, safety, and the environment is provided by section 275 of the Atomic Energy Act of 1954, as amended by section 206 of the Uranium Mill Tailings Radiation Control Act of 1978. EPA's standards of general application are implemented and enforced by the Nuclear Regulatory Commission (NRC).

Alternatives: The proposed rule would establish a framework for monitoring at ISR facilities. The primary alternatives proposed related to the length of the long-term stability monitoring period. EPA proposed a 30-year monitoring period, with provision to shorten using geochemical modeling. Alternative presented were a 30-year period, with no provision for shortening, and a narrative standard identifying performance goals with no specified time period, in which the NRC would determine whether monitoring is sufficient based on site-specific conditions.

Anticipated Cost and Benefits: The proposed rule was estimated to increase the average cost of uranium production at ISR facilities by approximately $1.50 per pound of uranium (~2.9%), and that average costs per facility would range from $304,000 to $9.5 million, depending on the scale of the facility. Total annual costs attributable to the rule were estimated at approximately $13.5 million. Benefits are primarily the avoidance of remediation of contamination resulting from insufficient restoration and monitoring. Because current practice is to monitor for only a short period after restoration, it was not possible to determine how many sites could require remediation in the absence of the rule or quantify benefits, although it is estimated that the cost of remediation at any particular site would likely exceed the cost of compliance with the rule.

Risks: Risk to public health would be from exposure to groundwater contamination resulting from insufficient restoration and monitoring. Because current practice is to monitor for only a short period after restoration, there is insufficient information to determine public exposures after monitoring is terminated. Therefore, it is not possible to quantify the health benefits of the rule, such as cancers averted.

Timetable:

Action	Date	FR Cite
NPRM	01/26/15	80 FR 4155
NPRM Comment Period Extended.	04/24/15	80 FR 22964
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: State, Tribal.

Additional Information: SAN No. 5319.

Sectors Affected: 212291 Uranium-Radium-Vanadium Ore Mining.

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RIN: 2060–AP43

EPA—OAR

135. Model Trading Rules for Greenhouse Gas Emissions From Electric Utility Generating Units Constructed on or Before January 8, 2014

Priority: Other Significant.

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

CFR Citation: 40 CFR 62.

Legal Deadline: None.

Abstract: In the final Clean Power Plan (CPP) promulgated in August 2015, the EPA set Emission Guidelines for the best system of emission reductions for carbon dioxide from existing power plants. States were tasked in the CPP with developing plans to achieve reductions in carbon dioxide emissions from the existing power plants in each state. In these model trading rules, the EPA will finalize models that provide two optional approaches (rate-based and mass-based emission trading programs) that states may use in developing a plan.

Statement of Need: These model trading rules provide states with examples of a mass-based trading program and a rate-based trading program that can be used as part of a state plan submission for the Clean Power Plan. These model trading rules achieve the level of carbon dioxide emission reductions achieved through the Clean Power Plan.

Summary of Legal Basis: The Model Trading rules are example trading programs the states may use to achieve emission reductions for carbon dioxide from existing power plants. They can be used by states as part of their submissions for the Clean Power Plan. The Clean Power Plan was developed under the authority of the Clean Air Act Section 111.

Alternatives: In the proposal, the EPA solicited comments on many topics. For the rate-based Model Trading Rule, the EPA solicited comment on different methods for calculating Gas Shift Emission Rate Credits. Also in the rate-based Model Trading Rule, there were alternatives sought for the overall structure of a rate-base trading rule that aligns with the Clean Power Plan and facilitates interstate trading. For the mass-based Model Trading Rule, the EPA solicited comment on allocation approaches and methods for addressing leakage.

Anticipated Cost and Benefits: There are no anticipated costs for these Model Trading Rules that differ from the anticipated costs described in the Clean Power Plan. The Model Trading Rules have the anticipated benefits described there as well. Actions taken to comply with the Clean Power Plan will also reduce the emissions of directly-emitted $PM_{2.5}$, SO_2, and NO_X. The benefits associated with these $PM_{2.5}$, SO_2, and NO_X reductions are referred to as co-benefits, as these reductions are not the primary objective of this rule. The RIA for the Clean Power Plan spells out, in detail, the numerical benefits associated with the model trading rules.

Risks: Because these Model Trading Rules are example trading programs for states, there is no risk associated with them outside of what is described in the Clean Power Plan.

Timetable:

Action	Date	FR Cite
NPRM	10/23/15	80 FR 64965
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Energy Effects: Statement of Energy Effects planned as required by Executive Order 13211.

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RIN: 2060–AS47

EPA—OAR

136. Renewable Fuel Volume Standards for 2017 and Biomass Based Diesel Volume (BBD) for 2018

Priority: Other Significant.

Legal Authority: 42 U.S.C. 7619 Clean Air Act

CFR Citation: 40 CFR 80.

Legal Deadline: Final, Statutory, November 30, 2016, The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply.

Final Statutory November 30,2016, cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply.

Abstract: The Clean Air Act requires the EPA to promulgate regulations that specify the annual standards requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires that the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass based diesel, the statute that requires applicable volumes be set no later than 14 months before the year for which the requirements would apply. This action would propose the applicable volumes for all renewable fuel categories for 2017, and would also propose the BBD standard for 2018.

Statement of Need: Section 211(o) of the Clean Air Act requires the EPA to promulgate regulations that specify the annual volume requirements for renewable fuels under the Renewable Fuel Standard (RFS) program. Standards are to be set for four different categories of renewable fuels: Cellulosic biofuel, biomass based diesel (BBD), advanced biofuel, and total renewable fuel. The statute requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply.

Summary of Legal Basis: The Clean Air Act Section 211(o) requires the standards be finalized by November 30 of the year prior to the year in which the standards would apply. In the case of biomass based diesel, the statute requires applicable volumes be set no later than 14 months before the year for which the requirements would apply.

Alternatives: The action will establish renewable fuel standards for the years identified above. Comments submitted during the public process will be reviewed and considered in the final standards.

Anticipated Cost and Benefits: In the proposal, EPA estimated that the cost to produce renewable fuels compared to the costs of producing petroleum fuels would range from $535 to $971 million in 2017. These illustrative cost estimate are not meant to be precise measures, nor do they attempt to capture the full impacts of the rule. These estimates are provided solely for the purpose of showing how the cost to produce a gallon of a ''representative'' renewable fuel compares to the cost of producing a petroleum fuel. The short timeframe provided for the annual renewable fuel rule process does not allow sufficient time for EPA to conduct a comprehensive analysis of the benefits of the annual standards. Since the benefits are unquantified, the net benefits are incalculable.

Risks: A risk analysis was not conducted.

Timetable:

Action	Date	FR Cite
NPRM	05/31/16	81 FR 34777
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 2060–AS72

EPA—OFFICE OF CHEMICAL SAFETY AND POLLUTION PREVENTION (OCSPP)

Final Rule Stage

137. Pesticides; Certification of Pesticide Applicators

Priority: Other Significant.

Legal Authority: 7 U.S.C. 136 *et seq.* Federal Insecticide Fungicide and Rodenticide Act

CFR Citation: 40 CFR 156; 40 CFR 171.

Legal Deadline: None.

Abstract: The EPA is developing a final rule to revise the federal regulations governing the certified pesticide applicator program (40 CFR part 171). In August 2015, the EPA proposed revisions based on years of extensive stakeholder engagement and public meetings, to ensure that they adequately protect applicators, the public, and the environment from potential harm due to exposure to restricted use pesticides (RUPs). This action is intended to improve the competence of certified applicators of RUPs and to increase protection for noncertified applicators of RUPs operating under the direct supervision of a certified applicator through enhanced pesticide safety training and standards for supervision of noncertified applicators.

Statement of Need: Change is needed to strengthen the protections for pesticide applicators, the public, and the environment from harm due to pesticide exposure.

Summary of Legal Basis: This action is issued under the authority of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 to 136y, particularly sections 136a(d), 136i, and 136w.

Alternatives: The Agency has developed mechanisms to improve applicator trainers and make training materials more accessible. The Agency has also developed nationally relevant training and certification materials to preserve State resources while improving competency. However, these mechanisms and materials do not address other requisite needs for improving protections, such as requirements for determining competency and recertification. The EPA worked with key stakeholders to identify and evaluate various alternatives and regulatory options during the development of the proposed rule. These are discussed in detail in the proposed rule, and Economic Analysis that was prepared for the proposed rule.

Anticipated Cost and Benefits: The EPA prepared an Economic Analysis (EA) of the potential costs and impacts associated with the proposed rule, a copy or which is available in the docket, discussed in more detail in unit III of the proposed rule; and briefly summarized here. The EPA monetized benefits based on avoided acute pesticide incidents are estimated at $80.5 million/year after adjustment for underreporting of pesticide incidents (EA chapter 6.5). Qualitative benefits include the following:

- Willingness to pay to avoid acute effects of pesticide exposure beyond

cost of treatment and loss of productivity.

• Reduced latent effect of avoided acute pesticide exposure.

• Reduced chronic effects from lower chronic pesticide exposure to workers, handlers, and farmworker families, including a range of illnesses such as non-Hodgkins lymphoma, prostate cancer, Parkinson's disease, lung cancer, chronic bronchitis, and asthma. (EA chapter 6.4 & 6.6) EPA estimated total incremental costs of $47.2 million/year (EA chapter 5), which included the following:

• $19.5 million/year for costs to Private Applicators, with an estimated 490,000 impacted and an average cost of $40 per applicator (EA chapter 5 & 5.6).

• $27.4 million/year for costs to Commercial Applicators, with an estimated 414,000 impacted and an average cost of $66 per applicator (EA chapter 5 & 5.6).

• $359,000 for costs to States and other jurisdictions, with an estimated 63 impacted (EA chapter 5). The EPA estimated that there is no significant impact on a substantial number of small entities. EPA estimated that the proposed rule may affect over 800,000 small farms that use pesticides, although about half are unlikely to apply restricted use pesticides. The estimated impact for small entities is less than 0.1% of the annual revenues for the average small entity (EA chapter 5.7). The EPA also estimated that the proposed rule will have a negligible effect on jobs and employment because most private and commercial applicators are self-employed; and the estimated incremental cost per applicator represents from 0.3 to 0.5 percent of the cost of a part-time employee (EA chapter 5.6).

Risks: Applicators are at risk from exposure to pesticides they handle for their work. The public and the environment may also be at risk from misapplication by applicators. Revisions to the regulations are expected to minimize these risks by ensuring the competency of certified applicators.

Timetable:

Action	Date	FR Cite
Notice	11/14/14	79 FR 68152
Notice	11/14/14	79 FR 68152
NPRM	08/24/15	80 FR 51355
NPRM Comment Period Extended.	11/18/15	80 FR 72029
NPRM Comment Period Extended.	12/23/15	80 FR 79803
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket No.: EPA–HQ–OPP–2011–0183. Includes retrospective review under Executive Order 13563.

Sectors Affected: 9241 Administration of Environmental Quality Programs; 111 Crop Production; 32532 Pesticide and Other Agricultural Chemical Manufacturing; 5617 Services to Buildings and Dwellings.

URL for More Information: http://www.epa.gov/oppfead1/safety/applicators/applicators.htm.

URL for Public Comments: http://www.regulations.gov/#!documentDetail;D=EPA-HQ-OPP-2011-0183-0001.

Agency Contact: Michelle Arling, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7506P, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 703 308–5891, *Fax:* 703 308–2962, *Email: arling.michelle@epa.gov.*

Kevin Keaney, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7506c, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 703 305–7666, *Email: keaney.kevin@epa.gov.*

RIN: 2070–AJ20

EPA—OFFICE OF LAND AND EMERGENCY MANAGEMENT (OLEM)

Final Rule Stage

138. Modernization of the Accidental Release Prevention Regulations Under Clean Air Act

Priority: Economically Significant. Major under 5 U.S.C. 801.

Unfunded Mandates: This action may affect the private sector under Public Law 104–4.

Legal Authority: 42 U.S.C. 7412(r)

CFR Citation: 40 CFR 68.

Legal Deadline: None.

Abstract: The EPA, in response to Executive Order 13650, is amending its Risk Management Program regulations. Such revisions may include several changes to the accident prevention program requirements including an additional analysis of safer technology and alternatives for the process hazard analysis for some Program 3 processes, third-party audits and incident investigation root cause analysis for Program 2 and Program 3 processes, enhancements to the emergency preparedness requirements, increased public availability of chemical hazard information, and several other changes to certain regulatory definitions and data elements submitted in risk management plans. Such amendments are intended to improve chemical process safety, assist local emergency authorities in planning for and responding to accidents, and improve public awareness of chemical hazards at regulated sources.

Statement of Need: In response to Executive Order 13650, the EPA is considering potential revisions to its Risk Management Program regulations. The Executive Order establishes the Chemical Facility Safety and Security Working Group (''Working Group''), co-chaired by the Secretary of Homeland Security, the Administrator of the EPA, and the Secretary of Labor or their designated representatives at the Assistant Secretary level or higher, and composed of senior representatives of other federal departments, agencies, and offices. The Executive Order requires the Working Group to carry out a number of tasks whose overall goal is to prevent chemical accidents. Section 6(a)(i) of the Executive Order requires the Working Group to develop options for improved chemical facility safety and security that identify ''improvements to existing risk management practices through agency programs, private sector initiatives, Government guidance, outreach, standards, and regulations.'' Section 6(c) of Executive Order 13650 requires the Administrator of the EPA to review the RMP Program (RMP).

Summary of Legal Basis: Clean Air Act Section 112(r)(7) authorizes the EPA Administrator to promulgate regulations to prevent accidental releases. Section 112(r)(7)(A) authorizes release prevention, detection, and correction requirements that may include a broad range of methods, make distinctions among classes and types of facilities, and may take into consideration other factors, including, but not limited to, size, location, process and substance factors, and response capabilities. Section 112(r)(7)(B) authorizes reasonable regulations and appropriate guidance to provide, to the greatest extent practicable, for the prevention and detection of accidental releases of regulated substances and for response to such releases by the owners or operators of the sources of such releases.

Alternatives: The EPA is considering revisions to the accident prevention, emergency response, recordkeeping, and other provisions in 40 CFR part 68 to address chemical accident risks. The proposed action will contain the EPA's preferred option, as well as alternative regulatory options. The EPA also is

considering publishing non-regulatory guidance to address some issues that will be raised in the proposed action.

Anticipated Cost and Benefits: Costs will include the burden on regulated entities associated with implementing new or revised requirements, including program implementation, training, equipment purchases, and recordkeeping, as applicable. Some costs will also accrue to implementing agencies and local governments, due to enhanced local coordination and recordkeeping requirements. Benefits will result from avoiding the harmful accident consequences to communities and the environment, such as deaths, injuries, and property damage, environmental damage, and from mitigating the effects of releases that may occur.

Risks: The proposed action will address the risks associated with accidental releases of listed regulated toxic and flammable substances to the air from stationary sources. Substances regulated under the RMP program include highly toxic and flammable substances that can cause deaths, injuries, property and environmental damage, and other on- and off-site consequences if accidentally released. The proposed action will reduce these risks by making accidental releases less likely, and by mitigating the severity of releases that may occur. The proposed action would not address the risks of non-accidental chemical releases, accidental releases of non-regulated substances, chemicals released to other media, and air releases from mobile sources.

Timetable:

Action	Date	FR Cite
NPRM	03/14/16	81 FR 13637
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses, Governmental Jurisdictions.

Government Levels Affected: Federal, Local, State, Tribal.

Additional Information: Docket No.: EPA–HQ–OEM–2015–0725.

Sectors Affected: 325 Chemical Manufacturing; 49313 Farm Product Warehousing and Storage; 42491 Farm Supplies Merchant Wholesalers; 311511 Fluid Milk Manufacturing; 311 Food Manufacturing; 221112 Fossil Fuel Electric Power Generation; 311411 Frozen Fruit, Juice, and Vegetable Manufacturing; 49311 General Warehousing and Storage; 31152 Ice Cream and Frozen Dessert Manufacturing; 311612 Meat Processed from Carcasses; 211112 Natural Gas Liquid Extraction; 32519 Other Basic Organic Chemical Manufacturing; 42469 Other Chemical and Allied Products Merchant Wholesalers; 49319 Other Warehousing and Storage; 322 Paper Manufacturing; 42471 Petroleum Bulk Stations and Terminals; 32411 Petroleum Refineries; 311615 Poultry Processing; 49312 Refrigerated Warehousing and Storage; 22132 Sewage Treatment Facilities; 11511 Support Activities for Crop Production; 22131 Water Supply and Irrigation Systems.

URL for More Information: https://www.epa.gov/rmp.

URL for Public Comments: http://www.regulations.gov/docket?D=EPA-HQ-OEM-2015-0725.

Agency Contact: Jim Belke, Environmental Protection Agency, Office of Land and Emergency Management, 5104A, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–8023, *Fax:* 202 564–8444, *Email: belke.jim@epa.gov.*

Kathy Franklin, Environmental Protection Agency, Office of Land and Emergency Management, 5104A, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–7987, *Fax:* 202 564–2625, *Email: franklin.kathy@epa.gov.*

RIN: 2050–AG82

EPA—OFFICE OF WATER (OW)

Final Rule Stage

139. Credit Assistance for Water Infrastructure Projects

Priority: Other Significant.

Legal Authority: 33 U.S.C. 3901 *et seq.* WRDDA

CFR Citation: Undetermined.

Legal Deadline: None.

Abstract: The EPA is taking this action to implement the Water Infrastructure Finance and Innovation Act (WIFIA) program. WIFIA was passed as part of the Water Resources Reform and Development Act of 2014, Pub. L. 113–121. This action will establish guidelines for the application process, selection criteria, and project selection, as well as define threshold requirements for credit assistance, limits on credit assistance, reporting requirements, collection of fees and the application of other Federal statutes.

Statement of Need: EPA plans to issue an interim final rule that establishes the guidelines for a new credit assistance program for water infrastructure projects and the process by which EPA will administer such credit assistance. The rule will implement a new program authorized under the Water Infrastructure Finance and Innovation Act of 2014 (WIFIA). WIFIA authorizes EPA to provide secured (direct) loans and loan guarantees to eligible water infrastructure projects. Following project selection by the EPA Administrator, individual credit agreements will be developed through negotiations between the project sponsors and EPA. The interim final rule primarily restates and clarifies statutory language while establishing approaches to specific procedural issues left to EPA's discretion.

Summary of Legal Basis: The Water Infrastructure Finance and Innovation Act (WIFIA) program authorizes EPA to provide secured (direct) loans and loan guarantees to eligble water infrastructure projects. WIFIA was passed as part of the Water Resources Reform and Development Act of 2014, Pub. L. 113–121.

Alternatives: To Be Determined.

Anticipated Cost and Benefits: To Be Determined.

Risks: To Be Determined.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: Karen Fligger, Environmental Protection Agency, Office of Water, 4204M, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–2992, *Email: fligger.karen@epa.gov.*

RIN: 2040–AF63

BILLING CODE 6560–50–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC)

Statement of Regulatory and Deregulatory Priorities

The mission of the Equal Employment Opportunity Commission (EEOC, Commission, or Agency) is to ensure equality of opportunity in employment by vigorously enforcing and educating the public about the following Federal statutes: Title VII of the Civil Rights Act of 1964, as amended (prohibits employment discrimination on the basis of race, color, sex (including pregnancy), religion, or national origin); the Equal Pay Act of 1963, as amended (makes it illegal to pay unequal wages to men and women performing substantially equal work under similar

working conditions at the same establishment); the Age Discrimination in Employment Act of 1967, as amended (prohibits employment discrimination based on age of 40 or older); titles I and V of the Americans with Disabilities Act, as amended, and sections 501 and 505 of the Rehabilitation Act, as amended (prohibit employment discrimination based on disability); title II of the Genetic Information Nondiscrimination Act (prohibits employment discrimination based on genetic information and limits acquisition and disclosure of genetic information); and section 304 of the Government Employee Rights Act of 1991 (protects certain previously exempt State & local government employees from employment discrimination on the basis of race, color, religion, sex, national origin, age, or disability).

The Regulatory Plan has one item entitled ''Affirmative Action for Individuals With Disabilities in the Federal Government.'' The EEOC's regulations implementing section 501, as set forth in 29 CFR 1614, require Federal agencies and departments to be ''model employers'' of individuals with disabilities. The Commission issued an Advanced Notice of Proposed Rulemaking (ANPRM) on May 15, 2014 (79 FR 27824), and it issued a proposed rule on February 24, 2016 (81 FR 9123), to include a more detailed explanation of how Federal agencies and departments should ''give full consideration to the hiring, placement, and advancement of qualified individuals with disabilities.'' Any revisions would be informed by Management Directive 715, and may include goals consistent with Executive Order 13548. Furthermore, any revisions would result in costs only to the Federal Government; would contribute to increasing the employment of individuals with disabilities; and would not affect risks to public health, safety, or the environment.

Consistent with section 4(c) of Executive Order 12866, this statement was reviewed and approved by the Chair of the Agency. The statement has not been reviewed or approved by the other members of the Commission.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis in the EEOC's final retrospective review of regulations plan. Some of the entries on this list may be completed actions, which do not appear in The Regulatory Plan. However, more information can be found about these completed rulemakings in past publications of the Unified Agenda on Reginfo.gov (*http://reginfo.gov/*) in the Completed Actions section. These rulemakings can also be found on *Regulations.gov* (*http://regulations.gov*). The EEOC's final Plan for Retrospective Analysis of Existing Rules can be found at: *http://www.eeoc.gov/laws/regulations/retro_review_plan_final.cfm.*

RIN	Title	Effect on small business
3046–AA91	Revisions to procedures for complaints or charges of employment discrimination based on disability subject to the americans with disabilities act and section 504 of the rehabilitation act of 1973.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA92	Revisions to procedures for complaints/charges of employment discrimination based on disability filed against employers holding government contracts or subcontracts.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AA93	Revisions to procedures for complaints of employment discrimination filed against recipients of federal financial assistance.	This rulemaking may decrease burdens on small businesses by making the charge/complaint process more efficient.
3046–AB00	Federal sector equal employment opportunity	This rulemaking pertains to the Federal sector equal employment opportunity process and thus is not expected to affect small businesses.

EEOC

Final Rule Stage

140. Affirmative Action for Individuals With Disabilities in the Federal Government

Priority: Other Significant.

Legal Authority: 29 U.S.C. 791(b)

CFR Citation: 29 CFR 1614.203(a).

Legal Deadline: None.

Abstract: Section 501 of the Rehabilitation Act, as amended (Section 501), prohibits discrimination against individuals with disabilities in the Federal Government. The EEOC's regulations implementing section 501, as set forth in 29 CFR part 1614, require Federal agencies and departments to be ''model employers'' of individuals with disabilities 1 On May 15, 2014, the Commission issued an Advance Notice of Proposed Rulemaking (79 FR 27824) that sought public comments on whether and how the existing regulations could be improved to provide more detail on what being a ''model employer'' means and how Federal agencies and departments should ''give full consideration to the hiring, placement and advancement of qualified individuals with disabilities.'' 2 The NPRM was published on February 24, 2016 (81 FR 9123). The EEOC's review of the comments and potential revisions was informed by the discussion in Management Directive 715 of the tools Federal agencies should use to establish goals for the employment and advancement of individuals with disabilities. The EEOC's review of the comments and potential revisions was also informed by, and consistent with, the goals of Executive Order 13548 to increase the employment of individuals with disabilities and the employment of individuals with targeted disabilities.—— 1 29 CFR 1614.203(a). 2 Id.

Statement of Need: Pursuant to section 501 of the Rehabilitation Act, the Commission is authorized to issue such regulations as it deems necessary to carry out its responsibilities under this Act. Executive Order 13548 called for increased efforts by Federal agencies and departments to recruit, hire, retain, and return individuals with disabilities to the Federal workforce.

Summary of Legal Basis: Section 501 of the Rehabilitation Act of 1973, as amended (section 501), 29 U.S.C. 791, in addition to requiring nondiscrimination with respect to Federal employees and applicants for Federal employment who are individuals with disabilities, also requires Federal agencies to maintain,

update annually, and submit to the Commission an affirmative action program plan for the hiring, placement, and advancement of individuals with disabilities. As part of its responsibility for the administration and enforcement of equal opportunity in Federal employment, the Commission is authorized under 29 U.S.C. 794a(a)(1) to issue rules, regulations, orders, and instructions pursuant to section 501.

Alternatives: The EEOC considered all alternatives offered by ANPRM public commenters. The EEOC will consider all alternatives offered by future public commenters.

Anticipated Cost and Benefits: Any costs that might result would only be borne by the Federal Government. The revisions would contribute to increased employment of individuals with disabilities.

Risks: The proposed changes do not affect risks to public health, safety, or the environment.

Timetable:

Action	Date	FR Cite
ANPRM	05/15/14	79 FR 27824
ANPRM Comment Period End.	07/14/14	
NPRM	02/24/16	81 FR 9123
NPRM Comment Period End.	04/25/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Agency Contact: Christopher Kuczynski, Assistant Legal Counsel, Office of Legal Counsel, Equal Employment Opportunity Commission, 131 M Street NE., Washington, DC 20507, *Phone:* 202 663–4665, *TDD Phone:* 202 663–7026, *Fax:* 202 653–6034, *Email: christopher.kuczynski@eeoc.gov.*

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Related RIN: Related to 3046–AA73

RIN: 3046–AA94

BILLING CODE 6570–01–P

GENERAL SERVICES ADMINISTRATION (GSA)

Regulatory Plan—October 2016

I. Mission and Overview

GSA oversees the business of the Federal Government. GSA's acquisition solutions supply Federal purchasers with cost-effective, high-quality products and services from commercial vendors. GSA provides workplaces for Federal employees and oversees the preservation of historic Federal properties. GSA helps keep the Nation safe by providing tools, equipment, and non-tactical vehicles to the U.S. military, and providing State and local governments with law enforcement equipment, firefighting and rescue equipment, and disaster recovery products and services.

GSA serves the public by delivering services directly to its Federal customers through the Federal Acquisition Service (FAS), the Public Buildings Service (PBS), and the Office of Government-wide Policy (OGP). GSA has a continuing commitment to its Federal customers and the U.S. taxpayers by providing those services in the most cost-effective manner possible.

Federal Acquisition Service (FAS)

FAS is the lead organization for procurement of products and services (other than real property) for the Federal Government. The FAS organization leverages the buying power of the Government by consolidating Federal agencies' requirements for common goods and services. FAS provides a range of high-quality and flexible acquisition services that increase overall Government effectiveness and efficiency. FAS business operations are organized into four business portfolios based on the product or service provided to customer agencies: Integrated Technology Services (ITS); Assisted Acquisition Services (AAS); General Supplies and Services (GSS); and Travel, Motor Vehicles, and Card Services (TMVCS). The FAS portfolio structure enables GSA and FAS to provide best value services, products, and solutions to its customers by aligning resources around key functions.

Public Buildings Service (PBS)

PBS is the largest public real estate organization in the United States, providing facilities and workspace solutions to more than 60 Federal agencies. PBS aims to provide a superior workplace for the Federal worker and superior value for the U.S. taxpayer. Balancing these two objectives is PBS' greatest management challenge. PBS' activities fall into two broad areas. The first is space acquisition through both leases and construction. PBS translates general needs into specific requirements, marshals the necessary resources, and delivers the space necessary to meet the respective missions of its Federal clients. The second area is management of space. This involves making decisions on maintenance, servicing tenants, and ultimately, deciding when and how to dispose of a property at the end of its useful life.

Office of Government-Wide Policy (OGP)

OGP sets Government-wide policy in the areas of personal and real property, travel and transportation, information technology, regulatory information, and use of Federal advisory committees. OGP also helps direct how all Federal supplies and services are acquired as well as GSA's own acquisition programs. OGP's regulatory function fully incorporates the provisions of the President's priorities and objectives under Executive Orders 12866 and 13563 with policies covering acquisition, travel, and property and management practices to promote efficient Government operations. OGP's strategic direction is to ensure that Government-wide policies encourage agencies to develop and utilize the best, most cost effective management practices for the conduct of their specific programs. To reach the goal of improving Government-wide management of property, technology, and administrative services, OGP builds and maintains a policy framework by: (1) Incorporating the requirements of Federal laws, Executive orders, and other regulatory material into policies and guidelines; (2) facilitating Government-wide reform to provide Federal managers with business-like incentives and tools and flexibility to prudently manage their assets; (3) identifying, evaluating, and promoting best practices to improve efficiency of management processes; and (4) performing ongoing analysis of existing rules that may be obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive.

OGP's policy regulations are described in the following subsections:

Office of Asset and Transportation Management (Federal Travel Regulation)

The Federal Travel Regulation (FTR) enumerates the travel and relocation policy for all title 5 Executive agency employees and others, as specified therein. The Code of Federal Regulations (CFR) is available at *www.gpoaccess.gov/cfr.* Each version is updated as official changes are published in the **Federal Register**. **Federal Register** publications and complete versions of the FTR are available at *www.gsa.gov/ftr.*

The FTR is the regulation contained in 41 Code of Federal Regulations (CFR),

chapters 300 through 304, that implements statutory requirements and executive branch policies for official travel by Federal civilian employees and others authorized to travel at Government expense.

The Administrator of General Services promulgates the FTR to: (a) Interpret statutory and other policy requirements in a manner that balances the need to ensure that official travel is conducted in a responsible manner with the need to minimize administrative costs; and (b) communicate the resulting policies in a clear manner to Federal agencies and employees.

Office of Asset and Transportation Management (Federal Management Regulation)

The Federal Management Regulation (FMR) establishes policy for aircraft, transportation, personal property, real property, and mail management. The FMR is the successor regulation to the Federal Property Management Regulation (FPMR), and it contains updated regulatory policies originally found in the FPMR. However, it does not contain FPMR material that describes how to do business with GSA.

Office of Acquisition Policy (General Services Administration Acquisition Manual (GSAM) and the General Services Administration Acquisition Regulation (GSAR))

GSA's internal rules and practices on how it buys goods and services from its business partners are covered by the General Services Administration Acquisition Manual (GSAM), which implements and supplements the Federal Acquisition Regulation at GSA. The GSAM comprises both a non-regulatory portion (GSAM), which reflects policies with no external impact, and a regulatory portion, the General Services Administration Acquisition Regulation (GSAR). The GSAR establishes agency acquisition regulations that affect GSA's business partners (*e.g.* prospective offerors and contractors) and acquisition of leasehold interests in real property. The latter are primarily established under the authority of 40 U.S.C. 585. The GSAR implements contract clauses, solicitation provisions, and forms that control the relationship between GSA and contractors and prospective contractors.

II. Statement of Regulatory and Deregulatory Priorities

FTR Regulatory Priorities

In fiscal year 2017, GSA plans to amend the FTR by:

- Revising chapter 301, Temporary Duty Travel, ensuring accountability and transparency. This revision will ensure agencies' travel for missions is efficient and effective, reduces costs, promotes sustainability, or incorporates industry best practices at the lowest logical travel cost.
- Revising chapters 301; Temporary Duty (TDY) Travel Allowances and 304, Payment of Travel Expenses from a Non-Federal Source to clarify the full or partial waiver of conference registration fees from a non-Federal conference organizer.

FMR Regulatory Priorities

In fiscal year 2017, GSA plans to amend the FMR by:

- Revising rules regarding management of Federal real property;
- Revising rules regarding management of Federal personal property.
- Revising rules under management of transportation.

FPMR Regulatory Priorities

- Migrating regulations regarding the supply and procurement of Government personal property management from the FPMR to the FMR.
- Incorporating the penalty inflation adjustments for the civil monetary penalties.

GSAR Regulatory Priorities

GSA plans, to update the GSAR to maintain consistency with the Federal Acquisition Regulation (FAR) and to implement streamlined and innovative acquisition procedures that contractors, offerors, and GSA contracting personnel can utilize when entering into and administering contractual relationships. Current GSAR initiatives are focused on—

- Providing consistency with the FAR;
- Eliminating coverage that duplicates the FAR or creates inconsistencies within the GSAR;
- Rewriting sections that have become irrelevant because of changes in technology or business processes or that place unnecessary administrative burdens on contractors and the Government;
- Streamlining or simplifying the regulation;
- Rolling up coverage from the services and regions/zones that should be in the GSAR, specifically targeting PBS's construction contracting policies and the GSA Schedules Program; and
- Streamlining the evaluation process for contracts containing commercial supplier agreements.

General Services Property Management Regulation

- Updating and streamlining the Freedom of Information Act regulations.

Regulations of Concern to Small Businesses

GSAR rules are relevant to small businesses that do or wish to do business with the Federal Government. GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms is of interest to small businesses as it proposes a way to streamline the evaluation process to award contracts containing commercial supplier agreements. By streamlining this process, GSA anticipates reducing barriers to entry for small businesses.

Regulations Which Promote Open Government and Disclosure

There are currently no regulations which promote open Government and disclosure.

III. Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (2011), the GSA retrospective review and analysis final and updated regulations plan can be found at *www.gsa.gov/improvingregulations.* The following RINS are included in the Retrospective Review.

Regulation Identifier No.	Title
	Proposed Rule Stage
3090–AJ63	General Services Administration Regulation (GSAR); GSAR Case 2015–G503; Construction Contract Administration.
3090–AJ64	General Services Administration Regulation (GSAR); GSAR Case 2015–G506; Construction Manager as Constructor Contracting.
3090–AJ65	General Services Administration Regulation (GSAR); GSAR Case 2015–G505; Architect-Engineer Selection Procedures.

Regulation Identifier No.	Title
3090–AJ66	General Services Administration Regulation (GSAR); GSAR Case 2015–G504; Design-Build Selection Procedures.
3090–AJ71	Federal Management Regulation (FMR); FMR Case 2016–102–2, Designation of Authority and Location of Space.
3090–AJ74	General Services Property Management Regulation (GSPMR) GSPMR Case 2016–105–1; Public Availability of Agency Records and Informational Materials Inbox.
3090–AJ75	General Services Administration Regulation (GSAR); GSAR Case 2016–G506;Federal Supply Schedule, Order-Level Materials.
	Final Rule Stage
3090–AJ50	Federal Property Management Regulations (FPMR)/Federal Management Regulation (FMR) FPMR Case 2014–101–1; FMR Case 2014–102–2, Supply and Procurement.
3090–AJ56	Federal Travel Regulation (FTR); FTR Case 2015–304, Clarifying Agency Responsibilities Concerning Reimbursement for Automatic Teller Machine (ATM) Fees and Laundry, Cleaning and Pressing of Clothing Expenses.
3090–AJ59	Federal Management Regulation (FMR); FMR Case 2015–102–2, Transportation Payment and Audit.
3090–AJ60	Federal Management Regulation (FMR); FMR Case 2015–102–3, Art-in-Architecture.
3090–AJ67	General Services Administration Regulation (GSAR); GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms.
3090–AJ68	Federal Travel Regulation (FTR); FTR 2015–303, Optimal Use of the Government Contractor-Issued Travel Charge Card.
3090–AJ69	Federal Travel Regulation (FTR); FTR Case 2016–301, Clarification of Payment In Kind for Speakers at Meetings and Conferences.
3090–AJ70	Federal Property Management Regulation; FPMR Case 2016–101–1; Program Fraud Civil Remedies Act of 1986, Civil Monetary Penalties Inflation Adjustment.
3090–AJ72	Federal Management Regulation (FMR); FMR Case 2016–102–1; Federal Real Property Profile.
3090–AJ73	Federal Management Regulation (FMR); FMR Case 2010–102–3, Sale of Personal Property.
3090–AJ76	Federal Management Regulation (FMR); FMR Case 2016–102–3, Utility Services.
3090–AJ77	Federal Management Regulation (FMR); FMR Case 2016–102–4, Historic Preservation.
	Completed Actions
3090–AI51	General Service Administration Acquisition Regulation (GSAR); GSAR Case 2007–G500, Rewrite of GSAR Part 517, Special Contracting Methods.
3090–AI76	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2008–G506, Rewrite of GSAR Part 515, Contracting by Negotiation.
3090–AJ43	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities.
3090–AJ51	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G504, Transactional Data Reporting.

Dated: September 1, 2016.

Troy Cribb,

Associate Administrator, Office of Government-wide Policy.

BILLING CODE 6820–34–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Statement of Regulatory Priorities

The National Aeronautics and Space Administration (NASA) aim is to increase human understanding of the solar system and the universe that contains it and to improve American aeronautics ability. NASA's basic organization consists of the Headquarters, nine field Centers, the Jet Propulsion Laboratory (a Federally Funded Research and Development Center), and several component installations which report to Center Directors. Responsibility for overall planning, coordination, and control of NASA programs is vested in NASA Headquarters located in Washington, DC.

NASA continues to implement programs according to its 2014 Strategic Plan. The Agency's mission is to ''Drive advances in science, technology, aeronautics, and space exploration to enhance knowledge, education, innovation, economic vitality, and stewardship of the Earth.'' The FY 2014 Strategic Plan, (available at *http://www.nasa.gov/sites/default/files/files/2014 NASA Strategic Plan.pdf*), guides NASA's program activities through a framework of the following three strategic goals:

- *Strategic Goal 1:* Expand the frontiers of knowledge, capability, and opportunity in space.
- *Strategic Goal 2:* Advance understanding of Earth and develop technologies to improve the quality of life on our home planet.
- *Strategic Goal 3:* Serve the American public and accomplish our mission by effectively managing our people, technical capabilities, and infrastructure.

In the decades since Congress enacted the National Aeronautics and Space Act of 1958, NASA has challenged its scientific and engineering capabilities in pursuing its mission, generating tremendous results and benefits for humankind. NASA will continue to push scientific and technical boundaries in pursuit of these goals.

International Regulatory Cooperation

As the President noted in Executive Order 13609, ''international regulatory cooperation, consistent with domestic law and prerogatives and U.S. trade policy, can be an important means of promoting'' public health, welfare, safety, and our environment as well as economic growth, innovation, competitiveness, and job creation. Accordingly, in Executive Order 13609, the President requires each executive agency to include in its Regulatory Plan a summary of its international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations.

In August 2009, the President directed a broad-based interagency review of the U.S. export control system, with the goal of strengthening national security by focusing efforts on controlling the most critical products and technologies and by enhancing the competitiveness of US manufacturing and technology sectors. While NASA does not have any

regulations implementing this initiative, the Agency does serve on the interagency review team in a consultative and supportive role for this process, along with the Department of Defense, the Department of State, and the Department of Commerce.

In addition, NASA serves as one of the signatories to the Federal Acquisition Regulation (FAR). The FAR at 48 CFR chapter 1, contains procurement regulations that apply to NASA and other Federal agencies. Pursuant to 41 U.S.C. 1302 and FAR 1.103(b), the FAR is jointly prepared, issued, and maintained by the Secretary of Defense, the Administrator of General Services, and the Administrator, National Aeronautics and Space Administration, under their several statutory authorities. NASA implements and supplements FAR requirements through the NASA FAR Supplement (NFS), 48 CFR chapter 18. NASA finalized the entire NFS rewrite initiative this year to eliminate unnecessary and burdensome regulations, clarify regulatory language, and simplify processes. More than 1.9 million hours of information collection requirements (ICRs) were identified as no longer required and duplicative of active FAR-level ICRs. Specifically, OMB control numbers 2700–0085, 2700–0086, and 2700–0087 were discontinued as part of the NFS rewrite initiative. The Agency will continue to analyze the NFS to implement procurement-related statutes, Executive orders, NASA initiatives, and Federal procurement policy that streamline current processes and procedures.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13579 ''Regulation and Independent Regulatory Agencies'' (Jul. 11, 2011), NASA regulations associated with its retrospective review and analysis are described in the Agency's final retrospective plan of existing regulations. NASA's final plan and updates can be found at *http://www.nasa.gov/open*, under the Open Government News. Below describes the rulemakings that were recently completed or are near completion.

Rulemakings That Were Streamlined and Reduced Unjustified Burdens

1. Discrimination on Basis of Handicap [14 CFR 1251]—NASA has finalized its section 504 regulations to incorporate changes to the definition of disability required by the Americans with Disabilities Act (ADA) Amendments Act of 2008; include an affirmative statement of the longstanding requirement for reasonable accommodations in programs, services, and activities; include a definition of direct threat and a provision describing the parameters of the existing direct threat defense to a claim of discrimination; clarify the existing obligation to provide auxiliary aids and services to qualified individuals with disabilities; update the methods of communication that recipients may use to inform program beneficiaries of their obligation to comply with section 504 to reflect changes in technology, adopt updated accessibility standards applicable to the design, construction, and alteration of buildings and facilities; establish time periods for compliance with these updated accessibility standards; provide NASA with access to recipient data and records to determine compliance with section 504; and make administrative updates to correct titles. These amendments will reduce administrative burdens imposed on the public [81 FR 3703].

2. NASA FAR Supplement: Safety and Health Measures and Mishap Reporting [48 CFR 1852.233]—NASA finalized its regulations to revise a current clause related to safety and health measures and mishaps reporting by narrowing the application of the clause, resulting in a decrease in the reporting burden on contractors while reinforcing the measures contractors at NASA facilities must take to protect the safety of their workers, NASA employees, the public, and high-value assets. These amendments streamlined and reduced reporting requirements imposed on the public [80 FR 73675].

3. Clarification of Award Fee Evaluations and Payments—[48 CFR 1816 and 1852] NASA issued a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to clarify NASA's award fee process by incorporating terms used in award-fee contracting; guidance relative to final award-fee evaluations; release of source selection information; and the calculation of the provisional award fee payment percentage in NASA end-item award-fee contracts [81 FR 50365].

4. Cooperative Agreements with Commercial Firms—[14 CFR 1274] NASA issued a final rule amending its regulation on Cooperative Agreements with Commercial Firms to implement the requirements of section 872 of the National Defense Authorization Act for Fiscal Year 2009 for recipients and NASA staff to report information that will appear in the Federal Awardee Performance and Integrity Information System (FAPIIS) [81 FR 35583].

Rulemakings That Were Modified, Streamlined, Expanded, or Repealed

5. Space Flight [14 CFR 1214]—NASA amended its regulations to remove language that refers to the retired Space Shuttle Program and to clarify language for other ongoing programs that require some of this rule to remain in place [81 FR 8545].

6. NASA Protective Services [14 CFR 1204]—NASA amended its traffic enforcement regulation to correct citations and to clarify the regulation's scope, policy, responsibilities, procedures, and violation descriptions [81 FR 70151].

7. Processing of Monetary Claims [14 CFR 1261]—NASA is amending its regulations to change the amount to collect installment payments from $20,000 to $100,000 to align with Title II, Claims of the United States Government, section 3711(a)(2) Collection and Compromise. This regulation will also be amended to include the rules for the use of contractors for debt collection and new provisions allowing for debts to be transferred to the Treasury Department for direct collection, as prescribed by Federal Debt Collection Procedures Act of 1990.

8. Duty Free Entry of Space Articles [14 CFR 1217]—NASA amended its regulations to remove language that refers to the Space Shuttle Program and to clarify language for other ongoing programs that require some of this rule to remain in place [80 FR 45864].

9. Removal of Obsolete Regulations [14 CFR 1216]—NASA amended its regulations to remove regulatory text that is covered in internal NASA policies and requirements [80 FR 30352].

10. Administrative Updates [14 CFR 1207, 1245, 1262, 1263, 1264, & 1266] NASA amended its regulations to make administrative updates to correct spelling citations [80 FR 42028].

11. Removal of Outdated and Duplicative Guidance [48 CFR 1817 and 1852]—NASA amended the NASA FAR Supplement (NFS) to remove duplicative language of the FAR and superseded NFS guidance. The revision is part of NASA's retrospective plan under Executive Order (EO) 13563 completed in August 2011 [81 FR 39871].

Rulemaking That Is of Particular Concerns to Small Business

Abstracts for other regulations that will be amended or repealed between October 2016 and October 2017 are reported in the fall 2016 edition of Unified Agenda of Federal Regulatory and Deregulation actions.

Regulations That Office of Procurement Intends To Publish Between Now and October 2017

1. Contractor Financial Reporting of Property [48 CFR 1845, 1852)—NASA is proposing to amend the NASA Federal Acquisition Regulation Supplement (NFS) to add a monthly reporting requirement for contractors having custody of $10 million or more in NASA-owned property, plant, and equipment (PP&E) [81 FR 48726].

2. Revised Voucher Submission & Payment Process [48 CFR 1816, 1832, 1842, 1852]—NASA is proposing to issue an interim rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to implement revisions to the voucher submittal and payment process. These revisions are necessary due to section 893 of the National Defense Authorization Act for Fiscal Year 2016 prohibiting the Defense Contract Audit Agency (DCAA) from performing audit work for non-Defense Agencies. NASA had delegated to DCAA the task of reviewing contractor requests for payment under NASA cost-type contracts.

3. Removal of NFS clause 1852.243–70, Engineering Change Proposals [48 CFR 1852]—NASA is proposing to amend the NASA FAR Supplement (NFS) to remove NFS clause 1852.243–70, Engineering Change Proposals (ECPs) basic clause with its Alternate I & II and associated information collection from the NFS.

4. Award Term [48 CFR 1816 and 1852]—NASA is proposing to revise the NFS to implement policy addressing the use of ''award terms'' or additional contract periods of performance for which a contractor may earn if the contractor's performance is superior, the Government has an ongoing need for the requirement, and funds are available for the additional period of performance. The purpose of the policy is to provide a non-monetary incentive for contractors whose performance is better than the ''average'' or ''acceptable'' level.

5. Revisions to Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards [2 CFR 1800]—NASA is proposing to amend the NASA regulation, titled Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards to modify the requirements related to information contained in a Federal award for commercial firms with no cost sharing requirement and to add new or modify existing terms and conditions related to indirect cost charges and access to research results.

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA)

Statement of Regulatory Priorities

Overview

The National Archives and Records Administration (NARA) primarily issues regulations directed to other Federal agencies and to the public. These regulations include records management, information services, access to and use of NARA holdings, and grant programs. For example, records management regulations directed to Federal agencies concern the proper management and disposition of Federal records. Through the Information Security Oversight Office (ISOO), NARA also issues Government-wide regulations concerning information security classification and declassification programs. NARA regulations directed to the public address access to and use of our historically valuable holdings, including archives, donated historical materials, Nixon Presidential materials, and Presidential records. NARA also issues regulations relating to the National Historical Publications and Records Commission (NHPRC) grant programs.

NARA has two regulatory priorities for fiscal year 2017, which are included in The Regulatory Plan. The first priority is a substantial revision to NARA's National Industrial Security Program (NISP) regulations at 32 CFR 2004. The NISP regulations govern release of classified information to contractors and other entities that enter agreements with the Federal Government involving access to classified information. Although we are proposing to substantially revise the regulation, the proposed revisions would effect only minor changes to the program's requirements for contractors and other entities. The proposed changes primarily include new sections setting out agency obligations in the course of implementing the program that reflect already-existing requirements for industry contained in the National Industrial Security Program Operating Manual (NISPOM), and streamline or clarify other sections of the regulation. In addition, a small portion of the proposed revisions add requirements from Executive Order 13587 to implement the insider threat program.

And the second priority this fiscal year are revisions to the Federal records management regulations found at 36 CFR Chapter XII, Subchapter B (phases I, II, and III). The proposed changes include changes resulting from the 2011 Presidential Memorandum on Managing Government Records, the 2012 Managing Government Records Directive (M–12–18), and Public Law 113–187, The Presidential and Federal Records Acts Amendments of 2014. The proposed rules will affect Federal agencies' records management programs relating to proper records creation and maintenance, adequate documentation, electronic recordkeeping requirements, use of the Electronic Records Archive (ERA) for records transfer, and records disposition.

Phase I (RIN 3095–AB74) includes changes to provisions in 36 CFR parts 1223 (Managing Essential Records), 1224 (Records Disposition Programs), 1227 (General Records Schedules), 1229 (Emergency Authorization to Destroy Records), 1232 (Transfer of Records to Records Storage Facilities), 1233 (Transfer Use and Disposition of Records in a NARA Federal Records Center), and 1239 (Program Assistance and Inspections). These regulations were published in a proposed rulemaking in March 2016 and were open for public comment through May. During the course of addressing the comments we received, we determined we need to undertake a more substantial revision, which we are focusing on this fiscal year. We anticipate publishing a new proposed rule around the end of FY 2017.

Phase II (RIN 3095–AB89) includes changes to provisions in 36 CFR parts 1235 (Transfer of Records to the National Archives of the United States), 1236 (Electronic records management), and 1237 (Audiovisual Cartographic and Related Records Management). These regulations were published in a proposed rulemaking in July 2016 and were open for public comment through September. We are currently addressing the comments we received and, similarly to Phase I, we have determined that we should do a more significant revision. As a result, we anticipate publishing a new proposed rule on these regulations in FY 2018.

Phase III (RIN 3095–AB85) includes changes to provisions in 36 CFR parts 1220 (Federal Records General), 1222 (Creation and Maintenance of Federal Records), 1225 (Scheduling records), 1226 (Implementing disposition), 1228 (Loan of Permanent and Unscheduled Records), 1230 (Unlawful or Accidental Removal, Defacing, Alteration, or Destruction of Records), 1231 (Transfer of Records from the Custody of one Executive Agency to Another), 1234

(Facility standards for records storage facilities), 1236 (Electronic Records Management), and 1238 (Microforms records management). We are currently drafting the proposed revisions to these regulations and project publication of a proposed rulemaking on these regulations after we have published new proposed rules for phases I and II.

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U.S. OFFICE OF PERSONNEL MANAGEMENT

Statement of Regulatory and Deregulatory Priorities

Fall 2016 Unified Agenda

I. Mission and Overview

OPM works in several broad categories to recruit, retain and honor a world-class workforce for the American people.

- We manage Federal job announcement postings at USAJOBS.gov, and set policy on governmentwide hiring procedures.
- We conduct background investigations for prospective employees and security clearances across government, with hundreds of thousands of cases each year.
- We uphold and defend the merit systems in Federal civil service, making sure that the Federal workforce uses fair practices in all aspects of personnel management.
- We manage pension benefits for retired Federal employees and their families. We also administer health and other insurance programs for Federal employees and retirees.
- We provide training and development programs and other management tools for Federal employees and agencies.
- In many cases, we take the lead in developing, testing and implementing new governmentwide policies that relate to personnel issues.

Altogether, we work to make the Federal government America's model employer for the 21st century.

II. Statement of Regulatory and Deregulatory Priorities

Management Priorities

- Appointment of Current and Former Land Management Employees

3206–AN28

The U.S. Office of Personnel Management (OPM) proposes regulations that will allow current and former land management employees to compete for permanent positions in the competitive service at a land management agency or any agency for any position under internal merit promotion procedures. This appointment into the competitive service is authorized in Public Law 114–47.

- Senior Employee Performance Management System Certification

3206–AL20

The U.S. Office of Personnel Management (OPM) is proposing changes to the senior employee performance management system certification regulations which will ultimately replace interim regulations published in 2004. Proposed changes reflect lessons learned from several years of certifying agency Senior Executive Service (SES) and Senior-Level (SL) and Scientific and Professional (ST) performance management systems and recommendations from a cross-agency workgroup.

- Veterans' Preference

3206–AM79

The U.S. Office of Personnel Management (OPM) issued interim regulations to implement statutory changes pertaining to veterans' preference. These changes were in response to the Hubbard Act, which broadened the category of individuals eligible for veterans' preference; and to implement the VOW (Veterans Opportunity to Work) to Hire Heroes Act of 2011, which requires Federal agencies to treat certain active duty service members as preference eligibles for purposes of competing for a position in the competitive service, even though the service members have not been discharged or released from active duty and do not have a Department of Defense (DoD) form 214, Certificate of Release or Discharge from Active Duty. In addition, OPM updated its regulations to reference existing requirements for the alternative ranking and selection procedure called ''category rating;'' and to add a reference to the end date of Operation Iraqi Freedom, which affected veteran status and preference eligibility. This action will align OPM's regulations with the existing statute.

- Recruitment, Selection, and Placement (General) and Suitability (aka Ban the Box)

3206–AN25

The U.S. Office of Personnel Management (OPM) is proposing to revise its regulations pertaining to when, during the hiring process, a hiring agency can make a suitability determination on an applicant for Federal employment. OPM is proposing this change in response to a Presidential directive. On November 2, 2015, the President directed OPM, ''. . .to take action where it can by modifying its rules to delay inquiries into criminal history until later in the hiring process.'' The intended effect of this proposal is to better ensure that applicants from all segments of society, including those with prior criminal histories, receive a fair opportunity to compete for Federal employment.

- Federal Employees Health Benefits Program: Removal of Ineligible Individuals From Existing Enrollments

3206–AN09

The U.S. Office of Personnel Management (OPM) is issuing a proposed rule to clarify the process for removing ineligible individuals from Federal Employees Health Benefits (FEHB) Program Self and Family enrollments.

- Employment in the Excepted Service

3206–AN30

The U.S. Office of Personnel Management (OPM) is proposing to revise its regulations governing employment in the excepted service. The proposed rules will clarify the existing policy on exemptions from excepted service selection procedures, and provide additional procedures for passing over a preference eligible veteran with a compensable disability of 30 percent or more.

- Noncompetitive Appointment of Certain Military Spouses

3206–AM76

The U.S. Office of Personnel Management (OPM) will limit to one the number of permanent appointments spouses of 100 percent disabled and spouses of deceased members of the Armed Forces may receive under this noncompetitive hiring authority. OPM is making this change based on the provisions of the FY 2013 National Defense Authorization Act (NDAA).

- Personnel Management in Agencies

3206–AL98

The U.S. Office of Personnel Management (OPM) will issue a final rule that will provide regulatory definitions for various

documents related to the strategic management of human resources, clarify requirements regarding the systems and metrics for managing human resources in the Federal Government, streamline/clarify procedures agencies are required to follow, eliminate the Human Capital Management Report, and reflect the planning and reporting requirements of the Government Performance and Results Modernization Act.

• Medical Qualification Determinations

3206–AL14

The U.S. Office of Personnel Management (OPM) will revise its regulations for medical qualification determinations. The revised regulations would update references and language; add and modify definitions; clarify coverage and applicability; address the need for medical documentation and medical examination and/or testing for an applicant or employee whose position may or may not have medical standards, physical requirements and/or physical fitness standards or testing; and may recommend the establishment of agency medical review boards. The final rule would provide agencies with more comprehensive guidance regarding medical evaluation and clearance procedures and implementation of a comprehensive physical fitness and medical standards program for applicants and employees.

• Prevailing Rate Systems; Redefinition of the New York, NY, and Philadelphia, PA, Appropriated Fund Federal Wage System Wage Areas

3206–AN29

The U.S. Office of Personnel Management (OPM) is issuing a proposed rule that would redefine the geographic boundaries of the New York, NY, and Philadelphia, PA, appropriated fund Federal Wage System (FWS) wage areas. The proposed rule would redefine the Joint Base McGuire-Dix-Lakehurst portions of Burlington County, NJ, and Ocean County, NJ, that are currently defined to the Philadelphia wage area to the New York wage area so that the entire Joint Base is covered by a single wage schedule. This change is based on a majority recommendation of the Federal Prevailing Rate Advisory Committee (FPRAC), the national labor-management committee responsible for advising OPM on the administration of the FWS.

• Pay Administration Under the FLSA

3206–AN41

The U.S. Office of Personnel Management (OPM) is issuing interim final regulations for part 551 subpart B to make OPM's regulations consistent with updates to Department of Labor regulations that define which white collar workers are protected by the FLSA's minimum wage and overtime standards. 79 FR 18737 (Apr. 3, 2014). While OPM's regulations are not required to conform with DOL's regulations, OPM believes that updates to part 551 are appropriate and consistent with the President's goal of ensuring workers are paid a fair day's pay for a fair day's work.

• Competitive Service; Shared Certificates

3206–AN46

The U.S. Office of Personnel Management (OPM) will issue interim regulations to implement the Competitive Service Act of 2015 which authorizes agencies to share certificates when filling competitive service positions.

• Compensatory Time Off for Religious Observances

3206–AL55

The U.S. Office of Personnel Management (OPM) will issue a final rule regarding compensatory time off for religious observances. The final regulation will address comments to the proposed rule (78 FR 53695), and will clarify employee and agency responsibilities, provide timeframes for earning and using religious compensatory time off, and define key terms.

• Federal Employees Health Benefits Program: Employee Prepayment of FEHB Contributions During Leave Without Pay (LWOP)

3206–AN33

The U.S. Office of Personnel Management (OPM) proposes to amend the Federal Employees Health Benefits (FEHB) regulations at 5 CFR part 890 to provide agencies with the option to require payment of FEHB premium contributions from employees in Leave Without Pay (LWOP) status for the time period they are in LWOP status.

• Federal Employees Health Benefits Program; Tribes and Tribal Organizations

3206–AM40

The U.S. Office of Personnel Management (OPM) proposes to amend the Federal Employees Health Benefits (FEHB) regulations at 5 CFR part 890 to include enrollments for eligible employees of Tribes and Tribal organizations under the provisions of the Affordable Care Act of 2010.

• Privacy Procedures for Personnel Records

3206–AN27

The Office of Personnel Management (OPM) proposes to amend part 297 of title 5, Code of Federal Regulations, to implement a timeframe to submit a request for administrative review on internal or central system of records. This proposed change will allow greater efficiency in processing appeals and requests for administrative review and will also improve the office's records maintenance and disposal policies.

• Federal Employees' Retirement System; Government Costs

3206–AN22

The Office of Personnel Management (OPM) proposes to amend 5 CFR part 841 to clarify the process by which the U.S. Postal Service and the U.S. Department of the Treasury may request reconsideration of OPM's computation of the supplemental liability. This proposed rule will also clarify the employee categories it will use for computing the FERS normal cost percentages covered under FERS (Federal Employees Retirement System), FERS–RAE (FERS Revised Annuity Employees), and FERS FRAE (FERS Further Revised Annuity Employees). Finally, it will also clarify the definition of present value factors as provided in 5 CFR part 831; 5 CFR part 839; 5 CFR part 841; 5 CFR part 842; and 5 CFR part 847.

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PENSION BENEFIT GUARANTY CORPORATION (PBGC)

Statement of Regulatory and Deregulatory Priorities

The Pension Benefit Guaranty Corporation (PBGC) protects the pensions of more than 40 million people in nearly 24,000 private-sector defined benefit plans. PBGC receives no tax revenues. Operations are financed by insurance premiums, investment income, assets from pension plans trusteed by PBGC, and recoveries from

the companies formerly responsible for the trusteed plans.

To carry out these functions, PBGC issues regulations on such matters as termination, payment of premiums, reporting and disclosure, and assessment and collection of employer liability. The Corporation is committed to issuing simple, understandable, flexible, and timely regulations to help affected parties.

PBGC continues to follow a regulatory approach that seeks to encourage the maintenance of existing defined benefit plans or the establishment of new plans. Thus, in developing new regulations and reviewing existing regulations, the focus, to the extent possible, is to reduce burdens on plans, employers, and participants, and to ease and simplify employer compliance. PBGC particularly strives to meet the needs of small businesses that sponsor defined benefit plans.

PBGC develops its regulations in accordance with the principles set forth in Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), and PBGC's Plan for Regulatory Review (Regulatory Review Plan).[15] This Statement of Regulatory and Deregulatory Priorities reflects PBGC's ongoing implementation of its Regulatory Review Plan.

PBGC Insurance Programs

PBGC administers two insurance programs for privately maintained defined benefit plans under title IV of the Employee Retirement Income Security Act of 1974 (ERISA):

- *Single-Employer Program.* Under the single-employer program, when a plan terminates with insufficient assets to cover all plan benefits (distress and involuntary terminations), PBGC pays plan benefits that are guaranteed under title IV. PBGC also pays nonguaranteed plan benefits to the extent funded by plan assets or recoveries from employers.
- *Multiemployer Program.* The smaller multiemployer program covers collectively bargained plans involving more than one unrelated employer. PBGC provides financial assistance (in the form of a loan) to the plan if the plan is unable to pay benefits at the guaranteed level. The guarantee is structured differently from, and generally significantly smaller than, the single-employer guarantee.

At the end of FY 2015, PBGC had a deficit of $24 billion in its single-employer insurance program and $52 billion in its multiemployer insurance program. While the financial position of the single-employer program is likely (but not certain) to improve, the multiemployer program is likely to run out of funds by 2025. Substantial increases in premium revenue will be needed to avoid cuts in multiemployer insurance program guarantees.

Regulatory Objectives and Priorities

PBGC's regulatory objectives and priorities are developed in the context of the Corporation's statutory purposes:

- To encourage voluntary private pension plans;
- To provide for the timely and uninterrupted payment of pension benefits; and
- To keep premiums at the lowest possible levels.

Pension plans and the statutory framework in which they are maintained and terminated are complex. Despite this complexity, PBGC is committed to issuing simple, understandable, flexible, and timely regulations and other guidance that do not impose undue burdens that could impede maintenance or establishment of defined benefit plans.

Through its regulations and other guidance, PBGC strives to minimize burdens on plans, plan sponsors, and plan participants; simplify filing; provide relief for small businesses and plans; and assist plans in complying with applicable requirements. To enhance policy-making through collaboration, PBGC also plans to continue to expand opportunities for public participation in rulemaking (see Open Government and Public Participation below).

PBGC's current regulatory objectives and priorities are to simplify its regulations and reduce burden, to enhance retirement security, and to implement statutory changes, particularly the Multiemployer Pension Reform Act of 2014 (MPRA) and the Pension Protection Act of 2006 (PPA 2006).

Enhancing Retirement Security

Missing participants. A major focus of PBGC's current regulatory efforts is to finalize rules to improve and expand the existing missing participants program to help connect more participants with their lost retirement savings. As authorized by PPA 2006, the expanded program will cover terminating defined contribution plans, non-covered defined benefit plans, and multiemployer plans, in addition to single-employer defined benefit plans. PBGC will continue to work with Internal Revenue Service and Department of Labor to coordinate government requirements for dealing with missing participant issues. PBGC published a proposal in September 2016. PBGC expects to publish a final regulation in FY 2017.

Rethinking Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), the following Regulatory Identifier Numbers (RINs) have been identified as associated with retrospective review and analysis consistent with the Corporation's final retrospective review plan. The regulatory actions associated with these RINs are described below.

Title	RIN	Effect on small business
Payment of Premiums; Late Payment Penalty Relief.	1212–AB32	Expected to reduce burden on small business.
Valuation Assumptions and Methods; Interest and Mortality.	1212–AA55	To Be Determined.
Benefit Payments.	1212–AB27	To Be Determined.
Administrative Review.	1212–AB35	To Be Determined.
Miscellaneous Corrections, Clarifications, and Improvements.	1212–AB34	To Be Determined.

Penalty relief for late payment of premiums. PBGC is lowering the rates of penalty charged for late payment of premiums by all plans, and providing a waiver of most of the penalty for plans with a history of premium compliance. In recent years, Congress has significantly increased PBGC premium rates. Since late payment charges are a percentage of unpaid premium, the penalties have gone up in proportion to the increases. PBGC is sensitive to the fact that a penalty assessed today may be several times what would have been assessed years ago for the same acts or omissions involving a plan with the same number of participants and the same unfunded vested benefits. Penalties under the new rule generally would be reduced by half and could be reduced by 80 percent for sponsors with good payment histories.

Valuation assumptions and methods; interest and mortality. PBGC plans to conduct a routine, periodic review of PBGC's regulations and policies to ensure that the actuarial and economic

[15] *http://www.pbgc.gov/documents/plan-for-regulatory-review.pdf.* Progress reports on the plan can be found at *http://www.pbgc.gov/res/laws-and-regulations/reducing-regulatory-burden.html.*

content remains current. PBGC plans to publish a proposed rule in FY 2017 that would amend its benefit valuation and asset allocation regulations by improving its valuation assumptions and methods. Chief among the modifications PBGC is considering are modifications to mortality rates and the format of its interest factors.

Benefit payments. PBGC plans to publish a proposed rule in FY 2017 to make clarifications and codify policies in PBGC's benefit payments and valuation regulations involving payment of lump sums, entitlement to a benefit, changes to benefit form, partial benefit distributions, and valuation of plan assets.

Administrative review. PBGC is proposing to update and improve its rules for administrative review of agency decisions.

Miscellaneous corrections, clarifications, and improvements. PBGC is proposing to make miscellaneous corrections, clarifications, and improvements to its regulations. PBGC intends to initiate future projects of this type to deal with minor issues that don't call for full-scale rulemaking projects.

Statutory Implementation

MPRA. MPRA established new options for trustees of multiemployer plans that will potentially run out of money to apply to PBGC for financial assistance. PBGC published a proposed rule on June 6, 2016, that would prescribe rules for facilitated mergers of multiemployer plans and conform the existing regulation to changes in the law. PBGC received 10 comments on the proposal and expects to publish a final rule early in FY 2017. This is the second PBGC rulemaking project based on MPRA requirements. The first, prescribing the application process and notice requirements for partitions of eligible multiemployer plans under MPRA, was finalized on December 23, 2015.

Cash balance plans. PPA 2006 changed the rules for determining benefits in cash balance plans and other statutory hybrid plans. In October 2011, PBGC published a proposed rule implementing the changes both in PBGC-trusteed plans and in plans that close out in the private sector.[16] Now that the Treasury Department has issued final regulations on statutory hybrid plans, PBGC is developing a final rule, which it expects to publish in FY 2017.

Owner-participant benefits. PPA 2006 changed the guarantee of owner-participant benefits in PBGC-trusteed plans. PBGC is developing a proposed rule implementing these changes, which it expects to publish in FY 2017.

Small Businesses

PBGC takes into account the special needs and concerns of small businesses in making policy. A large percentage of the plans insured by PBGC are small or maintained by small employers. PBGC has issued or is considering proposed rules that will focus on small businesses:

Missing participants. The missing participants rule discussed above would benefit small businesses by simplifying and streamlining current requirements, better coordinating with requirements of other agencies, and providing more options for sponsors of terminating non-covered plans.

Penalty relief for late payment of premiums. The late payment penalty relief rule discussed above benefits small businesses by reducing penalties for late premium payments by at least half.

Open Government and Increased Public Participation

PBGC is doing more to encourage public participation in the regulatory process. For example, PBGC's current efforts to reduce regulatory burden are in substantial part a response to public comments. The regulatory projects discussed above highlight PBGC's customer-focused efforts to reduce regulatory burden.

PBGC's Regulatory Review Plan sets forth ways to expand opportunities for public participation in the regulatory process. For example, in June 2013, PBGC held its first-ever regulatory hearing on the reportable events proposed rule, so that the agency would have a better understanding of the needs and concerns of plan administrators and plan sponsors. Discussion at that hearing informed PBGC's final rule. PBGC's 2013 Request for Information [17] on Missing Participants in Individual Account Plans and 2015 Request for Information [18] on Partitions and Facilitated Mergers Under MPRA are examples of PBGC's efforts to solicit public participation in the regulatory process.

PBGC plans to provide additional means for public involvement, including social media and continuing opportunity for public comment on PBGC's Web site.

PBGC also invites comments on the Regulatory Review Plan on an on-going basis as we engage in the review process. Comments should be sent to *murphy.deborah@pbgc.gov*.

PBGC will continue to look for ways to further improve its regulations.

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[16] 76 FR 67105 (Oct. 31, 2011), *http://www.pbgc.gov/Documents/2011-28124.pdf.*

[17] *http://www.pbgc.gov/documents/2013-14834.pdf.*

[18] *http://www.pbgc.gov/documents/2015-03434.pdf.*

U.S. SMALL BUSINESS ADMINISTRATION

Statement of Regulatory Priorities

Overview

The mission of the U.S. Small Business Administration (SBA) is to maintain and strengthen the Nation's economy by enabling the establishment and viability of small businesses and by assisting in economic recovery of communities after disasters. In carrying out this mission, SBA strives to improve the economic environment for small businesses, including those in areas that have significantly higher unemployment and lower income levels than the Nation's averages and those in traditionally underserved markets. The Agency serves as a guarantor of small business loans, and also provides management and technical assistance to existing or potential small business owners through various grants, cooperative agreements or contracts. This access to capital and other assistance provides a crucial foundation for those starting a new business, or growing an existing business and ultimately helps to create new jobs. SBA also provides direct financial assistance to homeowners, renters, and small business to help in the rebuilding of communities in the aftermath of a disaster.

Reducing Burden on Small Businesses

SBA's regulatory policy reflects a commitment to developing regulations that reduce or eliminate the burden on the public, in particular the Agency's core constituents—small businesses. SBA's regulatory process generally includes an assessment of the costs and benefits of the regulations as required by Executive Order 12866, ''Regulatory Planning and Review;'' Executive Order 13563, ''Improving Regulation and Regulatory Review;'' and the Regulatory Flexibility Act. SBA's program offices are particularly invested in finding ways to reduce the burden imposed by the Agency's core activities in its loan, innovation, and procurement programs.

Openness and Transparency

SBA promotes transparency, collaboration, and public participation in its rulemaking process. To that end, SBA routinely solicits comments on its

regulations, even those that are not subject to the public notice and comment requirement under the Administrative Procedures Act. Where appropriate, SBA also conducts hearings, webinars, and other public events as part of its regulatory process.

Regulatory Framework

The SBA's FY 2014 to FY 2018 strategic plan serves as the foundation for the regulations that the Agency will develop during the next twelve months. This Strategic Plan provides a framework for strengthening, streamlining, and simplifying SBA's programs while leveraging collaborative relationships with other agencies and the private sector to maximize the tools small business owners and entrepreneurs need to drive American innovation and strengthen the economy. The plan sets out three strategic goals: (1) Growing businesses and creating jobs; (2) serving as the voice for small business; and (3) building an SBA that meets the needs of today's and tomorrow's small businesses. In order to achieve these goals SBA will, among other objectives, focus on:

- Expanding access to capital through SBA's extensive lending network;
- Ensuring Federal contracting goals are met or exceeded by collaborating across the Federal Government to expand opportunities for small businesses and strengthen the integrity of the Federal contracting data and certification process;
- Strengthening SBA's relevance to high growth entrepreneurs and small businesses to more effectively drive innovation and job creation; and
- Mitigating risk and improving program oversight.

The regulations reported in SBA's semi-annual regulatory agenda and plan are intended to facilitate achievement of these goals and objectives. Over the next twelve months, SBA's highest regulatory priorities will be to implement the following regulations and program guidance: (1) Small Business Investment Company (SBIC) Program; Impact SBICs (RIN: 3245–AG66); and (2) Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive (RIN: 3245–AG64).

(1) Small Business Investment Company (SBIC) Program; Impact SBICs (RIN: 3245–AG66)

This rule proposes to establish a regulatory structure for the SBIC program's Impact Investment Fund initiative, which is currently implemented via policy memorandum. The goal of the Impact Investment Fund is to support small business investment strategies that maximize financial returns while also yielding enhanced social, environmental, or economic impacts as part of the SBIC program's overall effort to supplement the flow of private equity and long-term loan funds to small businesses in underserved communities and the innovative sectors whose capital needs are not being met. The proposed rule supports the development of America's growing impact investing industry by making available a new type of SBIC license called an Impact SBIC to investment funds meeting the SBIC program's licensing qualifications, provides application and examination fee considerations to incentivize impact investing participation, establishes leverage eligibility requirements, and establishes reporting and performance measures for licensed funds to maintain Impact SBIC designation. The proposed rule would require an Impact SBIC to invest at least 50% of its total invested capital in one or both categories of impact investment: (a) SBA-identified impact investments, which are investments in small businesses located in geographic areas and sectors of national priority designated by SBA, such as Low- and Moderate- Income Zones (LMI); and/or (b) fund-identified impact investments, which are investments that meet an SBIC's own definition, subject to SBA's approval, of an ''Impact Investment,'' such as small businesses operating in the clean energy, education or healthcare sectors.

(2) Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive (RIN: 3245–AG64)

This proposed Directive seeks to revise the Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) Policy Directives. Specifically, SBA proposes to combine the two directives into one integrated Directive, clarify the Phase III preference afforded to SBIR and STTR small business awardees, add definitions relating to data rights, clarify the benchmarks for progress towards commercialization, and update language regarding the calculations of extramural Research/Research & Development budgets used to fund the SBIR/STTR programs.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), SBA developed a plan for the retrospective review of its regulations. Since that date SBA has issued several updates to this plan to reflect the Agency's ongoing efforts in carrying out this executive order. The final agency plan and review updates, which can be found at *http://www.sba.gov/about-sba/sba_performance/open_government/retrospective_review_of_regulations,* currently identify the rule and the policy directive discussed above.

SBA

Final Rule Stage

141. Small Business Innovation Research Program and Small Business Technology Transfer Program Policy Directive

Priority: Other Significant.
Legal Authority: 15 U.S.C. 638(p); Pub. L. 112–81, sec. 5001, *et seq.*
CFR Citation: 13 CFR ch 1.
Legal Deadline: None.
Abstract: SBA reviews its Small Business Innovation Research (SBIR) and Small Business Technology Transfer (STTR) program policy directives regularly to determine areas that need updating and further clarification. On November 7, 2014, SBA issued an advance notice of policy directive amendments and request for comments at 77 FR 66342. SBA explained that it intended to update the directives on a regular basis and to restructure and reorganize the directives, as well as address certain policy issues relating to SBIR and STTR data rights and Phase III work. In this ANPRM, SBA outlined what it believed were the issues concerning data rights and Phase III awards and requested feedback on several questions posed. The comments SBA received were generally in agreement that the sections of the directives relating to data rights and Phase III awards need further clarification.

On April 7, 2016, SBA issued a notice of policy directive amendments with a request for comments at 81 FR 20484. In this NPRM, SBA proposed clarification of the issues relating to both programs concerning data rights, Phase III awards, and miscellaneous issues such as benchmarks to commercialization achievement and the calculation of extramural budget. SBA also proposed combining both the SBIR and STTR policy directives into one because the general structure of both programs is the same.

Statement of Need: It is necessary to update the data rights, Phase III preference, benchmark sections, and clarify how agencies calculate extramural budget due to numerous

inquiries and requests for clarification received from SBIR and STTR Program Managers and small businesses regarding these issues. Requests for clarification indicate that there is confusion among participating agencies and small business concerns regarding these policy issues. It is necessary to combine the Policy Directives to increase ease of use and to reduce duplicity, as much of the language in the current Directives is identical for both programs. The clarifications and consolidation will provide clearer guidance and uniformity of these sections of the Policy Directive, and are necessary to enhance the efficient implementation of the programs.

Summary of Legal Basis: Section 9(j) and (p) of the Small Business Act, codified at 15 U.S.C. 638(j) & (p) requires SBA to issue directives to the SBIR/STTR participating agencies to simplify and standardize program proposals, selections, contracting, compliance, and audit procedures, while allowing the participating agencies flexibility in the operation of their individual programs.

Alternatives: If SBA does not amend the Policy Directives, the participating agencies and small business concerns will continue to need additional guidance and clarification regarding the implementation of data rights, Phase III awards, and the commercialization benchmarks.

Anticipated Cost and Benefits: The consolidation and revision of the SBIR/STTR Policy Directive is essential to the efficient implementation of the respective programs. There may be some costs associated with the consolidation and revision of the Policy Directives, such as updating current resource materials to reflect the clarifications and consolidation to one document; however, SBA anticipates such costs are not burdensome.

Risks: None identified.

Timetable:

Action	Date	FR Cite
ANPRM	11/07/14	79 FR 66342
ANPRM Comment Period End.	01/06/15	
NPRM	04/07/16	81 FR 20484
NPRM Comment Period Extended.	05/31/16	81 FR 34426
NPRM Comment Period End.	06/06/16	
Second NPRM Comment Period End.	07/06/16	
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Federal.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: Edsel M. Brown Jr., Assistant Director, Office of Innovation, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6450, *Email: edsel.brown@sba.gov.*

RIN: 3245–AG64

SBA

142. Small Business Investment Company (SBIC) Program—Impact SBICS

Priority: Other Significant.

Legal Authority: 15 U.S.C. 681

CFR Citation: 13 CFR 107.

Legal Deadline: None.

Abstract: This rule will establish a regulatory structure for the SBIC Programs Impact Investment Fund, which is currently being implemented through a policy memorandum to interested applicants. The rule would establish in the regulations a new type of SBIC license called the Impact SBIC license and will include application and examination fee considerations to incentivize Impact Investment Fund participation. Impact SBICs may also be able to access Early Stage leverage on the same terms as Early Stage SBICs without applying through the Early Stage call process defined in 107.310. This will allow Impact SBICs with early stage strategies to apply for the program. The new license will be available to investment funds that meet the SBIC Programs licensing qualifications and commit to invest at least 50 percent of their invested capital in impact investments as defined in the rule. The rule would also outline reporting and performance measures for licensed funds to maintain Impact Investment Fund designation. The goal of the Impact Investment Fund is to support small business investment strategies that maximize financial returns while also yielding enhanced social environmental or economic impacts as part of the SBIC Programs overall effort to supplement the flow of private equity and long-term loan funds to small businesses whose capital needs are not being met.

Statement of Need: SBA originally announced the launch of the SBIC program's Impact Investing Initiative (Initiative) on April 7, 2011, with a commitment of $1 billion in debenture leverage over a 5-year period to SBICs that committed to deploy at least 50% of their total invested capital in small businesses located in low-to-moderate income areas, economically-distressed areas and rural areas, as well as small businesses active in the education and clean energy sectors. Subsequently, SBA made several changes to the Initiative in 2014, including renaming the Initiative the Impact Investment Fund, and expanding its scope to reflect SBA's commitment beyond the initial 5-year term. This rule follows that commitment by providing a permanent framework within the SBIC program's regulations, highlighting the important role of impact investing by supporting the development of America's growing impact investing industry, and seeking to expand the pool of investment capital available to underserved communities and innovative sectors. The rule requires an Impact SBIC to invest at least 50% of its total invested capital in one or both categories of impact investment: (1) SBA-identified impact investments, which are investments in small businesses located in geographic areas and sectors of national priority designated by SBA, such as Low and Moderate Income Zones; and (2) fund-identified impact investments, which are investments that meet an SBIC's own definition, subject to SBA's approval, of an Impact Investment, such as small businesses operating in the clean energy, education and/or healthcare sectors. The rule will encourage the creation of Impact SBICs by providing certain application and examination fee discounts to these funds.

Summary of Legal Basis: The policy goal of the Small Business Investment Act of 1958, 15 U.S.C. 661 *et seq.,* is to stimulate and supplement the flow of private equity capital and long-term loan funds to the nation's small businesses for the sound financing of their growth, expansion, and modernization. The Small Business Investment Act contains several provisions aimed at promoting the flow of capital to several special categories of small business, including those located in low income geographic areas, those engaged in energy-saving activities and smaller businesses, 15 U.S.C. 683(b)(2)(C), 683(b)(2)(D), 683(d). The rule was crafted to enhance the SBIC program's effectiveness in channeling much-needed capital to small businesses operating in these and other underserved areas and sectors of the U.S. economy.

Alternatives: SBA considered several alternatives to the regulation, including continuing its impact investment objectives solely through existing policy initiatives. However, those policy initiatives did not provide sufficient

incentives to attract Impact SBIC fund managers to the program. Moreover, SBA determined that it must demonstrate a lasting commitment to the Initiative by promulgating regulations. In addition, SBA considered restricting the definition of an Impact Investment to financings that meet requirements already outlined in federal regulations, such as Energy-Savings Investments, LMI Investments or investments in rural areas. These investments are aligned with federal policy priorities and are easy to define and monitor, but SBA determined a more accommodative approach would be more effective. The rule has been drafted to allow Impact SBIC applicants to make SBA-identified impact investments, which target federal priority areas, or make fund-identified impact investments that align with their own definitions of impact. This approach expands the reach of SBA's impact investing efforts beyond the limited subset of investments that meet existing regulatory criteria and promotes freedom of choice for impact fund managers to pursue an impact investing strategy based on their own definition of Impact Investment.

Anticipated Cost and Benefits: The rule will result in an approximate 6.1 basis point increase in the annual charge paid by all SBICs with outstanding leverage and will include *de minimis* additional oversight costs to SBA in monitoring the additional reporting requirements that Impact SBICs must comply with. The rule benefits SBA by encouraging SBICs to deploy capital to small businesses operating in geographic areas and sectors of national priority designated by SBA, and SBA expects that it will result in increased financings to small businesses taking innovative approaches in, among others, the educational, clean energy and healthcare sectors. As a corollary benefit, the rule will support the development of the impact investing industry more broadly by incorporating impact investing best practices, especially with regard to the measurement and assessment of impact.

Risks: None identified.

Timetable:

Action	Date	FR Cite
NPRM	02/03/16	81 FR 5666
NPRM Comment Period End.	03/04/16	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Small Entities Affected: Businesses.

Government Levels Affected: None.

Additional Information: Included in SBA's Retrospective Review under Executive Orders 13563 and 13610.

Agency Contact: Nate T. Yohannes, Senior Advisor, Office of Investments, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6714, *Email: nate.yohannes@sba.gov.*

RIN: 3245–AG66

BILLING CODE 8025–01–P

FEDERAL ACQUISITION REGULATION (FAR)

I. Mission and Overview

The Federal Acquisition Regulation (FAR) was established to codify uniform policies for acquisition of supplies and services by executive agencies. It is issued and maintained jointly, pursuant to the Office of Federal Procurement Policy (OFPP) Reauthorization Act, under the statutory authorities granted to the Secretary of Defense, Administrator of General Services, and the Administrator, National Aeronautics and Space Administration. Statutory authorities to issue and revise the FAR have been delegated to the procurement executives in Department of Defense (DoD), GSA, and National Aeronautics and Space Administration (NASA).

II. Statement of Regulatory and Deregulatory Priorities

Federal Acquisition Regulation Priorities

Specific FAR cases that the FAR Council plans to address in fiscal year 2017 include:

SB—Regulations To Improve Small Businesses Opportunities in Government Contracting

Implementation of the Small Business Administration's final rule for section 1651 of the National Defense Authorization Act for Fiscal Year 2013. SBA's rule revised the limitations on subcontracting and the nonmanufacturer rule. Also implements SBA's regulatory clarifications concerning application of the limitations on subcontracting, nonmanufacturer rule, and size determination of joint ventures. (FAR Case 2016–011, Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments)

Clarification on the participation of Federal Prison Industries in small business set-asides. Provides clarity under FAR subparts 19.8, 19.13, 19.14, and 19.15. (FAR Case 2016–010, FPI Participation in Small Business Set-Asides)

Clarification on 8(a) joint ventures. Clarifies that 8(a) joint ventures are not ''certified'' into the 8(a) program and that 8(a) joint venture agreements need not be ''approved'' by the SBA until contract award rather than at the time of proposal submission. (FAR Case 2015–031, Policy on 8(a) Joint Ventures)

Considers applicability of small business regulations to contracts performed outside the United States. FAR Case 2016–002, Applicability of Small Business Regulations Outside the United States)

Contracts under the Small Business Administration 8(a) Program—This case clarifies FAR subpart 19.8, ''Contracting with the Small Business Administration (The 8(a) Program).'' (FAR Case 2012–022)

Clarification of Requirement for Justifications for 8(a) Sole-Source Contracts—This case clarifies the requirement for a justification for 8(a) sole-source contracts, in response to GAO Report to the Chairman, Subcommittee on Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate, entitled Federal Contracting: Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts (GAO–13–118 dated December 2012). (FAR Case 2013–018)

Set-Asides under Multiple Award Contracts—This case implements statutory requirements from the Small Business Jobs Act of 2010 and is aimed at providing agencies with clarifying guidance on how to use multiple-award contracts as a tool to increase Federal contracting opportunities for small businesses. (FAR Case 2014–002)

Payment of Subcontractors—This case implements section 1334 of the Small Business Jobs Act of 2010 and the Small Business Administration's (SBA) Final Rule 78 FR 42391, Small Business Subcontracting. The rule requires prime contractors of contracts requiring a subcontracting plan to notify the contracting officer in writing if the prime contractor pays a reduced price to a subcontractor or if payment is more than 90 days past due. A contracting officer will then use his or her best judgment in determining whether the late or reduced payment was justified and if not the contracting officer will record the identity of a prime contractor with a history of unjustified untimely payments to subcontractors in the Federal Awardee Performance and Integrity Information System (FAPIIS) or any successor system. (FAR Case 2014–004)

Labor—Regulations Which Promote the Welfare of Wage Earners

Equal Pay for Equal Work Among Employees Working for Covered Federal Contractors. The rule implements E.O. 13665, Non-Retaliation for Disclosure of Compensation Information. FAR Case 2016–007, Non-Retaliation for Disclosure of Compensation Information.

Combating Trafficking in Persons—Definition of ''Recruitment Fees''—This case considers a new definition for the term ''recruitment fees'' at the request of the Senior Policy Operating Group (SPOG) for Combating Trafficking in Persons. (FAR Case 2015–017)

Environmental Rules—Regulations That Promote Environmental Goals

Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation—This case creates an annual representation within the System for Award Management (SAM) for contractors to indicate if and where they publicly disclose GHG emissions and GHG reduction goals or targets. This information will help the Government assess supplier GHG management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions as directed in section 15 of Executive Order 13693, Planning for Federal Sustainability in the Next Decade, dated March 19, 2015. (FAR Case 2015–024)

Sustainable Acquisition—This case implements Executive Order 13693, Planning for Federal Sustainability in the Next Decade, which supersedes Executive orders 13423 and 13514. (FAR Case 2015–033)

Regulations That Promote Protection of Government Information and Systems

Privacy Training—This case creates a FAR clause to require contractors that (1) need access to a system of records, (2) handle personally identifiable information, or (3) design, develop, maintain, or operate a system of records on behalf of the Government, have their personnel complete privacy training. This addition complies with subsections (e) (agency requirements) and (m) (Government contractors) of the Privacy Act (5 U.S.C. 552a) (FAR Case 2010–013)

Organizational Conflicts of Interest and Unequal Access to Information—This case implements section 841 of the NDAA for FY 2009 (Pub. L. 110–147). Section 841 requires consideration of how to address the current needs of the acquisition community with regard to Organizational Conflicts of Interest. Separately addresses issues regarding unequal access to information. (FAR Case 2011–001)

Contractor Use of Information—This case addresses contractor access to controlled unclassified information. (FAR Case 2014–021)

Regulations Which Promote Ethics and Integrity in Contractor Performance

Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction.—This case implements multiple sections of the Consolidated and Further Continuing Appropriations Act, 2015. (Pub. L. 113–235) to prohibit using any of the funds appropriated by the Act to enter into a contract with any corporation with a delinquent Federal tax liability or a felony conviction. (FAR Case 2015–011)

Prohibition on Providing Funds to the Enemy—This case implements sections 841–843, subtitle E (Never Contract with the Enemy), title VIII, of the National Defense Authorization Act for FY 2015 (Pub. L. 113–291), enacted 12/19/2014. Section 841 prohibits providing funds to the enemy. Section 842 provides additional access to records. Section 843 provides definitions. (FAR Case 2015–014)

Regulations That Streamline and Reduce Unjustified Burdens

Effective Communication. Implements section 887 of the NDAA for FY 2016, which provides that agency acquisition personnel are permitted and encouraged to engage in responsible and constructive exchanges with industry. (FAR Case 2016–005, Effective Communication between Government and Industry)

Provide clarification within service contracts that contractors are required to purchase the mandatory source products from approved sources. (FAR Case 2015–026, Contractor Use of Mandatory Sources of Supply in Service Contracts)

Incremental Funding of Fixed-Price Contracting Actions. While the FAR provides for incremental funding of cost-reimbursement contracts, it is silent on incremental funding of fixed-price contracts. Given the federal government's implicit preference for fixed-price contracting, as well as the quagmire posed by Continuing Resolutions and other budgeting problems, acquisition professionals need additional tools to overcome less-than-full-funding challenges while abiding by the preference for fixed-price contracting. The proposed rule aims to amend the FAR to cover fixed-price contracting actions under circumstances in which full funding is not available at the outset of the contracting endeavor.

Provisions and Clauses for Acquisitions of Commercial Items and Acquisitions That Do Not Exceed the Simplified Acquisition Threshold—This case implements a new approach to the prescription and flow down for provisions and clauses applicable to the acquisition of commercial items or acquisitions that do not exceed the simplified acquisition threshold. Each clause prescription and each clause flow down for commercial items is specified within the prescription/clause itself, without having to cross-check another clause or list. The rule supports the use of automated contract writing systems and reduced necessary FAR maintenance when clauses are updated. (FAR Case 2015–004)

Reverse Auction Guidance—This case Implements OFPP memorandum, ''Effective Use of Reverse Auctions.'' The memorandum provides guidance on the usage of reverse auctions, and was issued in response to recommendations within GAO report (Reverse Auctions: Guidance is Needed to Maximize Competition and Achieve Cost Savings, GAO–14–108). (FAR Case 2015–038)

Regulations Which Promote Fiscal Responsibility (Accountability and Transparency)

Revise the definition of ''information technology'' in the FAR. This conforms to the Office of Management and Budget Memo, M–15–14 titled Management Oversight of Federal Information Technology. (FAR Case 2015–037, Definition of ''Information Technology'')

Strategic Sourcing Documentation—This case implements section 836 of the FY15 NDAA. Section 836 requires that when purchasing services and supplies that are offered under the Federal Strategic Sourcing Initiative but the Initiative in not used, the contract file shall include an analysis of comparative value, including price and nonprice factors, between the services and supplies offered under such Initiative and services and supplies offered under the source or sources used for the purchase. (FAR Case 2015–015)

Prohibition on Reimbursement for Congressional Investigations and Inquiries—This case implements section 857 of the NDAA for FY15, which amends 10 U.S.C.2324(e)(1). Section 857 disallows costs incurred by a contractor in connection with a congressional investigation or inquiry into an issue that is the subject 10 U.S.C. 2324(k)(2). (FAR Case 2015–016)

Determination of Fair and Reasonable Prices on Orders under Multiple-Award Contracts—This case clarifies the

responsibilities for ordering activity contracting officers to determine fair and reasonable prices when using Federal Supply Schedules. (FAR Case 2015–021)

Regulations Which Promote Accountability and Transparency

Uniform Use of Line Items—This case establishes a requirement for use of a standardized uniform line item numbering structure in Federal procurement. (FAR Case 2013–014)

Past Performance Evaluation Requirements—This case updates FAR subpart 42.15 to identify ''regulatory compliance'' as a separate evaluation factor in the Contractor Past Performance Assessment System (CPARS) and require agencies use past performance information in the Past Performance Information three years for construction and architect-engineer contracts. (FAR Case 2015–027)

Dated: August 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

BILLING CODE 6820–EP–P

SOCIAL SECURITY ADMINISTRATION (SSA)

Statement of Regulatory Priorities

We administer the Retirement, Survivors, and Disability Insurance programs under title II of the Social Security Act (Act), the Supplemental Security Income (SSI) program under title XVI of the Act, and the Special Veterans Benefits program under title VIII of the Act. As directed by Congress, we also assist in administering portions of the Medicare program under title XVIII of the Act. Our regulations codify the requirements for eligibility and entitlement to benefits, and our procedures for administering these programs. Generally, our regulations do not impose burdens on the private sector or on State or local governments, except for the States' Disability Determination Services. We fully fund the Disability Determination Services in advance or via reimbursement for necessary costs in making disability determinations.

The 18 entries in our regulatory plan (plan) represent issues of major importance to the Agency. We describe the individual initiatives more fully in the attached plan.

Improving the Disability Process

The continued improvement of the disability program and the protection of our beneficiaries is of paramount importance to SSA. The regulatory plan actions under this category will aid in these goals. These initiatives include two final and three proposed rules that will:

- Save time during the disability application process by authorizing the Commissioner of SSA to directly seek necessary medical evidence for disability claims;
- Update the education category in our medical-vocational guidelines to accurately differentiate between literacy and education level;
- Establish beneficiaries' legal guardians as the preferred choice during our representative payee selection process;
- Update our rules on withdrawal of old-age benefits applications and suspension of benefits; and
- Improve the efficiency of our processes by requiring representatives to use electronic methods with the Agency.

Priority Hearings and Appeals Process Improvement Rules

These rules are the core of a continuing SSA initiative to improve the adjudication process, reduce average processing times for disability hearings, and reduce the hearings backlog. These regulatory actions include three final rules that will:

- Revise existing rules to achieve national consistency of our procedures at the administrative law judge (ALJ) and Appeals Council levels;
- Revise our rules of conduct and standards of responsibility for claimant representatives to better protect the integrity of our administrative process and further clarify representatives' existing responsibilities, thus protecting our beneficiaries; and
- Update rules relating to acceptable medical sources and medical evidence, to make these rules easier to understand and apply and support the goal of faster, more accurate disability decisions.

Revised Listing of Medical Impairments

SSA uses the Listing of Impairments in disability determinations. Each major body system has its own unique listing describing impairments that we consider severe enough to prevent an individual from performing substantial gainful activity, regardless of age, education, or work experience. As part of our commitment to improving and modernizing the disability programs, we update the listings to keep pace with medicine, science, technology, and the world of work. In 2017, we plan to begin the process of updating six of our body system listings by publishing proposed rules.

Bipartisan Budget Act (BBA)

The rules in this section are required in connection with the Bipartisan Budget Act of 2015 (BBA), Public Law 114–74, enacted on November 2, 2015. SSA is prioritizing these rules to meet our regulatory obligations under the BBA. Our BBA Regulatory Plan initiatives include a proposed and final rule to regulate the use of electronic payroll data to improve program administration, and a proposed rule to close unintended loopholes related to presumed filing and voluntary suspension.

Privacy and Disclosure

The interim final rule in this category will implement the time-sensitive, statutory requirements of the FOIA Improvement Act of 2016, Public Law 114–185.

Retrospective Review of Existing Regulations

Pursuant to section 6 of Executive Order 13563, ''Improving Regulation and Regulatory Review'' (January 18, 2011), SSA regularly engages in retrospective review and analysis for multiple existing regulatory initiatives. These initiatives may be proposed or completed actions, and they do not necessarily appear in The Regulatory Plan. You can find more information on these completed rulemakings in past publications of the Unified Agenda at *www.reginfo.gov* in the ''Completed Actions'' section for the Social Security Administration. The Agency's most recently published Retrospective Review Progress Report can be found at: *https://www.whitehouse.gov/sites/default/files/omb/inforeg/regreform/retroplans/Jan-2016/SSA-Retrospective-Plan-Progress-Report.pdf*.

SSA

Proposed Rule Stage

143. Revised Medical Criteria for Evaluating Musculoskeletal Disorders (3318P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 1.00 and 101.00, Musculoskeletal System, of appendix 1 to subpart P of part 404 of our regulations describe those musculoskeletal system disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: We propose to revise the criteria in the Listing of Impairments (listings) that we use to evaluate claims involving musculoskeletal disorders in adults and children under titles II and XVI of the Social Security Act (Act). These proposed revisions reflect our adjudicative experience, advances in medical knowledge and treatment of musculoskeletal disorders, recommendations from medical experts, and comments we received in response to a final rule with request for public comments that we published in November 2001.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: We considered continuing to use our current criteria. However, we believe these proposed revisions are necessary because of medical advances, technology, and treatment since we last revised these rules.

Anticipated Cost and Benefits: Currently being determined.

Risks: We expect the public and adjudicators to support the removal and clarification of ambiguous terms and phrases, and the addition of specific, demonstrable functional criteria for determining listing-level severity of all musculoskeletal disorders.

We expect adjudicators to support the change in the framework of the text because it makes the guidance in the introductory text and listings easier to access and understand.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

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RIN: 0960–AG38

SSA

144. Revised Medical Criteria for Evaluating Digestive Disorders (3441P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 5.00 and 105.00, Digestive Systems, of appendix 1 to subpart P of part 404 of our regulations describe those digestive disorders that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These rules are required to facilitate disability claims adjudication.

Summary of Legal Basis: Sections 5.00 and 105.00, Digestive Systems, of appendix 1 to subpart P of part 404 of our regulations.

This proposed rule is not required by statute or court order.

Alternatives: We considered continuing to use our current criteria. However, we believe these proposed revisions are necessary because of medical advances, technology, and treatment since we last revised these rules.

Anticipated Cost and Benefits: Ensuring that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge, technology, and treatment will provide for accurate disability evaluations.

Costs: While no cost is expected, documentation is not yet available.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	12/12/07	72 FR 70527
ANPRM Comment Period End.	02/11/08	
NPRM	07/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: *www.regulations.gov.*

Agency Contact: Cheryl A Williams, Director, Social Security Administration, Office of Medical Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020, *Email:* *cheryl.a.williams@ssa.gov.*

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RIN: 0960–AG65

SSA

145. Revised Medical Criteria for Evaluating Cardiovascular Disorders (3477P)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: Sections 4.00 and 104.00, Cardiovascular System, of appendix 1 to subpart P of part 404 of our regulations describe those cardiovascular disorders

that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise the criteria in these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These rules are required to facilitate disability claims adjudication.

Summary of Legal Basis: Sections 4.00 and 104.00, Cardiovascular System, of appendix 1 to subpart P of part 404 of our regulations.

This proposed rule is not required by statute or court order.

Alternatives: We considered continuing to use our current criteria. However, we believe these proposed revisions are necessary because of medical advances since we last published our final rule.

Anticipated Cost and Benefits: Ensuring that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge, technology, and treatment will provide for accurate disability evaluations.

Costs: While no cost is expected, documentation is not yet available.

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	04/16/08	73 FR 20564
ANPRM Comment Period End.	06/16/08	
NPRM	07/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A Williams, Director, Social Security Administration, Office of Medical Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020, *Email: cheryl.a.williams@ssa.gov.*

RIN: 0960–AG74

SSA

146. Revising the Ticket to Work Program Rules (3780A)

Priority: Other Significant.

Legal Authority: Not Yet Determined.

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This notice of proposed rulemaking will pose several questions to the public regarding the best means by which to encourage employment networks to assist beneficiaries in seeking employment at a level that could lead to eventual financial independence. We want to hear from program beneficiaries and others about what combination of incentives would best help beneficiaries to go to work and reach and sustain middle-class earnings.

Statement of Need: We would like to clarify the purpose of and the rules for our Ticket to Work (TTW) program, as part of our ongoing effort to help our beneficiaries find and maintain employment that leads to increased independence and enhanced productivity.

Summary of Legal Basis: Ticket to Work and Work Incentives Improvement Act of 1999 (Ticket Act).

Alternatives: We may postpone updating our TTW regulations.

Anticipated Cost and Benefits: Updating the Ticket to Work program rules to provide increased choices for our beneficiaries and service providers. Improving flexibility in the program rules should also increase the number of employment service providers participating in the Ticket to Work program, as well as encourage additional beneficiaries to attempt work and reach their employment goals. When beneficiaries with disabilities return work at a significant level of earnings, they are able to take advantage of all of the work supports in SSA's program rules and start on the road to financial independence and a better future.

Risks: None.

Timetable:

Action	Date	FR Cite
ANPRM	02/10/16	81 FR 7041
ANPRM Comment Period End.	04/11/16	
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: Mark Green, Deputy Office Director, Social Security Administration, Office of Employment Support Programs, Office of Beneficiary Outreach and Employment Support, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–9852.

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RIN: 0960–AH50

SSA

147. Revisions to Rules Regarding the Evaluation of Medical Evidence

Priority: Other Significant.

Legal Authority: 42 U.S.C. 405(a); 42 U.S.C. 423(d)(5)(A); 42 U.S.C. 902(a)(5); 42 U.S.C. 1010(a); 42 U.S.C. 1382c(a)(3)(H)(i); 42 U.S.C. 1382c(a)(3)(H)(i); Bipartisan Budget Act of 2015, section 832

CFR Citation: 20 CFR 404.1502; 20 CFR 404.1512; 20 CFR 404.1520b; 20 CFR 404.1521 to 404.1523; 20 CFR 404.1526 and 404.1527; 20 CFR 404.1530; 20 CFR 404.1546; 20 CFR 416.902; 20 CFR 416.912; 20 CFR 416.920b; 20 CFR 416.921 to 416.923; 20 CFR 416.926 and 416.927; 20 CFR 416.930; 20 CFR 416.946.

Legal Deadline: None.

Abstract: We are proposing several revisions to our medical evidence rules. The proposals include redefining several key terms related to evidence, revising our list of acceptable medical sources (AMS), revising how we consider and articulate our consideration of medical opinions and prior administrative medical findings, revising who can be a medical consultant (MC) and psychological consultant (PC), revising our rules about treating sources, and reorganizing our evidence regulations for ease of use. These proposed revisions would conform our rules with the requirements of the Bipartisan Budget Act of 2015 (BBA), reflect changes in the national healthcare workforce and in the manner that individuals receive primary medical care, simplify and reorganize our rules to make them easier to understand and apply, allow us to continue to make accurate and consistent decisions, and emphasize the need for objective medical evidence in disability and blindness claims.

Statement of Need: These revisions would simplify and reorganize our rules to make them easier to understand and apply, allow us to make more accurate and consistent decisions, and emphasize the need for objective medical evidence in disability and blindness claims under titles II and XVI of the Social Security Act.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Undetermined at this time.

Anticipated Cost and Benefits: Undetermined at this time.

Risks: Undetermined at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/09/16	81 FR 62559
NPRM Comment Period End.	11/08/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: *www.regulations.gov*.

Agency Contact: William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov*.

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RIN: 0960–AH51

SSA

148. Revised Medical Criteria for Evaluating Hearing Loss and Disturbances of Labyrinthine-Vestibular Function (3806P)

Priority: Other Significant.

Legal Authority: Not Yet Determined.

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: Sections 2.00B and 102.00B, Hearing Loss and Disturbances of Labyrinthine-Vestibular Function, of appendix 1 to subpart P of part 404 of our regulations describe hearing loss that we consider severe enough to prevent a person from doing any gainful activity, or that cause marked and severe functional limitations for a child claiming Supplemental Security Income payments under title XVI. We are proposing to revise these sections to ensure that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge and treatment.

Statement of Need: These rules are required to facilitate disability claims adjudication.

Summary of Legal Basis: Sections 5.00 and 105.00, Digestive Systems, of appendix 1 to subpart P of part 404 of our regulations.

This proposed rule is not required by statute or court order.

Alternatives: We considered continuing to use our current criteria. However, we believe these proposed revisions are necessary because of medical advances, technology, and treatment since we last revised these rules.

Anticipated Cost and Benefits: Ensuring that the medical evaluation criteria are up-to-date and consistent with the latest advances in medical knowledge, technology, and treatment will provide for accurate disability evaluations.

Costs: While no cost is expected, documentation is not yet available.

Risks:

Timetable:

Action	Date	FR Cite
ANPRM	08/30/13	78 FR 53700
ANPRM Comment Period End.	10/29/13	
NPRM	10/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: *www.regulations.gov*

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RIN: 0960–AH54

SSA

149. Use of Electronic Payroll Data To Improve Program Administration

Priority: Other Significant.

Legal Authority: Bipartisan Budget Act of 2015 sec. 824

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: This NPRM will propose to implement the Commissioner's access to and use of the information held by payroll providers. The Agency will use this data to help administer the disability and SSI programs and prevent improper payments.

Statement of Need: In accordance with the Bipartisan Budget Act of 2015, section 824; the Commissioner of Social Security has the authority to enter into an information exchange with a payroll or data provider, allowing us to efficiently administer monthly insurance and supplemental security income benefits, while preventing improper payments.

Summary of Legal Basis: Bipartisan Budget Act of 2015, section 824.

Alternatives: None.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	07/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0960–AH88

SSA

150. Treatment of Earnings Derived From Services

Priority: Other Significant.

Legal Authority: Bipartisan Budget Act of 2015 sec. 825

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: Prior to the Bipartisan Budget Act when a Social Security

disability beneficiary worked, we were required to determine which month the beneficiary's income was earned in determining the beneficiary's continued entitlement to benefits (or the amount of his or her benefits). Section 825 of the Bipartisan Budget Act of 2015, requires SSA to presume that wages and salaries are earned when paid, unless information is available to SSA that shows when the income is earned. Regulatory changes are needed to set forth the procedures and rules that beneficiaries and SSA must follow in implementing this provision.

Statement of Need: The purpose of section 825 is to simplify work CDR processing by allowing adjudicators to use readily available evidence of earnings like IRS data, SSI verified wages, quarterly earnings data, and earnings maintained by third party payroll providers.

Summary of Legal Basis: Section 825 of the Bipartisan Budget Act of 2015.

Alternatives: There is no alternative, this rule complies with statutory mandate.

Anticipated Cost and Benefits: Prior to this legislation, when we made an SGA determination we had to determine when the services were performed. Under provision 825, we can presume that monthly earnings are earned in the month paid, unless there is readily available evidence to indicate when earned.

Risks: None.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

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RIN: 0960–AH90

SSA

151. Closure of Unintended Loopholes (Conforming Changes to Regulations on Presumed Filing and Voluntary Suspension)

Priority: Other Significant.

Legal Authority: Bipartisan Budget Act of 2015 sec. 831

CFR Citation: 20 CFR 404.623; 20 CFR 404.313.

Legal Deadline: None.

Abstract: Section 831 of the Bipartisan Budget Act of 2015, closes several loopholes in our program rules regarding deemed filing, dual entitlement, and benefit suspension in order to prevent individuals from obtaining larger benefits than Congress intended. Regulatory changes are needed to conform our regulations on presumed filing and voluntary suspension.

Statement of Need: Section 831 of the Bipartisan Budget Act of 2015, closes several loopholes in our program rules regarding deemed filing, dual entitlement, and benefit suspension in order to prevent individuals from obtaining larger benefits than Congress intended. Regulatory changes are needed to conform our regulations on presumed filing and voluntary suspension.

Summary of Legal Basis: Section 831(a) of the Bipartisan Budget Act of 2015 amends the Social security Act at sec. 202(r). Section 831(b) of the Bipartisan Budget Act of 2015 amends the Social Security Act to add sec. 202(z).

Alternatives:

Anticipated Cost and Benefits:

Risks:

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AH93

SSA

Final Rule Stage

152. Revisions to Rules on Representation of Parties (3396F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 405(a); 42 U.S.C. 406(a)(1); 42 U.S.C. 810(a); 42 U.S.C. 902(a)(5); 42 U.S.C. 1010; 42 U.S.C. 1383(d)

CFR Citation: 20 CFR 404.612; 20 CFR 404.901; 20 CFR 404.903; 20 CFR 404.909; 20 CFR 404.910; 20 CFR 404.933; 20 CFR 404.934; 20 CFR 404.1700 to 404.1799; 20 CFR 408.1101; 20 CFR 416.315; 20 CFR 416.1401; 20 CFR 416.1403; 20 CFR 416.1409; 20 CFR 416.1410; 20 CFR 416.1433; 20 CFR 416.1434; 20 CFR 416.1500 to 416.1599; 20 CFR 422.203; 20 CFR 422.515.

Legal Deadline: None.

Abstract: We will revise our rules on representation of parties in parts 404, 408, 416, and 422 to reflect changes in the way claimants obtain representation and in representatives' business practices. These new rules will improve our efficiency by increasing the use of electronic services.

Statement of Need: These revisions will reflect changes in representatives' business practices and improve our efficiency by enhancing use of the Internet.

Summary of Legal Basis: Allows SSA to recognize firms as representatives.

Alternatives: Determining if SSA has legal authority to permit appointed representatives to assign fees awarded under section 206 of the Social Security Act (42 U.S.C. 406) this would be an interim step.

Anticipated Cost and Benefits: Costs include Systems changes, modifications, and/or updates. There will also be costs associated with training staff on the new policy. Benefits include a more streamlined process for paying fees under section 206 of the Social Security Act, 42 U.S.C. 406, that will make it more efficient and effective saving significant work years for SSA as well as providing better customer service.

Risks: SSA anticipates that its recognition of firms as representatives will streamline the process for paying fees under section 206 of the Social Security Act, 42 U.S.C. 406, which will likely make the process more efficient and effective, and potentially reduce the number of incorrect payments.

Timetable:

Action	Date	FR Cite
NPRM	09/08/08	73 FR 51963
NPRM Comment Period End.	11/07/08	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

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RIN: 0960–AG56

SSA

153. Revised Medical Criteria for Evaluating Human Immunodeficiency Virus (HIV) Infection and for Evaluating Functional Limitations in Immune System Disorders (3466F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 405(a); 42 U.S.C. 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 416(i); 42 U.S.C. 421(a); 42 U.S.C. 421(i); 42 U.S.C. 423; 42 U.S.C. 902(a)(5); 42 U.S.C. 1381a; 42 U.S.C. 1382c; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.1500, app 1.

Legal Deadline: None.

Abstract: We are revising the criteria in the Listing of Impairments (listings) that we use to evaluate claims involving human immunodeficiency virus (HIV) infection in adults and children under titles II and XVI of the Social Security Act (Act). We also are revising the introductory text of the listings that we use to evaluate functional limitations resulting from immune system disorders. The revisions reflect our program experience, advances in medical knowledge, our adjudicative experience, recommendations from a commissioned report, and comments from medical experts and the public.

Statement of Need: These final rules are necessary in order to update the HIV evaluation listings to reflect advances in medical knowledge, treatment, and evaluation methods. The changes will ensure that determinations of disability have a sound medical basis, that claimants receive equal treatment through the use of specific criteria, and that individuals who are disabled can be readily identified and awarded benefits if all other factors of entitlement or eligibility are met.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Undetermined at this time.

Anticipated Cost and Benefits: Cost/savings estimate—negligible.

Risks: Undetermined at this time.

Timetable:

Action	Date	FR Cite
ANPRM	03/18/08	73 FR 14409
ANPRM Comment Period End.	05/19/08	
NPRM	02/26/14	79 FR 10730
NPRM Comment Period End.	04/28/14	
NPRM Correction and NPRM Comment Period Extended.	03/25/14	79 FR 16250
NPRM Comment Period Extended End.	05/27/14	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Additional Information: Includes Retrospective Review under E.O. 13563.

URL for Public Comments: www.regulations.gov.

Agency Contact: Cheryl A Williams, Director, Social Security Administration, Office of Medical Policy, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–1020, *Email: cheryl.a.williams@ssa.gov.*

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RIN: 0960–AG71

SSA

154. Amendments to Regulations Regarding Withdrawals of Applications and Voluntary Suspension of Benefits (3573F)

Priority: Other Significant.

Legal Authority: 42 U.S.C. 402; 42 U.S.C. 402(i); 42 U.S.C. 402(j); 42 U.S.C. 402(o); 42 U.S.C. 402(p); 42 U.S.C. 402(r); 42 U.S.C. 403(a); 42 U.S.C. 403(b); 42 U.S.C. 405(a); 42 U.S.C. 416; 42 U.S.C. 416(i)(2); 42 U.S.C. 423; 42 U.S.C. 423(b); 42 U.S.C. 425; 42 U.S.C. 428(a) to 428(e); 42 U.S.C. 902(a)(5).

CFR Citation: 20 CFR 404.313; 20 CFR 404.640.

Legal Deadline: None.

Abstract: We modified our regulations to establish a 12-month time limit for the withdrawal of an old-age benefits application. We will also permit only one withdrawal per lifetime. These changes limit the voluntary suspension of benefits only to those benefits disbursed in future months.

Statement of Need: We are under a clear congressional mandate to protect the Trust Funds. It was crucial that we change our current policies that have the effect of allowing beneficiaries to withdraw applications or suspend benefits and use benefits from the Trust Funds as something akin to an interest-free loan.

Summary of Legal Basis: Discretionary.

Alternatives: Based on our current evidence, there are no alternatives at this time.

Anticipated Cost and Benefits: The administrative effect of this final rule is negligible.

Risks: None.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/08/10	75 FR 76256
Interim Final Rule Effective.	12/08/10	
Interim Final Rule Comment Period End.	02/07/11	
Final Action	04/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Undetermined.

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RIN: 0960–AH07

SSA

155. Revisions to Rules of Conduct and Standards of Responsibility for Appointed Representatives

Priority: Other Significant.

Legal Authority: Not Yet Determined

CFR Citation: Not Yet Determined.

Legal Deadline: None.

Abstract: We propose to revise our rules of conduct and standards of responsibility for representatives. We also propose to update and clarify procedures we use when we bring charges against a representative for violating our rules of conduct and standards of responsibilities for representatives. These changes are necessary to better protect the integrity of our administrative process and further clarify representatives' currently existing responsibilities in their conduct with us. The changes to our rules are not meant to suggest that any specific conduct is permissible under our existing rules; instead, we seek to ensure that our rules of conduct and standards of responsibility are clearer as a whole and directly address a broader range of inappropriate conduct.

Statement of Need: These changes are necessary because or current regulations do not specifically address some representative conduct that we find inappropriate.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Based on our program experience, there are no alternatives at this time. These rules will be based on recommendations.

Anticipated Cost and Benefits: The administrative effect of this regulation is negligible.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	08/16/16	81 FR 54520
NPRM Comment Period End.	10/17/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None,

URL for Public Comments: www.regulations.gov.

Agency Contact: Brian J. Rudick, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–7102, *Email: brian.rudick@ssa.gov.*

RIN: 0960–AH63

SSA

156. Ensuring Program Uniformity at the Hearing and Appeals Council Levels of the Administrative Review Process

Priority: Other Significant.

Legal Authority: 42 U.S.C. 401(j); 42 U.S.C. 404(f); 42 U.S.C. 405(a) to 405(b); 42 U.S.C. 405(d) to 405(h); 42 U.S.C. 405(j); 42 U.S.C. 405(s); 42 U.S.C. 421; 42 U.S.C. 421 note; 42 U.S.C. 423(a) to 423(b); 42 U.S.C. 423(i); 42 U.S.C. 902(a)(5); 42 U.S.C. 902 note; 42 U.S.C. 1381; 42 U.S.C. 1381a; 42 U.S.C. 1383; 42 U.S.C. 1383b

CFR Citation: 20 CFR 404.935; 20 CFR 404.938; 20 CFR 404.939; 20 CFR 944; 20 CFR 404.949; 20 CFR 404.950; 20 CFR 404.951; 20 CFR 404.970; 20 CFR 976; 20 CFR 405 RECINDED & RESERVED; 20 CFR 416.1435; 20 CFR 416.1438; 20 CFR 416.1439; 20 CFR 416.1444; 20 CFR 416.1449; 20 CFR 416.1450; 20 CFR 416.1451; 20 CFR 416.1470; 20 CFR 416.1476; 20 CFR 404.900; 20 CFR 404.929; 20 CFR 404.968; 20 CFR 416.1400; 20 CFR 416.1429; 20 CFR 416.1468.

Legal Deadline: None.

Abstract: We propose to revise our rules so that more of our procedures at the administrative law judge (ALJ) and Appeals Council levels of our administrative review process are consistent nationwide. We propose revisions to:

(1) The time-frame for notifying claimants of a hearing date;

(2) the information in our hearing notices;

(3) the period when we require claimants to inform us about or submit written evidence, written statements, objections to the issues, and subpoena requests;

(4) what constitutes the official record; and

(5) the manner in which the Appeals Council considers additional evidence.

We anticipate that these nationally consistent procedures will enable us to administer our disability programs more efficiently and better serve the public.

Statement of Need: We propose to revise parts 404 and 416 to make more of our procedures at the hearings and Appeals Council levels consistent nationwide. These changes would bring the vast majority of the part 405 procedures in line with the procedures in parts 404 and 416, so we propose to remove part 405 in its entirety. We anticipate that under nationally consistent procedures, we will be able to administer our disability programs more efficiently and better serve the public.

Summary of Legal Basis: Administrative—not required by statute or court order.

Alternatives: Based on our program experience, there are no alternatives at this time.

Anticipated Cost and Benefits: Undetermined.

Risks: Undetermined.

Timetable:

Action	Date	FR Cite
NPRM	07/12/16	81 FR 45079
NPRM Comment Period Extended.	08/04/16	81 FR 51412
NPRM Comment Period End.	08/11/16	
NPRM Comment Period Extended End.	08/26/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

URL for Public Comments: www.regulations.gov.

Agency Contact: William P. Gibson, Social Insurance Specialist, Regulations Writer, Social Security Administration, Office of Regulations and Reports Clearance, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 966–9039, *Email: william.gibson@ssa.gov.*

RIN: 0960–AH71

SSA

157. Implementation of the NICS Improvement Amendments Act of 2007

Priority: Other Significant.

Legal Authority: 42 U.S.C. 902(a)(5); 18 U.S.C. 922 note

CFR Citation: 20 CFR 421.

Legal Deadline: None.

Abstract: We propose to implement provisions of the NICS Improvement Amendments Act of 2007 (NIAA) that require Federal agencies to provide relevant records to the Attorney General for inclusion in the National Instant Criminal Background Check System (NICS). Under the proposed rule, we would identify, on a prospective basis, individuals who receive Disability

Insurance benefits under title II of the Social Security Act (Act) or Supplemental Security Income (SSI) payments under title XVI of the Act and also meet certain other criteria, including an award of benefits based on a finding that the individual's mental impairment meets or medically equals the requirements of section 12.00 of the Listing of Impairments (Listings) and receipt of benefits through a representative payee. We propose to provide pertinent information about these individuals to the Attorney General on not less than a quarterly basis. As required by the NIAA, at the commencement of the adjudication process we would also notify individuals, both orally and in writing, of their possible Federal prohibition on possessing or receiving firearms, the consequences of such inclusion, the criminal penalties for violating the Gun Control Act, and the availability of relief from the prohibitions imposed by Federal law. Finally, we also propose to establish a program that permits individuals to request relief from the Federal firearms prohibitions based on our adjudication. The proposed rule would allow us to fulfill responsibilities that we have under the NIAA.

Statement of Need: We propose to implement provisions of the NICS Improvement Amendments Act of 2007 (NIAA) that require Federal agencies to provide relevant records to the Attorney General for inclusion in the National Instant Criminal Background Check System (NICS).

Summary of Legal Basis: The NICS Improvement Amendments Act of 2007 (NIAA).

Alternatives: None.

Anticipated Cost and Benefits: To be determined.

Risks: To be determined.

Timetable:

Action	Date	FR Cite
NPRM	05/05/16	81 FR 27059
NPRM Comment Period End.	07/05/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

Agency Contact: NICS Questions, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235–6401, *Phone:* 410 965–3735.

RIN: 0960–AH95.

SSA

158. • Availability of Information and Records to the Public

Priority: Other Significant.

Legal Authority: FOIA Reform Act of 2016, 5 U.S.C. 552

CFR Citation: 20 CFR 402.

Legal Deadline: Other, Statutory, December 27, 2016, FOIA Reform Act 2016. FOIA Reform Act of 2016.

Abstract: Revisions of our FOIA regulations will address the requirements of the FOIA Improvement Act of 2016 and ensure that our regulations are consistent with all applicable laws.

Statement of Need: Revisions of our FOIA regulation will address the requirements of the FOIA Improvement Act of 2016 and ensure that our regulations are consistent with all applicable laws.

Summary of Legal Basis: FOIA Reform Act of 2016, 5 U.S.C. 552.

Alternatives: None.

Anticipated Cost and Benefits: To Be Determined.

Risks:

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Federal.

Agency Contact: Michael Sarich, Analyst, Social Security Administration, 6401 Security Blvd., Woodlawn, MD 21235, *Phone:* 410 965–2803, *Email: michael.sarich@ssa.gov*.

RIN: 0960–AI07

BILLING CODE 4191–02–P

FALL 2016 STATEMENT OF REGULATORY PRIORITIES

CFPB Purposes and Functions

The Bureau of Consumer Financial Protection (CFPB or Bureau) was established in 2010 as an independent bureau of the Federal Reserve System by the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111–203, 124 Stat. 1376) (Dodd-Frank Act). Pursuant to the Dodd-Frank Act, the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. Among these are the consumer financial protection authorities that transferred to the CFPB from seven Federal agencies on the designated transfer date, July 21, 2011. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws.

As provided in section 1021 of the Dodd-Frank Act, the purpose of the CFPB is to implement and enforce Federal consumer financial laws consistently for the purpose of ensuring that all consumers have access to markets for consumer financial products and services and that such markets are fair, transparent, and competitive. The CFPB is authorized to exercise its authorities for the purpose of ensuring that, with respect to consumer financial products and services:

(1) Consumers are provided with timely and understandable information to make responsible decisions about financial transactions;

(2) Consumers are protected from unfair, deceptive, or abusive acts and practices and from discrimination;

(3) Outdated, unnecessary, or unduly burdensome regulations are regularly identified and addressed in order to reduce unwarranted regulatory burdens;

(4) Federal consumer financial law is enforced consistently, without regard to status of a person as a depository institution, in order to promote fair competition; and

(5) Markets for consumer financial products and services operate transparently and efficiently to facilitate access and innovation.

CFPB Regulatory Priorities

The CFPB's regulatory priorities for the period from November 1, 2016, to October 31, 2017, include continuing rulemaking activities to address critical issues in various markets for consumer financial products and services and implementing Dodd-Frank Act mortgage protections. The Bureau also maintains a long-term agenda listing areas of potential rulemaking interest, as discussed below.

Bureau Regulatory Efforts in Various Consumer Markets

The Bureau is working on a number of rulemakings to address important consumer protection issues in a wide variety of markets for consumer financial products and services. Many of these projects build on prior research efforts by the Bureau.

For example, the Bureau has begun a rulemaking process to follow up on a report it issued to Congress in March 2015 concerning the use of agreements providing for arbitration of any future disputes between covered persons and consumers in connection with the offering or providing of consumer financial products or services. The report, which was required by the Dodd-Frank Act, expanded on preliminary

results of arbitration research that had been released by the Bureau in December 2013. The Bureau has issued a proposed rule that would prohibit covered providers of certain consumer financial products and services from using an arbitration agreement to bar the consumer from filing or participating in a class action. Under the proposal, companies would still be able to include arbitration clauses in their contracts. However, for contracts subject to the proposal, the clauses would have to say explicitly that they cannot be used to stop consumers from being part of a class action in court. The proposal would also require a covered provider that has an arbitration agreement and that is involved in arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the Bureau. The Bureau has received several thousand comments on the proposal and is considering development of a final rule for spring 2017.

The Bureau is also engaged in a rulemaking concerning underwriting and certain other practices in connection with payday, vehicle title, and similar credit products. The rulemaking follows on multiple reports that the Bureau has issued on its research into these markets, including a white paper in April 2013, a data point in March 2014, and several publications earlier this year. The Bureau has issued a proposed rule that, among other things, would require lenders to make a reasonable determination that the consumer has the ability to repay a covered loan before extending credit. It would also require lenders to make certain disclosures before attempting to collect payments from consumers' accounts and restrict lenders from making additional payment collection attempts after two consecutive attempts have failed. The Bureau has already received more than 100,000 comments in response to the proposal; the comment period closed on October 7, 2016.

In addition, the Bureau also engaged in policy analysis and research initiatives in preparation for a proposed rulemaking on debt collection activities, which are the single largest source of complaints to the Federal Government of any industry. Building on the Bureau's November 2013 Advance Notice of Proposed Rulemaking, the Bureau released materials in July 2016 in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with small businesses that may be affected by the policy proposals under consideration. This SBREFA process focuses on companies that are considered ''debt collectors'' under the Fair Debt Collection Practices Act; the Bureau expects to convene a separate SBREFA proceeding focusing on companies that collect their own debts in 2017. The CFPB is also in the process of analyzing the results of a survey to obtain information from consumers about their experiences with debt collection and undertaking consumer testing initiatives to determine what information would be useful for consumers to have about debt collection and their debts and how that information should be provided to them.

Building on Bureau research and other sources, the Bureau is also engaged in policy analysis and further research initiatives in preparation for a proposed rulemaking on overdraft programs on checking accounts. The CFPB issued a white paper in June 2013, and a report in July 2014, based on supervisory data from several large banks that highlighted a number of possible consumer protection concerns, including how consumers opt in to overdraft coverage for ATM and one-time debit card transactions, overdraft coverage limits, transaction posting order practices, overdraft and insufficient funds fee structures, and involuntary account closures. The CFPB is continuing to engage in additional research and has begun qualitative consumer testing initiatives relating to the opt-in process.

The Bureau is also working on a final rule to create a comprehensive set of protections for prepaid financial products, such as general purpose reloadable cards and other similar products, which are increasingly being used by consumers in place of traditional checking accounts or credit cards. The final rule will build off a proposal that the Bureau issued in November 2014 to bring prepaid products within the ambit of Regulation E (which implements the Electronic Fund Transfer Act) as prepaid accounts and to create new provisions specific to such accounts. The proposal also included provisions to amend Regulation E and Regulation Z (which implements the Truth in Lending Act) to regulate prepaid accounts with overdraft services or certain other credit features.

The Bureau is also continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority. The Bureau expects that its next larger participant rulemaking will focus on the markets for consumer installment loans and vehicle title loans for purposes of supervision. The Bureau is also considering whether rules to require registration of these or other non-depository lenders would facilitate supervision, as has been suggested to the Bureau by both consumer advocates and industry groups.

The Bureau is also continuing to develop research on other critical markets to help implement statutory directives and to assess whether regulation of other consumer financial products and services may be warranted. For example, section 1071 of the Dodd-Frank Act amends the Equal Credit Opportunity Act to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is in its early stages with respect to implementing section 1071 and is currently focused on outreach and research to develop its understanding of the players, products, and practices in the business lending markets and of the potential ways to implement section 1071. The Bureau then expects to begin developing proposed regulations concerning the data to be collected and determining appropriate procedures and privacy protections needed for information-gathering and public disclosure under this section.

Implementing Dodd-Frank Act Mortgage Protections

The Bureau is also continuing its efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the Nation's most significant financial crisis in several decades. The Bureau has already issued regulations implementing Dodd-Frank Act protections for mortgage originations and servicing and integrating various Federal mortgage disclosures as discussed further below.

In October 2015, the Bureau issued a final rule implementing Dodd-Frank amendments to the Home Mortgage Disclosure Act (HMDA), which augment existing data reporting requirements regarding housing-related loans and applications for such loans. In addition to obtaining data that is critical to the purposes of HMDA—which include providing the public and public officials

with information that can be used to help determine whether financial institutions are serving the housing needs of their communities, assisting public officials in the distribution of public sector investments, and assisting in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes—the Bureau views this rulemaking as an opportunity to streamline and modernize HMDA data collection and reporting, in furtherance of its mission under the Dodd-Frank Act to reduce unwarranted regulatory burden. Certain elements of the rule take effect in January 2017, and most new data collection requirements begin in January 2018. The Bureau is conducting outreach with industry and coordinating with other agencies to monitor and facilitate implementation of the rule. The Bureau has already released a small entity compliance guide. In addition, the Bureau is planning a rulemaking to make technical corrections and to clarify certain requirements under the new provisions of Regulation C. The Bureau expects the follow up HMDA rulemaking to occur in 2017.

Another major effort of the Bureau is the implementation of its final rule combining several federal mortgage disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The integrated forms are the cornerstone of the Bureau's broader ''Know Before You Owe'' mortgage initiative. The rule, in most cases, requires that two forms, the Loan Estimate and the Closing Disclosure, replace four different Federal disclosures. These new forms help consumers better understand their options, choose the deal that is best for them, and avoid costly surprises at the closing table. The Bureau has worked intensively to support implementation efforts, including consumer education initiatives, both before and after the rule's October 2015 effective date. To facilitate implementation, the Bureau has released and provided applicable updates for a small entity compliance guide, a guide to forms, a readiness guide, sample forms, and additional materials. In July 2016, the Bureau proposed revisions to address a number of questions about the final rule that have been identified by interested parties in the course of these implementation efforts. The comment period on the proposal closed October 18, 2016. The Bureau anticipates finalizing the proposal in 2017.

The Bureau also continues to work in support of the full implementation of, and to facilitate compliance with, various mortgage-related final rules issued by the Bureau in January 2013 (including several amendments issued since that time) to strengthen consumer protections involving the origination and servicing of mortgages. In general, these rules, implementing requirements under the Dodd-Frank Act, were all effective by January 2014. The Bureau is working diligently to monitor the market and continues to make clarifications and adjustments to the rules where warranted. For example, the Bureau issued a final rule in August 2016 that amends various provisions of its mortgage servicing rules in both Regulation X, which implements RESPA, and Regulation Z, which implements TILA. The final rule clarifies the applicability of certain provisions when a borrower is in bankruptcy or has invoked cease communication rights under the Fair Debt Collection Practices Act, enhances loss mitigation requirements, and extends the protections of the mortgage servicing rules to confirmed successors in interest, among other amendments. Most of the final rule will be effective in 2017, one year from publication in the **Federal Register**, while certain provisions regarding borrowers in bankruptcy and successors in interest will be effective in 2018, 18 months from publication. In developing the final rule, the Bureau reviewed and considered public comments on the proposed rule, consulted with other agencies, and conducted consumer testing of certain disclosures. The Bureau will continue supporting implementation and consumer education efforts in connection with the mortgage-related final rules issued by the Bureau in January 2014, including the amendments issued since that time.

Further, the Bureau continues to participate in a series of interagency rulemakings to implement various Dodd-Frank Act amendments to TILA and the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA) relating to mortgage appraisals. In April 2015, in conjunction with the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Federal Housing Finance Agency, the Bureau issued a final rule adopting certain minimum requirements for appraisal management companies. These joint agency efforts are continuing with further efforts to implement amendments to FIRREA concerning required quality control standards relating to the use of automated valuation models.

Bureau Long-Term Planning Efforts

The Bureau also maintains a long-term agenda to reflect its expectations beyond the current fiscal year. As noted in these items, the Bureau intends to explore potential rulemakings to address important issues related to consumer reporting and student loan servicing.

With regard to consumer reporting, the Bureau continues to oversee the credit reporting market through its supervisory and enforcement efforts, monitor the market through research and to consider prior research, including a white paper the Bureau published on the largest consumer reporting agencies in December 2012 and reports on credit report accuracy produced by the Federal Trade Commission pursuant to the Fair and Accurate Credit Transactions Act. As this work continues, the Bureau will evaluate possible policy responses to issues identified, including potential additional rules or amendments to existing rules governing consumer reporting. Potential topics for consideration might include the accuracy of credit reports, including the processes for resolving consumer disputes, or other issues.

Further, in May 2015, the CFPB issued a request for information seeking comment from the public regarding student loan servicing practices, including those related to payment processing, servicing transfers, complaint resolution, co-signer release, and procedures regarding alternative repayment and refinancing options. In September 2015, the CFPB released a report regarding student loan servicing practices, based, in part, on comments submitted in response to the request for information. The CFPB, the Department of Education, and the Department of Treasury also published a Joint Statement of Principles on student loan servicing. In May 2016, the CFPB issued a request for information, seeking comment from the public about potential borrower communications regarding alternative repayment options. In July 2016, the CFPB and Department of Treasury joined the Department of Education as it announced new policy guidance regarding servicing standards for Federal student loans, which it developed in consultation with the Bureau and the Department of Treasury. The CFPB will also continue to monitor the student loan servicing market for trends and developments. As this work continues, the Bureau will evaluate possible policy responses, including

potential rulemaking. Possible topics for consideration might include specific acts or practices and consumer disclosures.

The Bureau also has begun planning to conduct assessments of significant rules it has adopted, pursuant to section 1022(d) of the Dodd-Frank Act. That section requires the Bureau to conduct such assessments to address, among other relevant factors, the effectiveness of the rules in meeting the purposes and objectives of title X of the Dodd-Frank Act and the specific goals of the rules assessed, to publish a report of each assessment not later than five years after the effective date of the subject rule, and to invite public comment on recommendations for modifying, expanding, or eliminating the subject rule before publishing each report. The Bureau will provide further information about its expectations for the lookback process as its planning continues.

BILLING CODE 4810–AM–P

CONSUMER PRODUCT SAFETY COMMISSION

Statement of Regulatory Priorities

The U.S. Consumer Product Safety Commission is charged with protecting the public from unreasonable risks of death and injury associated with consumer products. To achieve this goal, among other things, the CPSC:

- Develops mandatory product safety standards or bans when other efforts are inadequate to address a safety hazard, or where required by statute;
- obtains repair, replacement, or refunds for defective products that present a substantial product hazard;
- develops information and education campaigns about the safety of consumer products;
- participates in the development or revision of voluntary product safety standards; and
- follows statutory mandates.

Unless directed otherwise by Congressional mandate, when deciding which of these approaches to take in any specific case, the CPSC gathers and analyzes data about the nature and extent of the risk presented by the product. The Commission's rules at 16 CFR 1009.8 require the Commission to consider, among other factors, the following criteria, when deciding the level of priority for any particular project:

- Frequency and severity of injury;
- causality of injury;
- chronic illness and future injuries;
- costs and benefits of Commission action;
- unforeseen nature of the risk;
- vulnerability of the population at risk;
- probability of exposure to the hazard; and
- additional criteria that warrant Commission attention.

Significant Regulatory Actions:

Currently, the Commission is considering one rule that would constitute a ''significant regulatory action'' under the definition of that term in Executive Order 12866:

1. Flammability Standard for Upholstered Furniture

Under Section 4 of the Flammable Fabrics Act (''FFA''), the Commission may issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage. The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture meet mandatory requirements specified in the standard.

CPSC

Proposed Rule Stage

159. Flammability Standard for Upholstered Furniture

Priority: Economically Significant. Major under 5 U.S.C. 801.

Legal Authority: 15 U.S.C. 1193; 5 U.S.C. 801

CFR Citation: 16 CFR 1634.

Legal Deadline: None.

Abstract: In October 2003, the Commission issued an advance notice of proposed rulemaking (ANPRM) to address the risk of fire associated with cigarette and small open-flame ignitions of upholstered furniture. The Commission published a notice of proposed rulemaking (NPRM) in March 2008, and received public comments. The Commission's proposed rule would require that upholstered furniture have cigarette-resistant fabrics or cigarette- and open flame-resistant barriers. The proposed rule would not require flame-resistant chemicals in fabrics or fillings. CPSC staff is conducting technical work to support a Final Rule. Since the Commission published the NPRM, CPSC staff has conducted testing of upholstered furniture, using both full-scale furniture and bench-scale models, as proposed in the NPRM. Currently, staff is reviewing fire barriers and fire-resistant fill materials that do not contain organohalogen chemicals as an approach for reducing deaths and injuries associated with furniture fires from upholstered furniture ignitions. Staff will develop a briefing package with options for consideration by the Commission in FY 2017, as well as a briefing package reviewing the pros and cons of adopting California's standard TB–117–2013 in FY 2016. Staff is also actively working with both ASTM and NFPA to evaluate new provisions and improve the existing consensus standards related to upholstered furniture flammability.

Statement of Need: From 2009 to 2011, an annual average of approximately 5,000 residential fires in which upholstered furniture was the first item to ignite resulted in an estimated 410 deaths, 730 civilian injuries, and about $280 million in property damage that could be addressed by a flammability standard. The total annual societal cost attributable to these upholstered furniture fire losses was more than $3.8 billion for 2008–2011. This total includes fires ignited by small open-flame sources and cigarettes.

Summary of Legal Basis: Section 4 of the Flammable Fabrics Act (FFA) (15 U.S.C. 1193) authorizes the Commission to issue a flammability standard or other regulation for a product of interior furnishing if the Commission determines that such a standard is ''needed to adequately protect the public against unreasonable risk of the occurrence of fire leading to death or personal injury, or significant property damage.'' The Commission's regulatory proceeding could result in several actions, one of which could be the development of a mandatory standard requiring that upholstered furniture sold in the United States meet mandatory requirements specified in the standard.

Alternatives: (1) The Commission could issue a mandatory flammability standard if the Commission finds that such a standard is needed to address an unreasonable risk of the occurrence of fire from ignition of upholstered furniture. (2) The Commission could issue mandatory requirements for labeling of upholstered furniture, in addition to, or as an alternative to, the requirements of a mandatory flammability standard. (3) The Commission could terminate the proceeding for development of a flammability standard and rely on a voluntary standard if a voluntary standard would adequately address the risk of fire, and substantial compliance with such a standard is likely to result.

Anticipated Cost and Benefits: The estimated annual cost of imposing a mandatory standard to address ignition of upholstered furniture will depend upon the test requirements in the Final Rule and the steps manufacturers take to meet those requirements. Depending upon the test requirements, a standard may reduce upholstered furniture-related fire losses, the annual societal cost of which was more than $3.8 billion for 2008 to 2011. Thus, the potential benefits of a mandatory standard to address the risk of ignition of upholstered furniture could be significant, even if the standard did not prevent all such fires.

Risks: The estimated average annual cost to society from residential fires associated with upholstered furniture was $3.8 billion for 2008 to 2011. Societal costs associated with upholstered furniture fires are among the highest associated with any product subject to the Commission's authority. A standard has the potential to reduce these societal costs.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/94	59 FR 30735
Commission Hearing May 5 & 6, 1998 on Possible Toxicity of Flame-Retardant Chemicals.	03/17/98	63 FR 13017
Meeting Notice	03/20/02	67 FR 12916
Notice of Public Meeting.	08/27/03	68 FR 51564
Public Meeting	09/24/03	
ANPRM	10/23/03	68 FR 60629
ANPRM Comment Period End.	12/22/03	
Staff Held Public Meeting.	10/28/04	
Staff Held Public Meeting.	05/18/05	
Staff Sent Status Report to Commission.	01/31/06	
Staff Sent Status Report to Commission.	11/03/06	
Staff Sent Status Report to Commission.	12/28/06	
Staff Sent Options Package to Commission.	12/22/07	
Commission Decision to Direct Staff to Prepare Draft NPRM.	12/27/07	
Staff Sent Draft NPRM to Commission.	01/22/08	
Commission Decision to Publish NPRM.	02/01/08	
NPRM	03/04/08	73 FR 11702
NPRM Comment Period End.	05/19/08	
Staff Published NIST Report on Standard Test Cigarettes.	05/19/09	
Staff Publishes NIST Report on Standard Research Foam.	09/14/12	
Notice of April 25 Public Meeting and Request for Comments.	03/20/13	78 FR 17140
Staff Holds Upholstered Furniture Fire Safety Technology Meeting.	04/25/13	
Comment Period End.	07/01/13	
Staff Sends Briefing Package to Commission on California's TB117–2013.	09/08/16	
Staff Sends NPRM Briefing Package to Commission.	09/00/17	

Regulatory Flexibility Analysis Required: Undetermined.

Government Levels Affected: Undetermined.

Federalism: Undetermined.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Agency Contact: Andrew Lock, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2099, *Email: alock@cpsc.gov*.

RIN: 3041–AB35

BILLING CODE 6355–01–P

FEDERAL TRADE COMMISSION (FTC)

Statement of Regulatory and Deregulatory Priorities

I. Regulatory and Deregulatory Priorities

Background

The Federal Trade Commission (FTC or Commission) is an independent agency charged by its enabling statute, the Federal Trade Commission Act (FTC Act), with protecting American consumers from ''unfair methods of competition'' and ''unfair or deceptive acts or practices'' in the marketplace. The Commission strives to ensure that consumers benefit from a vigorously competitive marketplace. The Commission's work is rooted in a belief that competition, based on truthful and non-misleading information about products and services, provides consumers the best choice of products and services at the lowest prices.

The Commission pursues its goal of promoting competition in the marketplace through two different but complementary approaches. Unfair or deceptive acts or practices injure both consumers and honest competitors alike and undermine competitive markets. Through its consumer protection activities, the Commission seeks to ensure that consumers receive accurate, truthful, and non-misleading information in the marketplace. One recent example is the FTC's enforcement action along with its law enforcement partners, the U.S. Department of Justice and the Environmental Protection Agency, to compensate consumers who were harmed by Volkswagen both because the company allegedly unfairly sold cars with illegal defeat devices and deceptively advertised these cars with claims that they were ''clean.'' On June 28, 2016, Volkswagen entered into a settlement to create a $10 billion compensation fund for Volkswagen diesel owners.[19] This is the largest consumer refund program in the FTC's history.

At the same time, to ensure that consumers have a choice of products and services at competitive prices and quality, the marketplace must be policed for anticompetitive business practices. Thus, the second part of the Commission's basic mission—antitrust enforcement—is to prohibit anticompetitive mergers or other anticompetitive business practices without unduly interfering with the legitimate activities of businesses. These two complementary missions make the Commission unique insofar as it is the nation's only Federal agency with this combination of statutory authority to protect consumers.

The Commission is, first and foremost, a law enforcement agency. It pursues its mandate primarily through case-by-case enforcement of the FTC Act and other statutes. In addition, the

[19] Proposed Partial Stipulated Order for Permanent Injunction and Monetary Judgment, FTC v. Volkswagen Group of America, Inc., No. 3:15–md–2672 (N.D. Cal. June 28, 2016), *available at https://www.ftc.gov/system/files/documents/cases/proposed_partial_stipulated_order_filed_copy_0.pdf*; *see also* related proposed consent decree between the United States Department of Justice and the State of California and Volkswagen at *https://www.justice.gov/opa/file/871306/download.*

Commission is also charged with the responsibility of issuing and enforcing regulations under a number of statutes, including 16 trade regulation rules promulgated pursuant to the FTC Act and numerous regulations issued pursuant to certain credit, financial and marketing practice statutes [20] and energy laws.[21] The Commission also has adopted a number of voluntary industry guides. Most of the regulations and guides pertain to consumer protection matters and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions.

Commission Initiatives

The Commission protects consumers through a variety of tools, including both regulatory and non-regulatory approaches. It has encouraged industry self-regulation, developed a corporate leniency policy for certain rule violations, and established compliance partnerships where appropriate.

As detailed below, protecting consumer privacy, preventing and mitigating identity theft, containing the rising costs of health care and prescription drugs, fostering competition and innovation in markets for products that consumers buy every day, challenging deceptive advertising and marketing, and safeguarding the interests of potentially vulnerable consumers, such as children and the financially distressed, continue to be at the forefront of the Commission's consumer protection and competition programs.

By subject area, the FTC discusses some of the major workshops, reports,[22] and initiatives it has pursued since the 2015 Regulatory Plan was published.

(a) Protecting Consumer Privacy. As the nation's top enforcer on the consumer privacy beat, the FTC works to ensure that consumers can take advantage of the benefits of a dynamic and ever-changing digital marketplace without compromising their privacy. The FTC achieves that goal through civil law enforcement, policy initiatives, and consumer and business education. For example, the FTC's unparalleled experience in consumer privacy enforcement has addressed practices offline, online, and in the mobile environment by large, well-known companies and lesser-known players alike. The Commission's recent efforts have addressed a wide range of issues, including the privacy of health information, the Internet of Things, Big Data, and data security.

New health-related apps, devices, and services are increasingly available to consumers. These products and services often involve the collection of sensitive health data, which consumers generally expect to be private. While much of this activity is not covered by HIPAA (Health Insurance Portability and Accountability Act of 1996), it is covered by the FTC Act. An example of a recent enforcement action in this area is a case against Practice Fusion, a company that provides management services to physicians, based on allegations that it deceived consumers by soliciting reviews about their doctors without adequately disclosing that the reviews would be posted publicly on the internet.[23] As detailed in the complaint, many of the posted reviews included consumers' full names, medications, health conditions, and treatments received. The FTC also took action against Henry Schein Practice Solutions, a provider of office management software for dental practices, based on allegations that it misrepresented the extent to which it protected sensitive patient information.[24] Further, because many of the entities collecting health data in today's marketplace are health apps and other small companies, the FTC is placing emphasis on business education. The FTC has thus worked with the U.S. Department of Health and Human Services to develop an interactive tool showing app developers which laws apply to them.[25] In conjunction with that project, the FTC also released guidance to help mobile health app developers build privacy and security into their apps.[26]

The Internet of Things is also an expanding part of the Commission's work. It comes in the form of products such as fitness devices, wearables, smart cars, and connected smoke detectors, light bulbs, and refrigerators. While these products are innovative and exciting, they are also collecting, storing, and often sharing vast amounts of consumer data, some of it very personal, raising familiar and new concerns relating to privacy and security. Device security is a serious concern. If hackers can hack a smart car, a pacemaker, or an insulin pump, the consequences could be grave. The FTC's case against computer hardware company ASUS illustrates the problems created by poor device security.[27] The complaint charged that critical security flaws in ASUS' routers put the home networks of hundreds of thousands of consumers at risk. An earlier case against TRENDnet involved allegations of compromised security of home security monitoring cameras.[28] Last year, the FTC issued a report addressing how fundamental privacy principles can be adapted to Internet of Things devices and recommending best practices for companies to follow.[29]

Another area of interest is Big Data, specifically the vast collection of data about consumers and enhanced capabilities to analyze data to make inferences and predictions about consumers. Such data uses can and are creating many benefits, including in areas such as public health and safety. But the increase in data collection and storage also increases the risk of data breach, identity theft, and the likelihood that data will be used in ways consumers do not expect or want. The FTC recently issued a report entitled *Big Data: A Tool for Inclusion or Exclusion?* addressing how the categorization of consumers may be both creating and limiting opportunities for them, with a focus on low-income and underserved consumers.[30] A key message in the report is that there are laws currently on the books—including the Fair Credit Reporting Act, the Equal Credit

[20] For example, the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (CAN–SPAM Act) (15 U.S.C. 7701–7713) and the Telemarketing and Consumer Fraud and Abuse Prevention Act (15 U.S.C. 6101–6108).

[21] For example, the Energy Policy Act of 1992 (106 Stat. 2776, codified in scattered sections of the U.S. Code, particularly 42 U.S.C. 6201 *et seq.*) and the Energy Independence and Security Act of 2007 (EISA) (codified in relevant part at 42 U.S.C. 17021, 17301–17305).

[22] The FTC also prepares a number of annual and periodic reports on the statutes it administers. These are not discussed in this plan.

[23] Complaint, In re Practice Fusion, Inc., No. C–4591 (Aug. 15, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/142-3039/practice-fusion-inc-matter.*

[24] Complaint, In re Henry Schein Practice Solutions, Inc., No. C–4575 (May 20, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/142-3161/henry-schein-practice-solutions-inc-matter.*

[25] *See* Mobile Health Apps Interactive Tool (Apr. 2016), *https://www.ftc.gov/tips-advice/business-center/guidance/mobile-health-apps-interactive-tool.*

[26] *See Mobile Health App Developers: FTC Best Practices* (Apr. 2016), *https://www.ftc.gov/tips-advice/business-center/guidance/mobile-health-app-developers-ftc-best-practices.*

[27] Complaint, In re ASUSTeK Computer Inc., No. C–4587 (July 18, 2016), *available at https://www.ftc.gov/news-events/press-releases/2016/07/ftc-approves-final-order-asus-privacy-case.*

[28] Complaint, In re TRENDnet, Inc., No. C–4426 (Jan. 16, 2014), *available at http://www.ftc.gov/enforcement/cases-proceedings/122-3090/trendnet-inc-matter.*

[29] FTC Staff Report, *Internet of Things: Privacy & Security in a Connected World* (Jan. 2015), *https://www.ftc.gov/reports/federal-trade-commission-staff-report-november-2013-workshop-entitled-internet-things.*

[30] FTC Report, *Big Data: A Tool for Inclusion or Exclusion? Understanding the Issues,* (Jan. 2016), *https://www.ftc.gov/reports/big-data-tool-inclusion-or-exclusion-understanding-issues-ftc-report.*

Opportunity Act, and the FTC Act—that already address some of the concerns raised by Big Data, and with which companies must already comply. The report also identifies issues that companies should consider when using Big Data analytics to minimize discriminatory or other harmful outcomes.

One aspect of the increase in data collection is the ease with which anyone can buy detailed data about consumers. The FTC continues to focus on data brokers and, in particular, the role they play in facilitating fraud. For example, the FTC brought a case against data broker Sequoia One, alleging that it purchased the payday loan applications of financially strapped consumers—including names, addresses, phone numbers, Social Security Numbers, and bank account numbers—and then sold them to scam artists who used the data to withdraw millions of dollars from consumers' accounts.[31] The FTC also hosted a public workshop that examined the growing use of online lead generation in various industries [32] leading to a 2016 staff report that addressed lead generation's potential benefits and the consumer protection issues it might raise.[33] Further, in November 2015, the FTC hosted a workshop on cross-device tracking to examine the various ways that companies now track consumers across multiple devices, and not just on one device.[34]

Data security remains an important focus of the Commission's privacy work. Since 2002, approximately 60 companies have settled FTC cases alleging that they engaged in deceptive or unfair practices that unreasonably put consumers' personal data at risk. In July 2016, the Commission issued an Opinion and Final Order against medical testing laboratory LabMD, Inc., concluding that its data security practices were unreasonable and constituted an unfair act or practice that violated the FTC Act.[35] The case concerns the company's failure to protect the sensitive health information of many thousands of consumers. The final order requires LabMD to establish a comprehensive information security program, obtain periodic assessments regarding its implementation, and notify those consumers whose personal information was exposed. The agency also announced recent data security settlements against Lifelock and Wyndham. In Lifelock, the company agreed to pay $100 million—the largest monetary award obtained by the Commission in a contempt action to settle charges that it violated the terms of a 2010 federal court order that required the company to secure consumers' personal information and prohibited deceptive advertising.[36] In the Wyndham case, the company agreed to settle FTC charges that the company's security practices unreasonably exposed the payment card information of hundreds of thousands of consumers to hackers in three separate data breaches.[37] While the Wyndham case was pending, the Third Circuit affirmed the FTC's authority to challenge unfair data security practices using its Section 5 authority.

The FTC also engages in policy initiatives to better understand emerging technologies, research, and business models, including by hosting many workshops and events on privacy issues. On January 14, 2016, the FTC hosted it's first-ever PrivacyCon event to showcase original research in the area of privacy and security. Participants presented and discussed original research on important and timely topics such as data security, online tracking, and consumer perceptions of privacy, privacy disclosures, Big Data, and the economics of privacy. PrivacyCon is helping the Commission stay up-to-date with changing technologies, learn about new tools and programs, identify potential areas for investigation and enforcement, fashion remedies, and identify areas for further study. The Commission has scheduled a second PrivacyCon for January 12, 2017, in Washington, DC

As another example of its work on policy issues, the FTC is hosting a Fall Technology Series of three half-day events during Fall of 2016 that to explore consumer protection and privacy implications of ransomware, drones, and smart TVs. This series gathers input from academics, business and industry representatives, government experts, and consumer advocates for three-hour discussion sessions, which take place in Washington, DC and are open to the public. The FTC invites comment from the public on the events.

Finally, the FTC educates consumers and businesses on privacy and security issues. For example, the ''Start with Security'' business outreach campaign, launched in 2015, has included one-day conferences in Austin, San Francisco, Seattle, and Chicago to bring business owners and developers together with industry experts to discuss practical tips and strategies for implementing effective data security. Additionally, the Start with Security Guide [38] for businesses provides an easy way for companies to understand and apply lessons from the FTC's previous data security cases. It includes brief descriptions and references to the cases, as well as plain-language explanations of the security principles at issue. The FTC has also introduced a one-stop Web site at *www.ftc.gov/datasecurity* that consolidates the Commission's data security information for businesses.

(b) Protecting Children. Children increasingly use the Internet for entertainment, information and schoolwork. The FTC enforces the Children's Online Privacy Protection Act (COPPA) and the COPPA Rule to protect children's privacy when they are online by putting their parents in charge of who gets to collect personal information about their children under the age of thirteen. For example, in cases against app developers LAI Systems and Retro Dreamer,[39] the FTC alleged that the companies created a number of apps directed to children that allowed third-party advertisers to collect personal information from children in the form of persistent identifiers, for purposes of conducting behavioral advertising, without obtaining parental consent.

The Commission actively litigates to protect children and their parents when children use mobile apps that appeal to children and offer virtual goods for sale.

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[31] Complaint, FTC v. Sequoia One, LLC, No. 2:15–cv–01512–JCM–CWH (D. Nev. Aug. 12, 2015), *available at https://www.ftc.gov/system/files/documents/cases/150812sequoiaonecmpt.pdf.*

[32] Follow the Lead: An FTC Workshop on Lead Generation (Oct. 30, 2015), *https://www.ftc.gov/news-events/events-calendar/2015/10/follow-lead-ftc-workshop-lead-generation.*

[33] FTC Staff Perspective, *Follow the Lead Workshop* (Sept. 2016), *https://www.ftc.gov/system/files/documents/reports/staff-perspective-follow-lead/staff_perspective_follow_the_lead_workshop.pdf.*

[34] Cross Device Tracking: An FTC Workshop (Nov. 16, 2015), *https://www.ftc.gov/news-events/events-calendar/2015/11/cross-device-tracking.*

[35] Opinion of the Commission and Final Order, In re LabMD, Inc., No. 9357 (July 28, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/102-3099/labmd-inc-matter.*

[36] Amended Order, FTC v. LifeLock, Inc., No. 2:10–CV–00530–JJT (D. Ariz. Jan. 4, 2016), *available at https://www.ftc.gov/system/files/documents/cases/160105lifelockorder.pdf.*

[37] Stipulated Order for Injunction, FTC v. Wyndham Worldwide Corp., No. 2:13–CV–01887–ES–JAD (D.N.J. Dec. 11, 2015), *available at https://www.ftc.gov/system/files/documents/cases/151211wyndhamstip.pdf.*

[38] FTC, Start with Security: A Guide for Business (June 2015), *https://www.ftc.gov/system/files/documents/plain-language/pdf0205-startwithsecurity.pdf.*

[39] See Press Release, FTC, Two App Developers Settle FTC Charges They Violated Children's Online Privacy Protection Act (Dec. 17, 2015), *https://www.ftc.gov/news-events/press-releases/2015/12/two-app-developers-settle-ftc-charges-they-violated-childrens.*

On April 26, 2016, a federal district court granted the Commission's request for summary judgment in the agency's lawsuit alleging that Amazon, Inc. billed consumers for unauthorized in-app charges incurred by children. The judge's order in the case found that Amazon received many complaints from consumers about surprise in-app charges incurred by children, citing the fact that the company's disclosures about the possibility of in-app charges within otherwise ''free'' apps were not sufficient to inform consumers about the charges.[40] This is the FTC's third case relating to children's in-app purchases; Apple and Google both settled FTC complaints concerning the issue in 2014.[41]

(c) Protecting Every Community. The FTC has brought a very large number of cases to stop scam artists, shut down their operations, and put money back in consumers' pockets. Fraud precludes economic opportunities and deprives individuals of money, time, and resources. While fraud touches people of all ages, backgrounds, incomes, and locations, certain groups are targeted more frequently. Sometimes fraudsters target older people, and sometimes they target people of different racial, ethnic, or national origins, or people for whom English is not their first language. Sometimes scam artists target members of the military. The FTC is thus making a concerted effort to ensure that our fraud prevention efforts—both law enforcement and education—are reaching every community, including groups that may have been underserved in the past.

The agency has aggressively enforced the law against scam artists and sought to educate older consumers about scams and to promote technological solutions that will make it more difficult for scammers to operate and hide from law enforcement. Though all of the FTC's fraud cases involve elderly consumers as part of the general population, since 2005, the Commission has brought 38 cases alleging that defendants' conduct has specifically targeted or disproportionately harmed older adults. Although scams targeting older Americans are diverse and have ranged from sweepstakes to business opportunities, the FTC has in recent years concentrated its law enforcement efforts on online threats and various types of impostor scams. Some examples are technical support scams, health care-related scams, and sweepstakes and prize scams. The FTC also has pursued actions related to the money transfer services that are commonly used in scams affecting older adults, and has coordinated efforts with criminal and foreign law enforcement agencies to achieve a broader impact.

FTC education and outreach programs reach tens of millions of people every year. Among them are a series of fotonovelas (graphic novels) to raise awareness about scams targeting the Latino community and the ''Pass It On'' program that provides seniors with information, in English and Spanish, on a variety of scams targeting the elderly.[42] The agency works with the Elder Justice Coordinating Council to help protect seniors. And the FTC also works with the AARP Foundation, whose peer counselors provided fraud-avoidance advice last year to more than a thousand seniors who had filed complaints about certain frauds, including lottery, prize promotion, and grandparent scams. The Commission also promotes initiatives to make it harder for scammers to fake or ''spoof'' their caller identification information and supports more widespread availability of technology that will block calls from fraudsters, essentially operating as a spam filter for the telephone.

(d) Protecting Financially Distressed Consumers. Even as the economy recovers, some consumers continue to face financial challenges. The FTC acts to protect consumers from deceptive and unfair credit practices and ensure that consumers can get the information they need to make informed financial choices. The Commission has continued its enforcement efforts by bringing law enforcement actions to curb deceptive and unfair practices in mortgage rescue, debt relief, auto financing, and debt collection.

For example, if educational institutions make promises to their prospective students about future employment and income, the institutions must be able to substantiate those claims. On January 27, 2016, the Commission filed suit against DeVry University for allegedly deceiving students about the likelihood that they would find jobs after graduation in their field of study.[43] In its complaint against DeVry, the FTC alleged that the defendants' claim that 90 percent of DeVry graduates actively seeking employment landed jobs in their field within six months of graduation was deceptive. The complaint also charged that DeVry deceptively claimed that its graduates had 15 percent higher incomes one year after graduation on average than the graduates of all other colleges or universities.

(e) Fighting Identity Theft. The issue of identity theft has been one of the top consumer complaint subject areas reported to the FTC over the past 15 years, and in 2015, the Commission received 490,220 complaints from consumers who were victims of identity theft. On May 14, 2015, the FTC launched the Web site IdentityTheft.gov (robodeidentidad.gov in Spanish), a free, one-stop resource people can use to report and recover from identity theft. The site implements the President's Executive Order[44] by consolidating federal resources and reducing the burden on identity theft victims as they repair damage caused by identity theft. The online site is accessible from mobile devices and is integrated with the FTC's consumer complaint system. Identity theft victims can use the site to create a personal recovery plan based on the type of identity theft they face and prepare pre-filled letters and forms to send to credit bureaus, businesses and debt collectors. During 2015, the IdentityTheft.gov Web site had more than 1.3 million page views and the public ordered more than 3.7 million related publications in English, Spanish and four other languages.

Tax identity theft is a growing share of identity theft-related complaints. In January 2016, the FTC sponsored a Tax Identity Theft Awareness Week to raise awareness about tax identity theft and provide tips about how to respond to it. The FTC's Tax Identity Theft Awareness Week Web site[45] provided material for regional events held in the states with the highest reported rates of identity theft. The FTC conducted multiple webinars with Veterans Affairs staff and military financial counselors, including three webinars about tax identity theft

[40] Redacted Order Granting Amazon's Motion for Partial Summary Judgment and Granting the FTC's Motion for Summary Judgment, FTC v. Amazon.com, Inc., No. 2:14–cv–1038–JCC (W.D. Wash. Apr. 26, 2016), *available at https://www.ftc.gov/system/files/documents/cases/160427amazonorder.pdf.*

[41] Decision and Order, In re Apple Inc., No. C–4444 (Mar. 25, 2014), *available at https://www.ftc.gov/enforcement/cases-proceedings/112-3108/apple-inc*; Decision and Order, In re Google Inc., No. C–4499 (Dec. 2, 2015), *available at https://www.ftc.gov/enforcement/cases-proceedings/122-3237/google-inc.*

[42] FTC, Fotonovelas, *https://www.consumer.ftc.gov/features/feature-0031-fotonovelas*; FTC, Pass It On, *https://www.consumer.ftc.gov/features/feature-0030-pass-it-on.*

[43] Complaint for Permanent Injunction and Other Equitable Relief, FTC v. DeVry Educ. Group Inc., No. 2:16–cv–579 (C.D. Cal. Jan. 27, 2016), *available at https://www.ftc.gov/system/files/documents/cases/160127devrycmpt.pdf.*

[44] E.O. 13681, ''Improving the Security of Consumer Financial Transactions'' (Oct. 17, 2014).

[45] *See* FTC, Tax Identity Theft Awareness Week (Jan. 2016), *http://www.consumer.ftc.gov/features/feature-0029-tax-identity-theft-awareness-week.*

and imposter scams that reached more than 1,100 Veterans Affairs staff and veterans.

(f) Sharing Economy. In light of the recent rapid expansion of business activity on online and mobile peer-to-peer business platforms, the Commission hosted a workshop in 2015 on the emerging ''Sharing Economy.'' [46] Peer-to-peer platforms provide marketplaces in which numerous suppliers (frequently individuals and small entities) and consumers may locate partners and engage in commercial transactions.[47] These platforms, and suppliers using them, are providing innovative alternatives to consumers in a number of sectors, particularly in local transportation (*e.g.,* Uber and Lyft) and lodging (*e.g.,* Airbnb). The workshop examined the economics underlying sharing economy activity, the reputational systems and other mechanisms that sharing economy platforms use to promote trust among parties, how entry by sharing economy platforms and suppliers enhances competition, and the debate over how such economic activity should be regulated.

(g) Promoting Competition in Health Care Markets. The Commission prioritizes preventing mergers that would reduce competition among healthcare providers and likely enable the merged entities to raise rates charged to commercial healthcare plans for vital services and reduce incentives to improve service quality and innovation. The latest empirical research consistently finds that provider competition results in the greatest price and quality benefits for consumers, driving the FTC's continued vigilance in health care provider markets.[48] In late 2015, the Commission sued to stop three proposed hospital mergers that the agency alleged would lead to increased market power for the merging firms in their local communities.[49] Two of these cases are still pending, but on July 6, 2016, the FTC dismissed without prejudice its administrative complaint challenging the proposed merger between Cabell Huntington Hospital and St. Mary's Medical Center—two hospitals located three miles apart in Huntington, West Virginia. The Commission voted to dismiss the complaint in light of the passage in March 2016 of a new West Virginia law relating to certain ''cooperative agreements'' between hospitals in that state, and the West Virginia Health Care Authority's decision to approve a cooperative agreement between Cabell and St. Mary's. Cooperative agreement laws seek to replace antitrust enforcement with state regulation and supervision of healthcare provider combinations. In the Commission's view, this case presents another example of healthcare providers using state legislation to shield potentially anticompetitive combinations from antitrust enforcement. Such state cooperative agreement laws are likely to harm local communities through higher health care costs and lower quality care.[50]

The FTC also continues to work to eliminate anticompetitive ''pay-for-delay'' settlements in which a branded drug firm pays a generic competitor to keep generic drugs off the market. In a significant victory, the U.S. Supreme Court held that pay-for-delay agreements between brand and generic drug companies are subject to antitrust scrutiny under an antitrust ''rule of reason'' analysis. *FTC* v. *Actavis, Inc.,* 570 U.S. 756 (2013). This decision cleared the way for antitrust review of potentially anticompetitive pay-for-delay patent settlement agreements. The FTC currently has three active pay-for-delay litigations underway in federal courts. Two involve the blockbuster male testosterone replacement drug Androgel (the *Actavis* case on remand to the U.S. District Court for the Northern District of Georgia and *FTC* v. *AbbVie, Inc.,* in the U.S. District Court for the Eastern District of Pennsylvania).[51] The third case involves an agreement not to market an authorized generic—often called a ''no-AG'' commitment—as a form of reverse payment.[52]

The FTC also remains vigilant to stop other anticompetitive conduct by pharmaceutical firms to delay generic competition, including ''product hopping,'' where a brand introduces new products with minor or no substantive improvements in the hopes of preventing substitution to lower-priced generics. The Commission has noted that the potential for anticompetitive product design is particularly acute in the pharmaceutical industry, in part because it may be a profitable strategy even if consumers do not prefer the reformulated version of the product or if it lacks any real medical benefit.[53]

(h) Promoting Competition for Retail Goods. On May 19, 2016, Staples, Inc. abandoned its proposed $6.3 billion acquisition of Office Depot, Inc. after the Commission obtained a preliminary injunction in federal court. This deal would have eliminated head-to-head competition between the two companies and likely led to higher prices and lower quality for the many large businesses that purchase office supplies for their own use. This action, like other merger challenges involving supermarkets and dollar stores, helps preserve competition in prices, distribution, and combination of services and features for products that businesses and consumers buy every day.

The Commission also recently filed an administrative complaint against 1–800

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[46] The workshop homepage can be accessed at the following address: *https://www.ftc.gov/news-events/events-calendar/2015/06/sharing-economy-issues-facing-platforms-participants-regulators.*

[47] Some peer-to-peer platforms enable non-commercial transactions. The FTC's workshop did not evaluate such platforms.

[48] Zack Cooper et al., The Price Ain't Right? Hospital Prices and Health Spending on the Privately Insured (Nat'l Bureau of Econ. Research, Working Paper No. 21815, 2015), *http://www.nber.org/papers/w21815*; Beth Jones Sanborn, Huge Variation in Medical Prices as Hospital Monopolies Charge More, Report Says, Healthcare Fin. (Dec. 18, 2015), *http://www.healthcarefinancenews.com/news/huge-variation-medical-prices-hospital-monopolies-charge-more-report-says*; see, *e.g.,* Richard Scheffler et al., Differing Impacts of Market Concentration of Affordable Care Act Marketplace Premiums, 35 Health Affairs 880 (2015); Erin Trish & Bradley Herring, How Do Health Insurer Market Concentration and Bargaining Power With Hospitals Affect Health Insurance Premiums?, 42 J. Health Econ. 104, 112 (2015); Martin Gaynor et al., Death by Market Power: Reform, Competition, and Patient Outcomes in the National Health Service, 5 Am. Econ. J. 134 (Nov. 2013); Zack Cooper et al., Does Hospital Competition Save Lives? Evidence from the English NHS Patient Choice Reforms, 121 Econ. J. 228 (2011); see also Nathan Wilson, Market Structure as a Determinant of Patient Care Quality, Am. J. Health Econ. (forthcoming).

[49] Press Release, FTC, FTC Challenges Proposed Merger of Two West Virginia Hospitals (Nov. 6, 2015), *https://www.ftc.gov/news-events/press-releases/2015/11/ftc-challenges-proposed-merger-two-west-virginia-hospitals*; Press Release, FTC, FTC and Pennsylvania Office of Attorney General Challenge Penn State Hershey Medical Center's Proposed Merger with PinnacleHealth System (Dec. 8, 2015), *https://www.ftc.gov/news-events/press-releases/2015/12/ftc-pennsylvania-office-attorney-general-challenge-penn-state*; Press Release, FTC, FTC Challenges Proposed Merger of Two Chicago-area Hospital Systems (Dec. 18, 2015), *https://www.ftc.gov/news-events/press-releases/2015/12/ftc-challenges-proposed-merger-two-chicago-area-hospital-systems.*

[50] See Statement of the Federal Trade Commission, In re Cabell Huntington Hosp., Inc., Docket No. 9366 (July 6, 2016), *https://www.ftc.gov/system/files/documents/public_statements/969783/160706cabellcommstmt.pdf.*

[51] Complaint for Injunctive and Other Equitable Relief, FTC v. AbbVie, Inc., No. 2:14–cv–05151–RK (E.D. Pa. Sept. 8, 2014), *available at https://www.ftc.gov/system/files/documents/cases/140908abbviecmpt1.pdf.*

[52] Complaint for Injunctive and Other Equitable Relief, FTC v. Endo Pharms. Inc., No. 2:16–cv–01440 (E.D. Pa. Mar. 30, 2016), *available at https://www.ftc.gov/system/files/documents/cases/160331endocmpt.pdf.*

[53] Brief for Amicus Curiae FTC Supporting Plaintiff-Appellant, Mylan Pharms., Inc. v. Warner Chilcott PLC, Civ. A. No. 12–3824 (3d. Cir. Sept. 30, 2015), *https://www.ftc.gov/system/files/documents/amicus_briefs/mylan-pharmaceuticals-inc.v.warner-chilcott-plc-et-al./151001mylanamicusbrief.pdf.* Commissioner Ohlhausen voted against the filing of this brief.

Contacts, the country's largest online seller of contact lenses.[54] The complaint alleges that the company entered into a series of agreements with its online rivals that suppress competition in certain online search advertising auctions and restrict truthful internet advertising to consumers, resulting in some consumers paying more for contact lenses than they would have absent the agreements. The complaint contends that the agreements, which settled trademark lawsuits that 1–800 Contacts brought or threatened, bar both 1–800 Contacts and each of its affected rivals from bidding for each other's trademarked terms. The agreements also allegedly require each party to use negative keywords designed to keep search engines from displaying one party's advertisements in response to a search query that includes terms specified by the other party. The complaint charges that the bidding agreements are overly broad and unnecessary to safeguard any legitimate trademark interest. The case is pending.

(i) Fostering Innovation & Competition. For more than two decades, the Commission has examined difficult issues at the intersection of antitrust and intellectual property law—including those related to innovation, standard-setting, and patents. The Commission's work in this area is grounded in the recognition that intellectual property and competition laws share the fundamental goals of promoting innovation and consumer welfare. The Commission has authored several seminal reports on competition and patent law and conducted workshops to learn more about emerging practices and trends.

For instance, the FTC has used its authority under Section 6(b) of the Federal Trade Commission Act to explore the impact of patent assertion entities (PAE), firms that acquire patents from third parties and then try to make money by licensing or suing accused infringers. In 2014, the FTC received clearance under the Paperwork Reduction Act from the Office of Management and Budget to issue compulsory process orders to PAEs and other industry participants to develop a better understanding of PAE business models. During October 2016, the FTC published a staff report that spotlighted the business practices of PAEs and recommended patent litigation reforms.[55]

In 2014, the FTC received clearance under the Paperwork Reduction Act from the Office of Management and Budget to issue compulsory process orders to PAEs and other industry participants to develop a better understanding of PAE business models. The FTC expects to publish a report in Fall 2016 describing its findings and providing recommendations for future reform.

In conjunction with the Department of Justice, the Commission is also seeking to update the Antitrust Guidelines for the Licensing of Intellectual Property, also known as the IP Licensing Guidelines. To reflect changes in law and accumulated antitrust enforcement experience over the past 20 years, the agencies have proposed modifications to the IP Licensing Guidelines. The Commission is seeking comments from the public on the proposed update.[56]

(j) Deceptive Endorsements and Native Advertising. The Commission also focuses on many other advertising issues, such as deceptive endorsements and native advertising. Deceptive endorsements continue to be a priority, especially given the rapid growth of newer forms of promotion, such as social media, videos, and online reviews. Last year the FTC updated its Endorsement Guides to address these newer forms of promotion.[57] The key principle is straightforward: Consumers have a right to know when a supposedly objective opinion is actually a marketing pitch. The FTC has brought many past cases and several recent cases involving deceptive endorsements, including a recent settlement with Machinima, an entertainment network that allegedly paid a large group of ''influencers'' to post videos online touting Microsoft's Xbox One.[58] According to the complaint, the videos appeared to be the objective views of the influencers and allegedly did not disclose they were actually paid endorsements. In July 2016, the FTC announced a proposed settlement that would resolve allegations of similar practices against Warner Brothers.[59]

The Commission focuses on similar concerns with respect to native advertising, which involves the use of formats that make advertising or promotional messages look like objective content. The Commission recently issued an Enforcement Policy Statement about this practice.[60] It affirms that ads and marketing that promote the benefits and attributes of goods and services should be identifiable as advertising to consumers. The FTC also recently brought its first native advertising case, alleging that retailer Lord & Taylor deceived consumers by paying for native ads, including a seemingly objective article in an online fashion publication, without disclosing that such ads were actually paid promotions for a 2015 clothing launch.[61] The FTC also challenged the company's endorsement practices. The complaint alleged that the company paid 50 online fashion ''influencers'' to post Instagram pictures of themselves wearing a dress from the new collection without disclosing that it had paid the influencers to do so.

(k) Energy Prices. Few issues are more important to consumers and businesses than the prices they pay for gasoline to run their vehicles and energy to heat and light their homes and businesses. Given the impact of energy prices on consumer budgets, the energy sector continues to be a major focus of FTC law enforcement and study. Accordingly, the FTC works to maintain competition in energy industries, invoking all the powers at its disposal—including monitoring industry activities, investigating possible antitrust violations, prosecuting cases, and conducting studies—to protect consumers from anticompetitive conduct in the industry.[62] For example, in 2016, the Commission required divestitures in connection with

[54] Complaint, In re 1–800 Contacts, Docket No. 9372 (Aug. 8, 2016). *available at https://www.ftc.gov/system/files/documents/cases/160808_1800contactspt3cmpt.pdf.*

[55] FTC Study, *Patent Assertion Entity Activity* (Oct. 2016), *https://www.ftc.gov/system/files/documents/reports/patent-assertion-entity-activity-ftc-study/p131203_patent_assertion_entity_activity_an_ftc_study.pdf.*

[56] Press Release, FTC, FTC and DOJ Seek Views on Proposed Update of the Antitrust Guidelines for Licensing of Intellectual Property (Aug. 12, 2016), *https://www.ftc.gov/news-events/press-releases/2016/08/ftc-doj-seek-views-proposed-update-antitrust-guidelines-licensing.*

[57] The FTC's Endorsement Guides: What People Are Asking (May 2015), *https://www.ftc.gov/tips-advice/business-center/guidance/ftcs-endorsement-guides-what-people-are-asking.*

[58] Complaint, In re Machinima, Inc., No. C–4569 (Mar. 16, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/142-3090/machinima-inc-matter.*

[59] *See* Press Release, FTC, Warner Bros. Settles FTC Charges It Failed to Adequately Disclose It Paid Online Influencers to Post Gameplay Videos (July 11, 2016), *https://www.ftc.gov/news-events/press-releases/2016/07/warner-bros-settles-ftc-charges-it-failed-adequately-disclose-it.*

[60] *See* Commission Enforcement Policy Statement on Deceptively Formatted Advertisements (Dec. 2015), *https://www.ftc.gov/public-statements/2015/12/commission-enforcement-policy-statement-deceptively-formatted*; *see also* FTC, Native Advertising: A Guide for Businesses (Dec. 2015), *https://www.ftc.gov/tips-advice/business-center/guidance/native-advertising-guide-businesses.*

[61] Complaint, In re Lord & Taylor, LLC, No. C–4576 (May 20, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/152-3181/lord-taylor-llc-matter.*

[62] Information regarding FTC oil and gas industry initiatives is available at *https://www.ftc.gov/tips-advice/competition-guidance/industry-guidance/oil-and-gas.*

ArcLight Energy's acquisition of Gulf Oil to preserve competition among petroleum product terminals located in Altoona, Scranton, and Harrisburg, Pennsylvania.[63] The Commission also hosted a one-day public workshop to explore competition and consumer protection issues that may arise when consumers generate their own electric power by installing solar panels on their homes.[64] In view of the fundamental importance of oil, natural gas, and other energy resources to the overall vitality of the United States and world economy, we expect that FTC review and oversight of the energy industries will remain a focus of our work for years to come.

(l) Remedy Study. The Commission is conducting another study to evaluate the effectiveness of the Commission's orders in past merger cases where it has required a divestiture or other remedy.[65] This effort will expand on a similar remedy study conducted in the 1990s that led to important improvements in the Commission's orders.[66] The new study is broader, covering 90 orders entered between 2006 and 2012, and will benefit from information collected from customers and significant competitors. We expect the study to provide insight into whether the Commission's orders maintained competition in markets that otherwise would have been affected by the merger at issue.

(m) Protecting Consumers from Cross-Border Harm. The FTC cooperates with competition and consumer protection agencies in other countries to halt deceptive and anticompetitive business practices that affect U.S. consumers, and promotes sound approaches to issues of mutual international interest by building relationships with counterpart agencies around the world on competition and consumer protection issues.

The FTC cooperated on enforcement-related matters with foreign agencies or multilateral organizations in 58 consumer protection and privacy matters, using its authority under the U.S. SAFE WEB Act in 19 of these matters to share information or provide investigative assistance to foreign authorities. One highlight was the FTC's successful effort, working with the Royal Canadian Mounted Police and the U.S. Department of Justice, to obtain a court order from a Montreal court repatriating nearly $2 million to the U.S. victims of a phony mortgage assistance and debt relief scheme. The FTC also continues to advance enforcement cooperation through networks such as the International Consumer Protection and Enforcement Network (ICPEN), the Global Privacy Enforcement Network (GPEN), the anti-spam London Action Plan and the International Mass Marketing Fraud Working Group. It relaunched the *econsumer.gov* complaint portal, together with 33 other countries that are members of ICPEN, to enhance their ability to gather and share cross-border consumer complaints that can be used to investigate and take action against international scams. In addition, the FTC with enforcement agencies from seven other GPEN member countries launched a new information-sharing system—GPEN Alert—which enables the FTC and its counterparts to better coordinate international efforts to protect consumer privacy by sharing information about investigations while maintaining confidentiality.

In the policy arena, the FTC played a leading role in revising the OECD's Guidelines on Consumer Protection in Electronic Commerce, which were adopted by the OECD Council in early 2016 to address new developments in e-commerce including mobile applications, digital content, and peer platform marketplaces. The agency also played an important role in negotiating new provisions of the United Nations Guidelines on Consumer Protection relating to e-commerce, consumer financial services, dispute resolution and redress, and international cooperation.

The FTC also continues to advocate for global interoperability among different international privacy frameworks. For example, the FTC worked closely with the U.S. Department of Commerce and European Commission to develop the E.U.-U.S. Privacy Shield Framework which the European Commission adopted on July 12, 2016. The new framework replaces the U.S.-E.U. Safe Harbor Framework and allows companies of all sizes and across most industries to transfer data between the European Union and United States. The new framework enhances protections for EU citizens' data, improves cooperation procedures among U.S. and EU authorities, and adds new redress and complaint resolution mechanisms for EU citizens. The FTC has a strong track record of protecting consumer privacy in many contexts, and it is committed to vigorously enforcing the new framework.

Throughout 2016, the FTC's international competition program promoted cooperation with competition agencies in other jurisdictions and advocated convergence of international antitrust policies toward best practice. As a new co-chair of the Mergers Working Group of the International Competition Network (ICN), the FTC is already taking a lead role to strengthen implementation of, and possibly update, the ICN's signature recommended practices for merger notification and review procedures.

In addition to promoting convergence toward sound competition policy and enforcement, the FTC advocates fair and transparent enforcement procedures. The FTC initiated and co-led the ICN's project on procedural fairness that culminated in the consensus Guidance on Investigative Process, which is the most comprehensive agency-led effort to articulate best practices in providing due process in antitrust investigations. The FTC actively promotes implementation of these standards of transparency, engagement, and other key procedural aspects of antitrust enforcement. The FTC also participated in the interagency teams that negotiated outcomes with China in the Joint Commission on Commerce and Trade and the Strategic and Economic Dialogue, including with regard to procedural fairness in anti-monopoly law proceedings and the coherence of antitrust monopoly and intellectual property rules. We also played an active role in developing the competition chapters of Trans-Pacific and Transatlantic Trade and Investment Partnerships.

Finally, the FTC has continued its robust technical assistance program to share its experience with competition agencies around the world. In 2016, the FTC conducted programs in jurisdictions around the globe, including Argentina, Brazil, India, Mexico, the Philippines, South Africa, and Ukraine. Through its International Fellows Program, the FTC brought ten international competition colleagues from five competition agencies to work alongside FTC staff on antitrust enforcement matters for fiscal year 2016. Under the same program, the FTC brought four international consumer protection colleagues from four agencies to work alongside FTC staff on consumer protection matters and research this fiscal year.

(n) Self-Regulatory and Compliance Initiatives with Industry. The Commission continues to engage

[63] Decision and Order, In re ArcLight Energy Partners Fund VI, L.P., No. C–4563 (Feb. 4, 2016), *available at https://www.ftc.gov/enforcement/cases-proceedings/151–0149/arclight-energy-partners-fund-vi-lp-matter.*

[64] For more information, see FTC workshop, Something New Under the Sun (June 21, 2016), *https://www.ftc.gov/news-events/events-calendar/2016/06/something-new-under-sun-competition-consumer-protection-issues.*

[65] Press Release, FTC, FTC Proposes to Study Merger Remedies (Jan. 9, 2015), *https://www.ftc.gov/news-events/press-releases/2015/01/ftc-proposes-study-merger-remedies.*

[66] FTC, A Study of the Commission's Divestiture Process (1999), *https://www.ftc.gov/sites/default/files/attachments/merger-review/divestiture.pdf.*

industry in compliance partnerships in the funeral and franchise industries. Specifically, the Commission's Funeral Rule Offender Program, conducted in partnership with the National Funeral Directors Association, is designed to educate funeral home operators found in violation of the requirements of the Funeral Rule, 16 CFR 453, so that they can meet the rule's disclosure requirements. Four hundred and ninety-nine funeral homes have participated in the program since its inception in 1996. In addition, the Commission established the Franchise Rule Alternative Law Enforcement Program in partnership with the International Franchise Association (IFA), a nonprofit organization that represents both franchisors and franchisees. This program assists franchisors found to have a minor or technical violation of the Franchise Rule, 16 CFR 436, in complying with the rule. Violations involving fraud or other FTC Act violations are not candidates for referral to the program. The IFA teaches the franchisor how to comply with the rule and monitors its business for a period of years. Where appropriate, the program offers franchisees the opportunity to mediate claims arising from the law violations. Since December 1998, 21 companies have agreed to participate in the program.

Retrospective Review of Existing Regulations

In 1992, the Commission implemented a program to review its rules and guides regularly. The Commission's review program is patterned after provisions in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Under the Commission's program, rules are reviewed on a 10-year schedule. For many rules, this has resulted in more frequent reviews than are generally required by Section 610 of the Regulatory Flexibility Act. This program is also broader than the review contemplated under the Regulatory Flexibility Act, in that it provides the Commission with an ongoing systematic approach for seeking information about the costs and benefits of its rules and guides and whether there are changes that could minimize any adverse economic effects, not just a ''significant economic impact upon a substantial number of small entities.'' 5 U.S.C. 610. In each rule review, the Commission requests public comments on, among other things, the economic impact and benefits of the rule; possible conflict between the rule and state, local, or other federal laws or regulations; and the effect on the rule of any technological, economic, or other industry changes.

As part of its continuing 10-year review plan, the Commission examines the effect of rules and guides on small businesses and on the marketplace in general. These reviews may lead to the revision or rescission of rules and guides to ensure that the Commission's consumer protection and competition goals are achieved efficiently and at the least cost to business. In a number of instances, the Commission has determined that existing rules and guides were no longer necessary or in the public interest. Most of the matters currently under review pertain to consumer protection and are intended to ensure that consumers receive the information necessary to evaluate competing products and make informed purchasing decisions. Pursuant to this program, the Commission has rescinded 37 rules and guides promulgated under the FTC's general authority and updated dozens of others since the early 1990s.

In light of Executive Orders 13563 and 13579, the FTC continues to take a fresh look at its long-standing regulatory review process. The Commission is taking a number of steps to ease burdens on business and promote transparency in its regulatory review program:

- The Commission issued in February 2016 a revised 10-year review schedule (see next paragraph below). The Commission is currently reviewing 11 of the 65 rules and guides within its jurisdiction.
- The Commission continues to request and review public comments on the effectiveness of its regulatory review program and suggestions for its improvement.
- The FTC maintains a Web page at *http://www.ftc.gov/regreview* that serves as a one-stop shop for the public to obtain information and provide comments on individual rules and guides under review as well as the Commission's regulatory review program generally.

In addition, the Commission's 10-year periodic review schedule includes initiating reviews for the following rules and guides (81 FR 7716, Feb. 16, 2016) during 2016:

(1) Standards for Safeguarding Customer Information, 16 CFR 314,

(2) CAN–SPAM Rule, 16 CFR 316,

(3) Labeling and Advertising of Home Insulation, 16 CFR 460,

(4) Disposal of Consumer Report Information and Records, 16 CFR 682, and in 2017 for:

(5) Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets, 16 CFR 410.

Ongoing Rule and Guide Reviews

The Commission is continuing review of a number of rules and guides, which are discussed below.

(a) Rules

Energy Labeling Rule, 16 CFR 305. The Energy Labeling Rule is officially known as the Rule concerning Energy and Water Use Labeling for Consumer Products Under the Energy Policy and Conservation Act. On September 12, 2016, the Commission proposed amendments to the Energy Labeling Rule to require labels for portable air conditioners, large-diameter and high-speed small diameter ceiling fans, and instantaneous electric water heaters. 81 FR 62681. Additionally, it proposed eliminating certain marking requirements for plumbing products. The comment period closes on November 14, 2016.[67]

R-value Rule, 16 CFR 460. On April 6, 2016, the Commission initiated a periodic review of the R-value Rule, officially the Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, as part of its ongoing systematic review of all rules and guides. 81 FR 19936. The comment period was later extended to September 6, 2016. 81 FR 35661 (June 3, 2016). Staff anticipates sending a recommendation to the Commission by the end of 2016. The R-value Rule is designed to assist consumers in evaluating and comparing the thermal performance characteristics of competing home insulation products by specifically requiring manufacturers of home insulation products to provide information about the product's degree of resistance to the flow of heat (R-value). The Rule also establishes uniform standards for testing, information disclosure, and substantiation of product performance claims.

Telemarketing Sales Rule (TSR), 16 CFR 308. On August 11, 2014, the Commission initiated a periodic review of the TSR as set out on the 10-year review schedule.[68] 79 FR 46732. The comment period as extended closed on November 13, 2014. 79 FR 61267 (Oct. 10, 2014). Staff anticipates making a recommendation to the Commission by the end of July 2017.

Privacy Rule, 16 CFR 313. The Privacy Rule or Privacy of Consumer Financial Information Rule requires, among other things, that certain motor vehicle

[67] See *Final Actions* below for information about a separate completed rulemaking proceeding for the Energy Labeling Rule.

[68] See *Final Actions* below for information about a separate completed rulemaking proceeding for the Telemarketing Sales Rule.

dealers provide an annual disclosure of their privacy policies to their customers by hand delivery, mail, electronic delivery, or through a Web site, but only with the consent of the consumer. On June 24, 2015, the Commission proposed amending the Rule to allow motor vehicle dealers instead to notify their customers that a privacy policy is available on their Web site, under certain circumstances. 80 FR 36267. The proposed amendment would also revise the scope and definitions in the Rule in light of the transfer of part of the Commission's rulemaking authority to the Consumer Financial Protection Bureau in the Dodd-Frank Wall Street Reform and Consumer Protection Act. The comment period closed on August 31, 2015. Staff anticipates that the Commission will take its next action by April 2017.

Care Labeling Rule, 16 CFR 423. Promulgated in 1971, the Rule on Care Labeling of Textile Apparel and Certain Piece Goods as Amended (the Care Labeling Rule) makes it an unfair or deceptive act or practice for manufacturers and importers of textile wearing apparel and certain piece goods to sell these items without attaching care labels stating ''what regular care is needed for the ordinary use of the product.'' The Rule also requires that the manufacturer or importer possess, prior to sale, a reasonable basis for the care instructions and allows the use of approved care symbols in lieu of words to disclose care instructions. After reviewing the comments from a periodic rule review (76 FR 41148, July 13, 2011), the Commission concluded on September 20, 2012, that the Rule continued to benefit consumers and would be retained, and sought comments on potential updates to the Rule, including changes that would allow garment manufacturers and marketers to include instructions for professional wetcleaning on labels; permit the use of ASTM Standard D5489–07, ''Standard Guide for Care Symbols for Care Instructions on Textile Products,'' or ISO 3758:2005(E), ''Textiles—Care labeling code using symbols,'' in lieu of terms; clarify what can constitute a reasonable basis for care instructions; and update the definition of ''dryclean.'' 77 FR 58338. On March 28, 2014, the Commission hosted a public roundtable in Washington, DC, that analyzed proposed changes to the Rule. Staff anticipates Commission action by 2017.

Used Car Rule, 16 CFR 455. The Used Motor Vehicle Trade Regulation Rule (Used Car Rule), 16 CFR 455, sets out the general duties of a used vehicle dealer; requires that a completed Buyers Guide be posted at all times on the side window of each used car a dealer offers for sale; and mandates disclosure of whether the vehicle is covered by a dealer warranty and, if so, the type and duration of the warranty coverage, or whether the vehicle is being sold ''as is—no warranty.'' The Commission published a notice seeking public comments on the effectiveness and impact of the rule. *See* 73 FR 42285 (July 21, 2008). The comment period, as extended and then reopened, ended on June 15, 2009. In response to comments, the Commission published a Notice of Proposed Rulemaking on December 17, 2012 (*See* 77 FR 74746) and a final rule revising the Spanish translation of the window form on December 12, 2012. *See* 77 FR 73912. The extended comment period on the NPRM ended on March 13, 2012. The Commission issued a Supplemental NPRM on November 28, 2014. 79 FR 70804. Staff anticipates Commission action by November 2016.

Contact Lens Rule, 16 CFR 315, and Eyeglass Rule, 16 CFR 456. As part of the systematic rule review process, on September 3, 2015, the Commission issued **Federal Register** notices seeking public comments about the Contact Lens Rule and the Eyeglass Rule (or Trade Regulation Rule on Ophthalmic Practice Rules). 80 FR 53272 (Contact Lens Rule) and 80 FR 53274 (Eyeglass Rule). The comment period extended until October 26, 2015. Commission staff has completed the review of 660 comments on the Contact Lens Rule and 831 comments on the Eyeglass Rule and is formulating next steps. The Contact Lens Rule requires contact lens prescribers to provide prescriptions to their patients upon the completion of a contact lens fitting, and to verify contact lens prescriptions to contact lens sellers authorized by consumers to seek such verification. Sellers may provide contact lenses only in accordance with a valid prescription that is directly presented to the seller or verified with the prescriber. The Eyeglass Rule requires that an optometrist or ophthalmologist must give the patient, at no extra cost, a copy of the eyeglass prescription immediately after the examination is completed. The Rule also prohibits optometrists and ophthalmologists from conditioning the availability of an eye examination, as defined by the Rule, on a requirement that the patient agree to purchase ophthalmic goods from the optometrist or ophthalmologist.

Holder in Due Course Rule, 16 CFR 433. On December 1, 2015, the Commission initiated a periodic review of this Rule, officially the Preservation of Consumers' Claims and Defenses Rule. 80 FR 75018. The comment period closed on February 12, 2016. Staff is reviewing the comments and anticipates sending a recommendation to the Commission by early 2017. The Holder in Due Course Rule requires sellers to include language in consumer credit contracts that preserves consumers' claims and defenses against the seller. This rule eliminated the holder in due course doctrine as a legal defense for separating a consumer's obligation to pay from the seller's duty to perform by requiring that consumer credit and loan contracts contain one of two clauses to preserve the buyer's right to assert sales-related claims and defenses against any ''holder'' of the contracts.

Disposal Rule, 16 CFR 682. On September 15, 2016, the Commission initiated a periodic review of the Disposal Rule (formally the Disposal of Consumer Report Information and Records) as part of its ongoing systematic review of all rules and guides. 81 FR 63435. The comment period will close on November 21, 2016. The Disposal Rule requires any person or entity that maintains or otherwise possesses consumer information for a business purpose to properly dispose of the information to protect against unauthorized access to or use of the information. Consumer information means any record about an individual that is a consumer report or is derived from a consumer report, or a compilation of such records. This rule implements Section 216 of the Fair and Accurate Credit Transactions Act of 2003, which is designed to reduce the risk of consumer fraud and related harms, including identity theft, created by improper disposal of consumer information.

Safeguards Rule (or Standards for Safeguarding Customer Information), 16 CFR 314. On September 7, 2016, the Commission initiated a periodic review of the Safeguards Rule as part of its ongoing systematic review of all rules and guides. 81 FR 61632. The comment period will close on November 7, 2016. The FTC's Safeguards Rule, as directed by the Gramm-Leach-Bliley Act (GLB), requires each financial institution subject to the FTC's jurisdiction to develop a written information security program that is appropriate to its size and complexity, the nature and scope of its activities, and the sensitivity of the customer information at issue.

CAN–SPAM Rule, 16 CFR 316. The Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 sets rules for commercial email, establishes requirements for commercial messages, gives recipients the right to have senders of commercial email stop emailing them, and provides for

penalties for violations. The FTC issued the CAN–SPAM Rule (Rule) to implement the Act, as authorized by the statute. As part of its ongoing systematic review of all Federal Trade Commission rules and guides, in late 2016 the Commission plans to initiate a periodic review of the Rule.

Picture Tube Rule, 16 CFR 410. The Picture Tube Rule, officially the Rule on Deceptive Advertising as to Sizes of Viewable Pictures Shown by Television Receiving Sets, became effective in 1967 and sets forth appropriate methods for measuring television screens when that measure is included in any advertisement or promotional material for the television set. If the measurement of the screen size is based on a measurement other than the horizontal dimension of the actual viewable picture area, the method of measurement must be clearly and conspicuously disclosed in close proximity to the size designation. As part of the systematic review of its rules and guides, the Commission plans to initiate a periodic review of this rule in 2017.

(b) Guides

Jewelry Guides, 16 CFR 23. On July 2, 2012, the Commission sought public comments on its Guides for the Jewelry, Precious Metals, and Pewter Industries, which are commonly known as the Jewelry Guides. 77 FR 39202. The Guides explain to businesses how to avoid making deceptive claims about precious metal, pewter, diamond, gemstone, and pearl products and when they should make disclosures to avoid unfair or deceptive trade practices. Based on comments received, and on information obtained during a public roundtable in June 2013, the FTC proposed revisions to the Guides on January 12, 2016, regarding below-threshold alloys, precious metal content of products containing more than one precious metal, surface application of precious metals, lead-glass filled stones, ''cultured'' diamonds, pearl treatments, varietals, and misuse of the word ''gem.'' 81 FR 1349. The extended comment period closed on June 3, 2016, and Commission staff anticipates forwarding a recommendation to the Commission before the end of 2016.

Fuel Economy Guide, 16 CFR 259. On June 6, 2016, the Commission sought comments on proposed amendments to the Guide Concerning Fuel Economy Advertising for New Automobiles (Fuel Economy Guide) to reflect current Environmental Protection Agency and National Highway Traffic Safety Administration fuel economy labeling rules and to consider advertising claims prevalent in the market. 81 FR 36216. The extended comment period closed on September 8, 2016. Staff is reviewing the comments and is considering next steps. The Fuel Economy Guide was adopted in 1975 to prevent deceptive fuel economy advertising and to facilitate the use of fuel economy information in advertising.

Green Guides, 16 CFR 260. On August 10, 2016, the FTC released a staff report analyzing an internet-based study that explored consumer perceptions of ''organic'' and ''recycled content'' claims related to the Commission's Green Guides (officially Guides for the Use of Environmental Marketing Claims).[69] The study, which was co-funded by the United States Department of Agriculture (USDA), also addressed consumer perception of pre-consumer recycled content claims. The Commission and the USDA also held a public roundtable on October 20, 2016, that explored organic claims for non-food products and ways to reduce deceptive organic claims, including through consumer education.

Final Actions

Since the publication of the 2015 Regulatory Plan, the Commission has issued the following final rules or taken other actions to close other rulemaking proceedings.

Hobby Rules, 16 CFR 304. On October 11, 2016, the Commission announced a final rule amending the Hobby Rules to conform with the 2014 Collectible Coin Protection Act that amended the Hobby Protection Act, 15 U.S.C. 2101–2106. The Hobby Protection Act prohibits manufacturing or importing imitation numismatic and collectible political items unless they are marked in accordance with regulations prescribed by the Federal Trade Commission. The implementing Rules prescribe that imitation political items—such as buttons, posters or coffee mugs—must be marked with the calendar year in which they were manufactured, and imitation numismatic items—including coins, tokens and paper money—must be marked with the word ''copy.''

The final rule amendments extend the scope of the Rules to cover persons or entities that sell imitation numismatic items (coins, paper currency and commemorative medals), or provide substantial assistance or support to any manufacturer, importer, or seller of imitation numismatic items, or any manufacturer or importer of imitation political items, who they know, or should have known, is violating the marking requirements of the Hobby Act and the Rules. The amendments will be effective on November 16, 2016.

Fuel Rating Rule, 16 CFR 306. First issued in 1979, the Fuel Rating Rule (or Automotive Fuel Ratings, Certification and Posting Rule) enables consumers to buy gasoline with an appropriate octane rating for their vehicle and establishes standard procedures for determining, certifying, and posting octane ratings. On January 14, 2016, the Commission published final rule amendments that require entities to rate and certify all ethanol fuels with ethanol content ranging from above 10 percent to 83 percent so as to provide useful information to consumers about ethanol concentration and suitability for their cars and engines (81 FR 2054). The final rule amendments respond to the comments by providing greater flexibility for businesses to comply with the ethanol labeling requirements, and by not adopting the alternative octane rating method proposed in the 2014 Notice of Proposed Rulemaking (79 FR 18850 April 4, 2014). The amendments took effect on July 14, 2016.

Telemarketing Sales Rule (TSR), 16 CFR 308. Anti-Fraud Provisions— Following a public comment period, the Commission amended the TSR on December 14, 2015, to define and prohibit the use of certain payment methods in all telemarketing transactions; expand the scope of the advance fee ban for recovery services; and clarify certain provisions of the Rule (80 FR 77520).[70] For inbound or outbound telemarketing transactions by telemarketers and sellers, the amendments prohibit novel payment methods that are difficult to trace and hard for people to reverse. The prohibited payment methods include remotely created checks, remotely created payment orders, cash-to-cash money transfers, and cash reload mechanisms. While addressing changes in the financial marketplace to ensure consumers remain protected by the TSR's antifraud provisions, the amendments are narrowly tailored to allow for innovations with respect to other payment methods that are used by legitimate companies. Portions of the changes took effect on February 12, 2016, while the remainder took effect on June 13, 2016.

Energy Labeling Rule, 16 CFR 305. On September 15, 2016, the Commission

[69] *See* FTC Staff Report, Consumer Perception of ''Recycled Content'' and ''Organic'' Claims (Aug. 10, 2016), *https://www.ftc.gov/system/files/documents/reports/consumer-perception-recycled-content-organic-claims-joint-staff-report-federal-trade-commission/consumer_perception_of_recycled_content_and_organic_2016-08-10.pdf.*

[70] See *Ongoing Rule and Guide Reviews* for information about a separate ongoing rulemaking proceeding for the Telemarketing Sales Rule.

amended the Rule to improve access to energy labels online and improve labels for refrigerators, ceiling fans, central air conditioners, and water heaters. 81 FR 63634. The amendments to 16 CFR 305.3(x), 305.13, and Sample Label 17 of Appendix L are effective on September 17, 2018. All other amendments are effective on June 12, 2017.[71]

Rule Governing Disclosure of Written Consumer Product Warranty Terms and Conditions and the Pre-Sale Availability Rule, 16 CFR 701–702. These rules establish (1) requirements for warrantors for disclosing the terms and conditions of written warranties on consumer products actually costing the consumer more than $15.00, and (2) requirements for sellers and warrantors to make the terms of any written warranty available to the consumer prior to the sale of the product. The E-Warranty Act of 2015, which was signed into law on September 24, 2015, directed the FTC to revise the Pre-Sale Availability Rule to permit the option of using Internet Web sites to post warranty terms, in addition to the other methods that the Pre-Sale Availability Rule already allows. On September 15, 2016, the FTC issued final rule amendments, which were effective on October 17, 2016. 81 FR 63664.

Premerger Notification Rules and Report Form (or HSR Rules), 16 CFR 801–803. On September -1, 2016, the Commission amended the HSR Rules to allow for submission of the Premerger Notification and Report Form (Form) and accompanying documents on digital video/versatile disc (DVD), and clarify the Instructions to the Form. The final rule was effective on September 1, 2016 (81 FR 60257).

Summary

In both content and process, the FTC's ongoing and proposed regulatory actions are consistent with the President's priorities. The actions under consideration inform and protect consumers, while minimizing the regulatory burdens on businesses. The Commission will continue working toward these goals. The Commission's 10-year review program described above is patterned after provisions in the Regulatory Flexibility Act and complies with the Small Business Regulatory Enforcement Fairness Act of 1996. The Commission's 10-year program also is consistent with section 5(a) of Executive Order 12866, which directs executive branch agencies to develop a plan to reevaluate periodically all of their significant existing regulations. 58 FR 51735 (Sept. 30, 1993). In addition, the final rules issued by the Commission continue to be consistent with the President's Statement of Regulatory Philosophy and Principles, Executive Order 12866, section 1(a), which directs agencies to promulgate only such regulations as are, *inter alia,* required by law or are made necessary by compelling public need, such as material failures of private markets to protect or improve the health and safety of the public.

The Commission continues to identify and weigh the costs and benefits of proposed regulatory actions and possible alternative actions and to seek and consider the broadest practicable array of comment from affected consumers, businesses, and the public at large. In sum, the Commission's regulatory actions are aimed at efficiently and fairly promoting the ability of ''private markets to protect or improve the health and safety of the public, the environment, or the well-being of the American people.'' Executive Order 12866, section 1.

II. Regulatory and Deregulatory Actions

The Commission has no proposed rules that would be a ''significant regulatory action'' under the definition in Executive Order 12866.[72] The Commission has no proposed rules that would have significant international impacts under the definition in Executive Order 13609. Also, there are no international regulatory cooperation activities that are reasonably anticipated to lead to significant regulations under Executive Order 13609.

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NATIONAL INDIAN GAMING COMMISSION

Statement of Regulatory Priorities

In 1988, Congress adopted the Indian Gaming Regulatory Act (IGRA) (Pub. L. 100–497, 102 Stat. 2475) with a primary purpose of providing ''a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments.'' IGRA established the National Indian Gaming Commission (NIGC) to protect such gaming, amongst other things, as a means of generating tribal revenue.

At its core, Indian gaming is a function of sovereignty exercised by tribal governments. In addition, the Federal Government maintains a government-to-government relationship with the tribes—a responsibility of the NIGC. Thus, while the NIGC is committed to strong regulation of Indian gaming, the NIGC is equally committed to strengthening government-to-government relations by engaging in meaningful consultation with tribes to fulfill IGRA's intent. The NIGC's vision is to adhere to principles of good government, including transparency to promote agency accountability and fiscal responsibility, to operate consistently to ensure fairness and clarity in the administration of IGRA, and to respect the responsibilities of each sovereign in order to fully promote tribal economic development, self-sufficiency, and strong tribal governments. The NIGC is fully committed to working with tribes to ensure the integrity of the industry by exercising its regulatory responsibilities through technical assistance, compliance, and enforcement activities.

Retrospective Review of Existing Regulations

As an independent regulatory agency, the NIGC has been performing a retrospective review of its existing regulations well before Executive Order 13579 was issued on July 11, 2011. The NIGC, however, recognizes the importance of Executive Order 13579, and its regulatory review is being conducted in the spirit of Executive Order 13579, to identify those regulations that may be outmoded, ineffective, insufficient, or excessively burdensome and to modify, streamline, expand, or repeal them in accordance with input from the public. In addition, as required by Executive Order 13175, the NIGC has been conducting government-to-government consultations with tribes regarding each regulation's relevancy, consistency in application, and limitations or barriers to implementation, based on the tribes' experiences. The consultation process is also intended to result in the identification of areas for improvement and needed amendments, if any, new

[71] See *Ongoing Rule and Guide Reviews* for information about a separate ongoing rulemaking proceeding for the Energy Labeling Rule.

[72] Section 3(f) of Executive Order 12866 defines a regulatory action to be ''significant'' if it is likely to result in a rule that may:

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

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

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

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

regulations, and the possible repeal of outdated regulations.

The following Regulatory Identifier Numbers (RINs) are associated with the review:

RIN	Title
3141–AA32	Definitions.
3141–AA55	Minimum Internal Control Standards.
3141–AA58	Management Contracts.
3141–AA60	Class II Minimum Internal Control Standards.
3141–AA62	Buy Indian Goods and Services (BIGS).
3141–AA64	Class II Minimum Technical Standards.
3141–AA65	Privacy Act Procedures.

More specifically, the NIGC is currently considering promulgating new regulations in the following areas: (i) Amendments to its regulatory definitions to conform to the newly promulgated rules; (ii) the removal, revision, or suspension of the existing minimum internal control standards (MICS) in part 542; (iii) updates or revisions to its management contract regulations to address the current state of the industry; (iv) the review and revision of the minimum internal control standards for Class II gaming; (v) regulation that would provide a preference to qualified Indian-owned businesses when purchasing goods or services for the Commission at a fair market price; (vi) revisions to the minimum technical standards for gaming equipment used with the play of Class II games; and, (vii) revisions to the existing Privacy Act Procedures in part 515 as a means to streamline internal processes.

The NIGC anticipates that the ongoing consultations with tribes will continue to play an important role in the development of the NIGC's rulemaking efforts.

NIGC

Proposed Rule Stage

160. Class II Minimum Internal Control Standards

Priority: Other Significant.

Legal Authority: 25 U.S.C. 2706(b)(1) to (4); 25 U.S.C. 2706(b)(10); 25 U.S.C. 2710(d)(7)(B)(vii)

CFR Citation: 25 CFR 543.

Legal Deadline: None.

Abstract: The NIGC continues to review and revise the minimum internal control standards (MICS) for Class II gaming. The NIGC anticipates proposing minor but substantive corrections to the Class II MICS, including adding clarifying language and reinserting critical key controls that were inadvertently removed by the last revisions.

Statement of Need: Periodic review and revision of existing standards based on input by a wide array of tribal entities ensures that the MICS remain relevant and appropriate. Recent review has uncovered a need for correction and clarification to specific provisions of the MICS, as well as a need to re-insert standards that were accidentally overwritten when kiosk standards were added.

Summary of Legal Basis: The NIGC is charged with monitoring class II gaming conducted on Indian lands 25 U.S.C. 2706(b)(1). With regard to Class II gaming, NIGC's responsibility includes inspecting and examining the premises located on Indian lands on which Class II gaming is conducted and auditing all papers, books, and records respecting gross revenues of Class II gaming conducted on Indian lands, and any other matters necessary to carry out the duties of the NIGC pursuant to the Indian Gaming Regulatory Act of 1988 (IGRA). 25 U.S.C. 2706(b)(2), (4).

Alternatives: Maintain the current regulations.

Anticipated Cost and Benefits: There are no anticipated cost increases to the Federal Government or to tribal governments as a result of this regulatory action.

Risks: There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
NPRM	10/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: Tribal.

Agency Contact: Michael Hoenig, General Counsel, National Indian Gaming Commission, C/O Department of Interior, 1849 C Street NW., Mailstop #1621, Washington, DC 20240, *Phone:* 202 632–0049.

Related RIN: Split from 3141–AA56

RIN: 3141–AA60

NIGC

Final Rule Stage

161. Minimum Internal Control Standards

Priority: Other Significant.

Legal Authority: 25 U.S.C. 2706(b)(1) to (4); 25 U.S.C. 2706(b)(10); 25 U.S.C. 2710(d)(7)(B)(vii)

CFR Citation: 25 CFR 542.

Legal Deadline: None.

Abstract: The NIGC is considering removing, revising, or suspending the existing Class III minimum internal control standards (MICS) in part 542.

Statement of Need: The NIGC cannot promulgate, implement, or enforce Class III MICS.

Summary of Legal Basis: The D.C. Circuit Court's decision in Colorado River Indian Tribes v. National Indian Gaming Commission 383 F.Supp.2d 123 (D.D.C. 2005), affd., 466 F.3d 134 (D.C. Cir. 2006), held that the NIGC cannot promulgate, implement, or enforce Class III control standards.

Alternatives: The NIGC has a number of options: (1) Retain the status quo; (2) remove the standards; or (3) remove the standards and publish updated standards as guidance documents. At this time, the NIGC continues to research and identify all other available options.

Anticipated Cost and Benefits: There are no anticipated cost increases to the Federal Government or to tribal governments as a result of this regulatory action.

Risks: There are no known risks to this regulatory action.

Timetable:

Action	Date	FR Cite
First NPRM	12/01/04	69 FR 69847
First NPRM Comment Period End.	01/18/05	
Second NPRM	03/10/05	70 FR 11893
Second NPRM Comment Period End.	04/25/05	
Final Action on First NPRM.	05/04/05	70 FR 23011
Final Action on Second NPRM.	08/12/05	70 FR 47097
Third NPRM	11/15/05	70 FR 69293
Third NPRM Comment Period End.	12/30/05	
Final Action on Third NPRM.	05/11/06	71 FR 27385
Final Rule; Delay of Effective Date and Request for Comments.	08/30/12	77 FR 53817
Final Rule; Delay of Effective Date and Request for Comments.	10/04/12	77 FR 60625
Effective Date Delayed.	04/22/14	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: No.

Government Levels Affected: Tribal.

Agency Contact: Michael Hoenig, General Counsel, National Indian

Gaming Commission, C/O Department of Interior, 1849 C Street NW., Mailstop #1621, Washington, DC 20240, *Phone:* 202 632–0049.

Related RIN: Split from 3141–AA27

RIN: 3141–AA55

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U.S. NUCLEAR REGULATORY COMMISSION STATEMENT OF REGULATORY PRIORITIES FOR FISCAL YEAR 2017

I. Introduction

Under the authority of the Atomic Energy Act of 1954, as amended, and the Energy Reorganization Act of 1974, as amended, the U.S. Nuclear Regulatory Commission (NRC) regulates the possession and use of source, byproduct, and special nuclear material. Our regulatory mission is to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. As part of our mission, we regulate the operation of nuclear power plants and fuel-cycle plants; the safeguarding of nuclear materials from theft and sabotage; the safe transport, storage, and disposal of radioactive materials and wastes; the decommissioning and safe release for other uses of licensed facilities that are no longer in operation; and the medical, industrial, and research applications of nuclear material. In addition, we license the import and export of radioactive materials.

As part of our regulatory process, we routinely conduct comprehensive regulatory analyses that examine the costs and benefits of contemplated regulations. We have developed internal procedures and programs to ensure that we impose only necessary requirements on our licensees and to review existing regulations to determine whether the requirements imposed are still necessary.

Our regulatory priorities for Fiscal Year (FY) 2017 reflect our complex mission and will enable us to achieve our two strategic goals described in NUREG–1614, Volume 6, ''Strategic Plan: Fiscal Years 2014–2018 (*http://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr1614/v6/*): (1) To ensure the safe use of radioactive materials and (2) to ensure the secure use of radioactive materials.

II. Regulatory Priorities

This section contains information on some of our most important regulatory actions that we are considering issuing in proposed or final form during FY 2017. For additional information on these regulatory actions and on a broader spectrum of the NRC's upcoming regulatory actions, see the NRC's portion of the Unified Agenda of Regulatory and Deregulatory Actions.

A. Proposed Rules

2015 Edition of the American Society of Mechanical Engineers Code (RIN 3150–AJ74; NRC–2016–0082): This proposed rule would amend the NRC's regulations to incorporate, by reference, the 2015 American Society of Mechanical Engineers Boiler and Pressure Vessel Code and Code for Operation and Maintenance of nuclear power plants.

Cyber Security for Fuel Facilities (RIN 3150–AJ64): This proposed rule would assure that NRC-licensed fuel cycle facilities provide reasonable assurance that digital assets associated with safety, security, emergency preparedness, and material control and accountability are adequately protected from cyber-attacks.

B. Final Rules

Modified Small Quantities Protocol (SQP) (RIN 3150–AJ70): The final rule would amend the NRC's regulations to ensure that the U.S. Government can meet its international obligations under INFCIRC/366 and the modified SQP. The NRC is responsible for ensuring compliance by the licensees in the U.S. Caribbean Territories.

Performance-Based Emergency Core Cooling System Acceptance Criteria (RIN 3150–AH42; NRC–2008–0332): This final rule would amend the NRC's regulations that specify the fuel cladding acceptance criteria for emergency core cooling system (ECCS) loss-of-coolant accidents (LOCA) evaluations. The ECCS acceptance criteria would be performance-based, and reflect recent research findings that identified new embrittlement mechanisms for fuel rods with zirconium alloy cladding under LOCA conditions.

Enhanced Weapons, Firearms Background Checks, and Security Event Notifications (RIN 3150–AI49; NRC–2008–0465, NRC–2011–0018): This final rule would amend the NRC's regulations by implementing the authority in Section 161A of the Atomic Energy Act of 1954, as amended. The rule would enable access to enhanced weapons with associated firearms background checks at power reactor facilities, at-reactor Independent Spent Fuel Storage Installations, and Category I strategic special nuclear materials facilities. This final rule would also modify physical security event notification provisions for most classes of NRC licensees with physical security programs.

Mitigation of Beyond Design Basis Events (RIN 3150–AJ49; NRC–2011–0189, NRC–2014–0240): This final rule would enhance mitigation strategies for nuclear power reactors for beyond-design-basis external events.

Revision of Fee Schedules: Fee Recovery for FY 2017 (RIN 3150–AJ73; NRC–2016–0081): This final rule would amend the NRC's fee schedules for licensing, inspection, and annual fees charged to its applicants and licensees.

NRC

Final Rule Stage

162. Modified Small Quantities Protocol [NRC–2015–0263]

Priority: Other Significant.

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

CFR Citation: 10 CFR 40; 10 CFR 70; 10 CFR 75

Legal Deadline: None.

Abstract: This rule amends the Nuclear Regulatory Commission's regulations in 10 CFR parts 40, 70, and 75, as needed, to ensure that the U.S. Government can meet its international obligations under INFCIRC/366. The Nuclear Regulatory Commission is responsible for ensuring compliance by the licensees in the U.S. Caribbean Territories. Changes would go into effect as a final rule, issued without notice and comment under 5 U.S.C. 553(a)(1), which allows agencies to issue rules involving the foreign affairs functions of the United States without notice and comment. These rule changes must be in effect before the U.S. Government can bring the modified Small Quantities Protocol to INFCIRC/366 into force.

Statement of Need: This rule would respond to Commission direction to proceed with rulemaking.

Summary of Legal Basis: The legal basis of this rule is to ensure that the U.S. Government meets its obligations under the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco).

Alternatives: None.

Anticipated Cost and Benefits: Undefined.

Risks: Undefined.

Timetable:

Action	Date	FR Cite
Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: No.

Small Entities Affected: No.

Government Levels Affected: None.

International Impacts: This regulatory action will be likely to have international trade and investment effects, or otherwise be of international interest.

Additional Information: In SECY–15–0080 staff requested Commission approval to initiate rulemaking: On June 5, 2015, the staff requested Commission approval to initiate the rulemaking. On July 21, 2015, the Commission approved initiation of the rulemaking. Specifically, the Commission provided its clearance for the Circular 175 memorandum authorizing the Department of State to negotiate and conclude a modified Small Quantities Protocol between the US and IAEA with the treaty for the prohibition of Nuclear Weapons in Latin America. This rulemaking will go directly to a final rule as it has a foreign policy exclusion.

Agency Contact: Gregory Trussell, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555–0001, *Phone:* 301 415–6445, *Email: gregory.trussell@nrc.gov*.

RIN: 3150–AJ70

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[FR Doc. 2016–29848 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part III

Department of Agriculture

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF AGRICULTURE

Office of the Secretary

2 CFR Subtitle B, Ch. IV

5 CFR Ch. LXXIII

7 CFR Subtitle A; Subtitle B, Chs. I–XI, XIV–XVIII, XX, XXV–XXXVIII, XLII

9 CFR Chs. I–III

36 CFR Ch. II

48 CFR Ch. 4

Semiannual Regulatory Agenda, Fall 2016

AGENCY: Office of the Secretary, USDA.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of significant and not significant regulations being developed in agencies of the U.S. Department of Agriculture (USDA) in conformance with Executive Orders (E.O.) 12866 ''Regulatory Planning and Review,'' and 13563 ''Improving Regulation and Regulatory Review.'' The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Public Law 96–354. This agenda also identifies regulatory actions that are being reviewed in compliance with section 610(c) of the Regulatory Flexibility Act. We invite public comment on those actions as well as any regulation consistent with E.O. 13563.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions, but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

USDA's complete regulatory agenda is available online at *www.reginfo.gov.* Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), USDA's printed agenda entries include only:

(1) Rules that are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules identified for periodic review under section 610 of the Regulatory Flexibility Act.

For this edition of the USDA regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online regulatory agenda and in part II of the **Federal Register** that includes the abbreviated regulatory agenda.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action. For general comments or inquiries about the agenda, please contact Michael Poe, Office of Budget and Program Analysis, U.S. Department of Agriculture, Washington, DC 20250, (202) 720–3257.

Dated: September 22, 2016.

Michael Poe,

Chief, Legislative and Regulatory Staff.

AGRICULTURAL MARKETING SERVICE—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
163	National Bioengineered Food Disclosure Standard	0581–AD54

AGRICULTURAL MARKETING SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
164	National Organic Program, Organic Pet Food Standards	0581–AD20
165	National Organic Program, Organic Apiculture Practice Standard	0581–AD31
166	National Organic Program—Organic Aquaculture Standards **(Reg Plan Seq No. 1)**	0581–AD34
167	Sunset 2017 Amendments to the National List	0581–AD52
168	Amendment to Compost Standards for Organic Production	0581–AD53
169	Organic Check off Program	0581–AD55

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

AGRICULTURAL MARKETING SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
170	National Organic Program, Origin of Livestock	0581–AD08
171	NOP; Organic Livestock and Poultry Practices; **(Reg Plan Seq No. 2)**	0581–AD44

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

AGRICULTURAL MARKETING SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
172	Sunset 2016 Amendments to the National List	0581–AD43
173	Livestock Mandatory Reporting: Reauthorization of Livestock Mandatory Reporting and Revision of Swine and Lamb Reporting Requirements.	0581–AD45
174	Removal of Program To Assess Organic Certifying Agencies in 7 CFR Part 37	0581–AD56

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
175	Plant Pest Regulations; Update of General Provisions	0579–AC98

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
176	Scrapie in Sheep and Goats	0579–AC92
177	Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts.	0579–AD10
178	Importation of Wood Packaging Material From Canada	0579–AD28
179	Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables.	0579–AD71
180	Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List.	0579–AE08

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
181	Brucellosis and Bovine Tuberculosis; Update of General Provisions	0579–AD65

ANIMAL AND PLANT HEALTH INSPECTION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
182	Mexican Hass Avocado Import Program	0579–AE05

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
183	Unfair Practices and Unreasonable Preference **(Reg Plan Seq No. 6)**	0580–AB27

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

GRAIN INSPECTION, PACKERS AND STOCKYARDS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
184	Clarification of Scope **(Reg Plan Seq No. 7)**	0580–AB25

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND NUTRITION SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
185	Modernizing Supplemental Nutrition Assistance Program (SNAP) Benefit Redemption Systems.	0584–AE37

FOOD AND NUTRITION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
186	National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010 **(Reg Plan Seq No. 9)**.	0584–AE09

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND NUTRITION SERVICE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
187	Child Nutrition Programs: Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010.	0584–AE25

FOOD SAFETY AND INSPECTION SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
188	Elimination of Trichina Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations.	0583–AD59

FOREST SERVICE—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
189	Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands (Directive).	0596–AD03

OFFICE OF PROCUREMENT AND PROPERTY MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
190	Designation of Biobased Product Categories for Federal Procurement, Round 11.	0599–AA24
191	Designation of Biobased Product Categories for Federal Procurement, Round 12.	0599–AA25

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Prerule Stage

163. • National Bioengineered Food Disclosure Standard

Legal Authority: Pub. L. 114–216

Abstract: This notice solicits public comment on how AMS should implement a national bioengineered food disclosure standard and is part of an open and transparent process to encourage public participation in developing the national standard.

Timetable:

Action	Date	FR Cite
ANPRM	11/00/16	
NPRM	11/00/17	
Final Action	07/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Craig A. Morris, Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Livestock & Seed Programs, P.O. Box 96456, Washington, DC 20250–0249, *Phone:* 202 720–5705, *Fax:* 202 720–3499, Email: *craig.morris@usda.gov.*

RIN: 0581–AD54

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Proposed Rule Stage

164. National Organic Program, Organic Pet Food Standards

Legal Authority: 7 U.S.C. 6501

Abstract: The National Organic Program (NOP) establishes national standards governing the marketing of organically produced agricultural products. In 2004, the National Organic Standards Board (NOSB) initiated the development of organic pet food standards, which had not been incorporated into the NOP regulations, by forming a task force which included pet food manufacturers, organic consultants, etc. Collectively, these experts drafted organic pet food standards consistent with the Organic Foods Production Act of 1990, Food and Drug Administration requirements, and the Association of American Feed Control Officials (AAFCO) Model Regulations for Pet and Specialty Pet Food. The AAFCO regulations are scientifically based regulations for voluntary adoption by State jurisdictions to ensure the safety, quality, and effectiveness of feed. In November 2008, the NOSB approved a final recommendation for organic pet food standards incorporating the provisions drafted by the pet food task force.

Timetable:

Action	Date	FR Cite
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD20

165. National Organic Program, Organic Apiculture Practice Standard

Legal Authority: 7 U.S.C. 6501

Abstract: This action proposes to amend the USDA organic regulations to reflect an October 2010 recommendation submitted to the Secretary by the National Organic Standards Board (NOSB) concerning the production of organic apicultural (or beekeeping) products.

Timetable:

Action	Date	FR Cite
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD31

166. National Organic Program—Organic Aquaculture Standards

Regulatory Plan: This entry is Seq. No. 1 in part II of this issue of the **Federal Register.**

RIN: 0581–AD34

167. • Sunset 2017 Amendments to the National List

Legal Authority: 7 U.S.C. 6501 to 6522

Abstract: This proposed rule would address 11 2017 sunset review recommendations submitted to the Secretary by the National Organic Standards Board (NOSB) following their October, 2015 meeting. This rule proposes the removal of three synthetic substances and eight non organic, agricultural substances from the National List of Allowed and Prohibited Substances (National List). These substances are currently allowed for various uses in organic crop and livestock production and organic handling. Upon removal from the National List, use of these substances in organic production or handling would be prohibited. The prohibitions would take effect on the sunset date of June 27, 2017, following publication of a final rule.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD52

168. • Amendment to Compost Standards for Organic Production

Legal Authority: Pub. L. 109–97

Abstract: This rulemaking action provides clarification on the prohibition of certain compost products in organic production systems under the USDA organic regulations. This rule change will codify into regulations the policies outlined in NOP Guidance 5016: Allowance of Green Waste in Organic Production Systems.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD53

169. • Organic Check Off Program

Legal Authority: 7 U.S.C. 6501 to 6522; 7 U.S.C. 7401

Abstract: The purpose of the new program would be to maintain and expand markets for organic products by funding promotion, research, and information programs to increase demand and create markets for organic products.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles W. Parrott, Associate Deputy Administrator, Department of Agriculture, Agricultural Marketing Service, Specialty Crop, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–6393, *Fax:* 202 720–0016, *Email: charles.parrott@usda.gov.*

RIN: 0581–AD55.

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Final Rule Stage

170. National Organic Program, Origin of Livestock

Legal Authority: 7 U.S.C. 6501

Abstract: The current regulations provide two tracks for replacing dairy animals which are tied to how dairy farmers transition to organic production. Farmers who transition an entire distinct herd must thereafter replace dairy animals with livestock that has been under organic management from the last third of gestation. Farmers who do not transition an entire distinct herd may perpetually obtain replacement animals that have been managed organically for 12 months prior to marketing milk or milk products as organic. The proposed action would eliminate the two-track system and require that upon transition, all existing and replacement dairy animals from which milk or milk products are intended to be sold, labeled, or represented as organic must be managed organically from the last third of gestation.

Timetable:

Action	Date	FR Cite
NPRM	04/28/15	80 FR 23455
NPRM Comment Period End.	07/27/15	
Final Action	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, Deputy Administrator, USDA National Organic Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 720–3252.

RIN: 0581–AD08

171. NOP; Organic Livestock and Poultry Practices

Regulatory Plan: This entry is Seq. No. 2 in part II of this issue of the **Federal Register**.

RIN: 0581–AD44

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Completed Actions

172. Sunset 2016 Amendments to the National List

Legal Authority: 7 U.S.C. 6507 to 6522

Abstract: This rule would propose five non-organic, non-agricultural substances used as ingredients in or on processed products to be removed from the National List of Allowed and Prohibited Substances (National List).

Completed:

Reason	Date	FR Cite
Final Action	08/03/16	81 FR 51075
Final Action Effective.	09/12/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Miles V. McEvoy, *Phone:* 202 720–3252.

RIN: 0581–AD43

173. Livestock Mandatory Reporting: Reauthorization of Livestock Mandatory Reporting and Revision of Swine and Lamb Reporting Requirements

Legal Authority: 7 U.S.C. 1635

Abstract: This action would reauthorize and amend the mandatory price reporting provisions under the Livestock Mandatory Reporting (LMR) program authorized by the Agricultural Marketing Act of 1946. This proposed rule action would reauthorize mandatory livestock reporting for 5 years and amend the swine and lamb reporting requirements. This action is authorized by the Agriculture Reauthorizations Act of 2015 (2015 Act) and requests from the lamb industry.

Completed:

Reason	Date	FR Cite
Final Action	08/11/16	81 FR 52969
Final Action Effective.	10/11/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael P. Lynch, *Phone:* 202 720–6231.

RIN: 0581–AD45

174. • Removal of Program To Assess Organic Certifying Agencies in 7 CFR Part 37

Legal Authority: 7 U.S.C. 1621 to 1627

Abstract: This direct final rule informs the public that AMS is removing 7 CFR part 37 Program to Assess Organic Certifying Agencies from the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	08/09/16	81 FR 52589

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Porter, Director, Quality Assessment Division, LPS Program, Department of Agriculture, Agricultural Marketing Service, 1400 Independence Avenue SW., Washington, DC 20250, *Phone:* 202 690–3147, *Email: jennifer.porter@ams.usda.gov*.

RIN: 0581–AD56

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

175. Plant Pest Regulations; Update of General Provisions

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 2260; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8817; 19 U.S.C. 136; 21 U.S.C. 111; 21 U.S.C. 114a; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331 and 4332

Abstract: We are proposing to revise our regulations regarding the movement of plant pests. We are proposing criteria regarding the movement and environmental release of biological control organisms, and are proposing to establish regulations to allow the importation and movement in interstate commerce of certain types of plant pests without restriction by granting exceptions from permitting requirements for those pests. We are also proposing to revise our regulations regarding the movement of soil. This proposed rule replaces a previously published proposed rule, which we are withdrawing as part of this document. This proposal would clarify the factors that would be considered when assessing the risks associated with the movement of certain organisms and facilitate the movement of regulated organisms and articles in a manner that also protects U.S. agriculture.

Timetable:

Action	Date	FR Cite
Notice of Intent To Prepare an Environmental Impact Statement.	10/20/09	74 FR 53673
Notice Comment Period End.	11/19/09	
NPRM	11/00/16	
NPRM Comment Period End.	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Colin Stewart, Assistant Director, Pests, Pathogens, and Biocontrol Permits, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737–1236, *Phone:* 301 851–2237.

RIN: 0579–AC98

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Final Rule Stage

176. Scrapie in Sheep and Goats

Legal Authority: 7 U.S.C. 8301 to 8317

Abstract: This rulemaking will amend the scrapie regulations by changing the risk groups and categories established for individual animals and for flocks, increasing the use of genetic testing as a means of assigning risk levels to animals, reducing movement restrictions for animals found to be genetically less susceptible or resistant to scrapie, and simplifying, reducing, or removing certain recordkeeping requirements. It also provides designated scrapie epidemiologists with more alternatives and flexibility when testing animals in order to determine flock designations under the regulations. The rule changes the definition of high-risk animal, which will change the types of animals eligible for indemnity, and to pay higher indemnity for certain pregnant ewes and does and early maturing ewes and does. The changes will also make the identification and recordkeeping requirements for goat owners consistent with those for sheep owners. These changes affect sheep and goat producers, persons who handle sheep and goats in interstate commerce, and State governments.

Timetable:

Action	Date	FR Cite
NPRM	09/10/15	80 FR 54659
NPRM Comment Period End.	11/09/15	
NPRM Comment Period Reopened.	11/16/15	80 FR 70718
NPRM Comment Period Reopened End.	12/09/15	
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Diane Sutton, Sheep, Goat, Cervid, and Equine Health Center; Surveillance, Preparedness, and Response Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 43, Riverdale, MD 20737–1235, *Phone:* 301 851–3509.

RIN: 0579–AC92

177. Bovine Spongiform Encephalopathy and Scrapie; Importation of Small Ruminants and Their Germplasm, Products, and Byproducts

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 1622; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 7 U.S.C. 8301 to 8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: This rulemaking amends the bovine spongiform encephalopathy (BSE) and scrapie regulations regarding the importation of live sheep, goats, and wild ruminants and their embryos, semen, products, and byproducts. The scrapie revisions regarding the importation of sheep, goats, and susceptible wild ruminants for other than immediate slaughter are similar to those recommended by the World Organization for Animal Health in restricting the importation of such animals to those from scrapie-free regions or certified scrapie-free flocks.

Timetable:

Action	Date	FR Cite
NPRM	07/18/16	81 FR 46619
NPRM Comment Period End.	09/16/16	
Final Rule	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Langston Hull, Senior Staff Veterinary Medical Officer, Animal Permitting and Negotiating Services, VS, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 39, Riverdale, MD 20737–1231, *Phone:* 301 851–3300.

RIN: 0579–AD10

178. Importation of Wood Packaging Material From Canada

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136a

Abstract: This rulemaking will amend the regulations for the importation of unmanufactured wood articles with regard to the exemption that allows wood packaging material from Canada to enter the United States without first meeting the treatment and marking requirements of the regulations that apply to wood packaging material from all other countries. This action is necessary in order to prevent the dissemination and spread of pests via wood packaging material from Canada.

Timetable:

Action	Date	FR Cite
NPRM	12/02/10	75 FR 75157
NPRM Comment Period End.	01/31/11	
Final Rule	04/00/17	
Final Action Effective.	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Tyrone Jones, Trade Director, Forestry Products, Phytosanitary Issues Management, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 140, Riverdale, MD 20737–1231, *Phone:* 301 851–2344.

RIN: 0579–AD28

179. Establishing a Performance Standard for Authorizing the Importation and Interstate Movement of Fruits and Vegetables

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136(a)

Abstract: This rulemaking will amend our regulations governing the importations of fruits and vegetables by broadening our existing performance standard to provide for consideration of all new fruits and vegetables for importation into the United States using a notice-based process. Rather than authorizing new imports through proposed and final rules and specifying import conditions in the regulations, the notice-based process uses **Federal Register** notices to make risk analyses available to the public for review and comment, with authorized commodities and their conditions of entry subsequently being listed on the Internet. It also will remove the region- or commodity-specific phytosanitary requirements currently found in these regulations. Likewise, we are proposing an equivalent revision of the performance standard in our regulations governing the interstate movements of fruits and vegetables from Hawaii and the U.S. territories (Guam, Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands) and the removal of commodity-specific phytosanitary requirements from those regulations. This action will allow for the consideration of requests to authorize the importation or interstate movement of new fruits and vegetables in a manner that enables a more flexible and responsive regulatory approach to evolving pest situations in both the United States and exporting countries. It will not, however, alter the science-based process in which the risk associated with importation or interstate movement of a given fruit or vegetable is evaluated or the manner in which risks associated with the importation or interstate movement of a fruit or vegetable are mitigated.

Timetable:

Action	Date	FR Cite
NPRM	09/09/14	79 FR 53346
NPRM Comment Period End.	11/10/14	
NPRM Comment Period Reopened.	12/04/14	79 FR 71973
NPRM Comment Period End.	01/09/15	
NPRM Comment Period Reopened.	02/06/15	80 FR 6665
NPRM Comment Period End.	03/10/15	
Final Rule	01/00/17	
Final Rule Effective.	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nicole Russo, Assistant Director, Regulatory Coordination and Compliance, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737–1236, *Phone:* 301 851–2159.

RIN: 0579–AD71

180. Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List

Legal Authority: 7 U.S.C. 8401

Abstract: The Agricultural Bioterrorism Protection Act of 2002 requires the biennial review and republication of the list of select agents and toxins and the revision of the list as necessary. Accordingly, we solicited public comment on the current list of select agents and toxins in our regulations and suggestions regarding any addition or reduction of the animal or plant pathogens currently on the list of select agents. In accordance with the Act, this rulemaking will provide a revised republication of the list of select agents and toxins.

Timetable:

Action	Date	FR Cite
ANPRM	02/27/15	80 FR 10627
ANPRM Comment Period End.	04/28/15	
NPRM	01/19/16	81 FR 2762
NPRM Comment Period End.	03/21/16	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Freeda Isaac, National Director, Agriculture Select Agent Services, Department of Agriculture, Animal and Plant Health

Inspection Service, 4700 River Road, Unit 2, Riverdale, MD 20737–1231, *Phone:* 301 851–3300.

RIN: 0579–AE08

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Long-Term Actions

181. Brucellosis and Bovine Tuberculosis; Update of General Provisions

Legal Authority: 7 U.S.C. 1622; 7 U.S.C. 8301 to 8317; 15 U.S.C. 1828; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701

Abstract: This rulemaking would consolidate the regulations governing bovine tuberculosis (TB), currently found in 9 CFR part 77, and those governing brucellosis, currently found in 9 CFR part 78. As part of this consolidation, we are proposing to transition the TB and brucellosis programs away from a State status system based on disease prevalence. Instead, States and tribes would implement an animal health plan that identifies sources of the diseases within the State or tribe and specifies mitigations to address the risk posed by these sources. The consolidated regulations also would set forth standards for surveillance, epidemiological investigations, and affected herd management that must be incorporated into each animal health plan, with certain limited exceptions; conditions for the interstate movement of cattle, bison, and captive cervids; and conditions for APHIS approval of tests for bovine TB or brucellosis. Finally, the rulemaking would revise the import requirements for cattle and bison to make these requirements clearer and ensure that they more effectively mitigate the risk of introduction of the diseases into the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/16/15	80 FR 78461
NPRM Comment Period End.	03/15/16	
NPRM Comment Period Extended.	03/11/16	81 FR 12832
NPRM Comment Period Extended End.	05/16/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Langston Hull, *Phone:* 301 851–3300.

C. William Hench, *Phone:* 970 494–7378.

RIN: 0579–AD65

DEPARTMENT OF AGRICULTURE (USDA)

Animal and Plant Health Inspection Service (APHIS)

Completed Actions

182. • Mexican Hass Avocado Import Program

Legal Authority: 7 U.S.C. 450; 7 U.S.C. 7701 to 7772; 7 U.S.C. 7781 to 7786; 21 U.S.C. 136 and 136(a)

Abstract: Commercial consignments of Hass avocado fruit are currently authorized entry into the continental United States, Hawaii, and Puerto Rico from the Mexican State of Michoacán under a systems approach to mitigate against quarantine pests of concern. We are amending the regulations to allow the importation of fresh Hass avocado fruit into the continental United States, Hawaii, and Puerto Rico from all of Mexico, provided individual Mexican States meet the requirements set out in the regulations and the operational work plan. Initially, this action would only apply to the Mexican State of Jalisco. With the exception of a clarification of the language concerning when sealed, insect-proof containers would be required to be used in shipping and the removal of mandatory fruit cutting at land and maritime borders, the current systems approach will not change. The current systems approach, which includes requirements for orchard certification, traceback labeling, pre-harvest orchard surveys, orchard sanitation, post-harvest safeguards, fruit cutting and inspection at the packinghouse, port-of-arrival inspection, and clearance activities, will be required for importation of fresh Hass avocado fruit from all approved areas of Mexico. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Mexico with an additional declaration stating that the consignment was produced in accordance with the systems approach described in the operational work plan. This final rule will allow for the importation of fresh Hass avocado fruit from Mexico while continuing to provide protection against the introduction of plant pests into the continental United States, Hawaii, and Puerto Rico.

Timetable:

Action	Date	FR Cite
NPRM	02/18/15	80 FR 8561
NPRM Comment Period End.	04/20/15	
Final Rule	05/27/16	81 FR 33581
Final Rule Effective.	06/27/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David B. Lamb, Senior Regulatory Policy Specialist, RPM, PPQ, Department of Agriculture, Animal and Plant Health Inspection Service, 4700 River Road, Unit 133, Riverdale, MD 20737–1231, *Phone:* 301 851–2013.

RIN: 0579–AE05

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE (USDA)

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Proposed Rule Stage

183. Unfair Practices and Unreasonable Preference

Regulatory Plan: This entry is Seq. No. 6 in part II of this issue of the **Federal Register**.

RIN: 0580–AB27

DEPARTMENT OF AGRICULTURE (USDA)

Grain Inspection, Packers and Stockyards Administration (GIPSA)

Final Rule Stage

184. Clarification of Scope

Regulatory Plan: This entry is Seq. No. 7 in part II of this issue of the **Federal Register**.

RIN: 0580–AB25

BILLING CODE 3410–EN–P

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Proposed Rule Stage

185. Modernizing Supplemental Nutrition Assistance Program (SNAP) Benefit Redemption Systems

Legal Authority: Pub. L. 113–79

Abstract: The Agricultural Act of 2014 (Pub. L. 113–79, the Farm Bill) amended the Food and Nutrition Act of 2008 (the FNA) to include new requirements

regarding the acceptance and processing of SNAP client benefits by all non-exempt retailers participating in SNAP. Statutory changes will modernize EBT systems and ensure greater program integrity. The Food and Nutrition Service (FNS) proposes to revise certain SNAP regulations for which multiple State agencies have sought and received approval of waivers. The revisions would streamline program administration, offer greater flexibility to State agencies, and improve customer service.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, Regulatory Review Specialist, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–0800, *Email: charles.watford@fns.usda.gov*.

Lynnette M. Thomas, Chief, Planning and Regulatory Affairs Branch, Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA 22302, *Phone:* 703 605–4782, *Email: lynnette.thomas@fns.usda.gov*.

RIN: 0584–AE37

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Final Rule Stage

186. National School Lunch and School Breakfast Programs: Nutrition Standards for All Foods Sold in School, as Required by the Healthy, Hunger-Free Kids Act of 2010

Regulatory Plan: This entry is Seq. No. 9 in part II of this issue of the **Federal Register**.

RIN: 0584–AE09

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Completed Actions

187. Child Nutrition Programs: Local School Wellness Policy Implementation Under the Healthy, Hunger-Free Kids Act of 2010

Legal Authority: Pub. L. 111–296

Abstract: This final rule codified a provision of the Healthy, Hunger-Free Kids Act (Pub. L. 111–296; the Act) under 7 CFR parts 210 and 220. Section 204 of the Act requires each local educational agency (LEA) to establish, for all schools under its jurisdiction, a local school wellness policy. The Act requires that the wellness policy include goals for nutrition, nutrition education, physical activity, and other school-based activities that promote student wellness. In addition, the Act requires that local educational agencies ensure stakeholder participation in development of their local school wellness policies, and periodically assess compliance with the policies, and disclose information about the policies to the public.

Completed:

Reason	Date	FR Cite
Final Action	07/29/16	81 FR 50151
Final Action Effective.	08/29/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles H. Watford, *Phone:* 703 605–0800, *Email: charles.watford@fns.usda.gov*.

Lynnette M. Thomas, *Phone:* 703 605–4782, *Email: lynnette.thomas@fns.usda.gov*.

RIN: 0584–AE25

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Final Rule Stage

188. Elimination of Trichina Control Regulations and Consolidation of Thermally Processed, Commercially Sterile Regulations

Legal Authority: Federal Meat Inspection Act (FMIA); Poultry Products Inspection Act (PPIA)

Abstract: The Food Safety and Inspection Service (FSIS) proposed to amend the Federal meat inspection regulations to eliminate the requirements for both ready-to-eat (RTE) and not-ready-to-eat (NRTE) pork and pork products to be treated to destroy trichina (Trichinella spiralis) because the regulations are inconsistent with the Hazard Analysis and Critical Control Point (HACCP) regulations, and these prescriptive regulations are no longer necessary. If this supplemental proposed rule is finalized, FSIS will end its Trichinella Approved Laboratory Program (TALP program) for the evaluation and approval of non-Federal laboratories that use the pooled sample digestion technique to analyze samples for the presence of trichina. FSIS also proposed to consolidate the regulations on thermally processed, commercially sterile meat and poultry products (*i.e.,* canned food products containing meat or poultry).

Timetable:

Action	Date	FR Cite
NPRM	03/28/16	81 FR 17337
NPRM Comment Period End.	06/27/16	
Final Action	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dr. Daniel L. Engeljohn, Assistant Administrator, Office of Policy and Program Development, Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue SW., 349–E JWB, Washington, DC 20250, *Phone:* 202 205–0495, *Fax:* 202 720–2025, *Email: daniel.engeljohn@fsis.usda.gov*.

RIN: 0583–AD59

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Long-Term Actions

189. Management of Surface Activities Associated With Outstanding Mineral Rights on National Forest System Lands (Directive)

Legal Authority: EPA 1992

Abstract: Close to 11,000,000 acres (approximately 6 percent) of National Forest System (NFS) lands overlie severed (split) mineral estates owned by a party other than the Federal Government. More than 75 percent of these lands are in the Eastern Region (Forest Service Regions 8 and 9). There are two kinds of severed mineral estates, generally known as ''private rights'': Reserved and outstanding. Reserved mineral rights are those retained by a grantor in a deed conveying land to the United States. Outstanding mineral rights are those owned by a party other than the surface owner at the time the surface was conveyed to the United States. Because these are non-Federal mineral interests, the U.S. Department of the Interior's Bureau of Land Management has no authority for or role in managing development activities associated with such interests. States

have the authority and responsibility for regulating development of the private mineral estate.

Various Secretary's Rules and Regulations (years of 1911, 1937, 1938, 1939, 1947, 1950, and 1963) and Forest Service regulations at 36 CFR 251.15 provide direction for the use of NFS lands for mineral development activities associated with the exercise of reserved mineral rights. These existing rules for reserved minerals development activities also include requirements for protection of NFS resources.

Currently, there are no formal regulations governing the use of NFS lands for activities associated with the exercise of outstanding mineral rights underlying those lands. The Energy Policy Act of 1992, section 2508, directed the Secretary of Agriculture to apply specified terms and conditions to surface-disturbing activities related to development of oil and gas on certain lands with outstanding mineral rights on the Allegheny National Forest, and promulgate regulations implementing that section.

The Forest Service initiated rulemaking for the use of NFS lands for development activities associated with both reserved and outstanding minerals rights with an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 29, 2008. Comments from the public in response to the ANPRM conveyed a high level of concern about the broad scope of the rule, along with a high level of concern about effects of a broad rule on small businesses and local economies.

Timetable:

Action	Date	FR Cite
Advanced Notice of Proposed Directive.	12/29/08	73 FR 79424
Advanced Notice of Proposed Directive Comment Period End.	02/27/09	
Proposed Directive.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tinathan A. Lewis, *Phone:* 202 205–3773, *Email: talewis@fs.fed.us.*

RIN: 0596–AD03

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE (USDA)

Office of Procurement and Property Management (OPPM)

Proposed Rule Stage

190. Designation of Biobased Product Categories for Federal Procurement, Round 11

Legal Authority: Pub. L. 113–79

Abstract: This proposed rule will designate, for preferred procurement under the Federal Biobased Products Preferred Procurement Program, approximately 10 intermediate ingredient or feedstock product categories. An intermediate ingredient or feedstock is defined by the BioPreferred Program as a material or compound made in whole or in significant part from biological products. Typical intermediate ingredient or feedstock product categories will include renewable chemicals; plastic resins; chemical binders; oils, fats, and waxes; and fibers and fabrics.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marie Wheat, Department of Agriculture, Office of Procurement and Property Management, Washington, DC 20250, *Phone:* 202 239–4502, *Email: marie.wheat@dm.usda.gov.*

RIN: 0599–AA24

191. Designation of Biobased Product Categories for Federal Procurement, Round 12

Legal Authority: Pub. L. 113–79

Abstract: This proposed rule will designate, for preferred procurement under the Federal Biobased Products Preferred Procurement Program, approximately eight complex assembly product categories. A complex assembly is defined by the BioPreferred program as a system of distinct materials and components assembled to create a finished product with specific functional intent where some or all of the system inputs contain some amount of biobased material or feedstock. Typical complex assembly product categories will include products such as upholstered office chairs and other office furniture; mattresses; backpacks; boots; and other camping gear. The specific product categories to be included in this rulemaking are under investigation by the Office of Procurement and Property Management, but technical information is expected to be available to support the designation of about eight product categories.

Timetable:

Action	Date	FR Cite
NPRM	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marie Wheat, Department of Agriculture, Office of Procurement and Property Management, Washington, DC 20250, *Phone:* 202 239–4502, *Email: marie.wheat@dm.usda.gov.*

RIN: 0599–AA25

[FR Doc. 2016–29853 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part IV

Department of Commerce

Semiannual Regulatory Agenda

DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. I, II, III, VII, VIII, IX, and XI

19 CFR Ch. III

37 CFR Chs. I, IV, and V

48 CFR Ch. 13

50 CFR Chs. II, III, IV, and VI

Fall 2016 Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Commerce.

ACTION: Semiannual regulatory agenda.

SUMMARY: In compliance with Executive Order 12866, entitled ''Regulatory Planning and Review,'' and the Regulatory Flexibility Act, as amended, the Department of Commerce (Commerce), in the spring and fall of each year, publishes in the **Federal Register** an agenda of regulations under development or review over the next 12 months. Rulemaking actions are grouped according to prerulemaking, proposed rules, final rules, long-term actions, and rulemaking actions completed since the spring 2016 agenda. The purpose of the agenda is to provide information to the public on regulations that are currently under review, being proposed, or issued by Commerce. The agenda is intended to facilitate comments and views by interested members of the public.

Commerce's fall 2016 regulatory agenda includes regulatory activities that are expected to be conducted during the period November 1, 2016, through October 31, 2017.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about specific regulatory actions listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Asha Mathew, Chief Counsel for Regulation, Office of the Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, DC 20230, telephone: 202–482–3151.

SUPPLEMENTARY INFORMATION: Commerce hereby publishes its fall 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions pursuant to Executive Order 12866 and the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* Executive Order 12866 requires agencies to publish an agenda of those regulations that are under consideration pursuant to this order. By memorandum of July 27, 2016, the Office of Management and Budget issued guidelines and procedures for the preparation and publication of the fall 2016 Unified Agenda. The Regulatory Flexibility Act requires agencies to publish, in the spring and fall of each year, a regulatory flexibility agenda that contains a brief description of the subject of any rule likely to have a significant economic impact on a substantial number of small entities, and a list that identifies those entries that have been selected for periodic review under section 610 of the Regulatory Flexibility Act.

In this edition of Commerce's regulatory agenda, a list of the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the issue of the **Federal Register** that includes the Unified Agenda.

In addition, beginning with the fall 2007 edition, the Internet became the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at *www.reginfo.gov,* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act, Commerce's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, Commerce's entire Regulatory Plan will continue to be printed in the **Federal Register**.

Within Commerce, the Office of the Secretary and various operating units may issue regulations. Among these operating units, the National Oceanic and Atmospheric Administration (NOAA), the Bureau of Industry and Security, and the Patent and Trademark Office, issue the greatest share of Commerce's regulations.

A large number of regulatory actions reported in the Agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of NMFS' programs, an ''Explanation of Information Contained in NMFS Regulatory Entries'' is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) (the Act) governs the management of fisheries within the Exclusive Economic Zone of the United States (EEZ). The EEZ refers to those waters from the outer edge of the State boundaries, generally 3 nautical miles, to a distance of 200 nautical miles. For fisheries that require conservation and management measures, eight Regional Fishery Management Councils (Councils) prepare Fishery Management Plans (FMPs) for the fisheries within their respective areas. Regulations implementing these FMPs regulate domestic fishing and foreign fishing where permitted. Foreign fishing may be conducted in a fishery in which there is no FMP only if a preliminary fishery management plan has been issued to govern that foreign fishing. In the development of FMPs, or amendments to FMPs, and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance and timing of some regulatory actions under consideration by the Councils at the time the semiannual regulatory agenda is published.

Commerce's fall 2016 regulatory agenda follows.

Kelly R. Welsh,

General Counsel.

BUREAU OF THE CENSUS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
192	Foreign Trade Regulations (15 CFR 30): Clarification on Filing Requirements	0607–AA55

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
193	Amendment 5b to the Highly Migratory Species Fishery Management Plan	0648–BD22
194	Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean.	0648–BD59
195	Omnibus Acceptable Biological Catch Framework Adjustment	0648–BE65
196	Modification of the Temperature-Dependent Component of the Pacific Sardine Harvest Guideline Control Rule to Incorporate New Scientific Information.	0648–BE77
197	Amendment 18 to the Northeast Multispecies Fishery Management Plan **(Section 610 Review)**	0648–BF26
198	Omnibus Essential Fish Habitat Amendment 2	0648–BF82
199	Amendment 43 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648–BG18
200	Amendment 45 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648–BG19
201	Protected Species Hard Caps for the California/Oregon Large-Mesh Drift Gillnet Fishery	0648–BG23
202	Mallows Bay-Potomac National Marine Sanctuary Designation	0648–BG02

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
203	Amendment 39 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648–BD25
204	Regulatory Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	0648–BD78
205	Pacific Coast Groundfish Fishing Capacity Reduction Loan Refinance **(Section 610 Review)**	0648–BE90
206	Magnuson-Stevens Fisheries Conservation and Management Act; Seafood Import Monitoring Program **(Reg Plan Seq No. 16)**.	0648–BF09
207	Pacific Coast Groundfish Trawl Rationalization Program; Widow Rockfish Reallocation in the Individual Fishing Quota Fishery.	0648–BF12
208	Allow the Use of Longline Pot Gear in the Gulf of Alaska Sablefish Individual Fishing Quota Fishery	0648–BF42
209	Atlantic Highly Migratory Species; Atlantic Blacknose Shark Commercial Retention Limit	0648–BF49
210	Amendment 113 to the FMP for Groundfish of the BSAI to Establish a Catcher Vessel Fishing Period and Shoreside Processing Delivery Requirements for Aleutian Islands Pacific Cod.	0648–BF54
211	Specification of Management Measures for Atlantic Herring for the 2016–2018 Fishing Years	0648–BF64
212	Amendment 19 to the Atlantic Sea Scallop Fishery Management Plan	0648–BF72
213	Observer Coverage Requirements for Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area.	0648–BF80
214	Framework Amendment 1 to the Dolphin and Wahoo Fishery Management Plan of the Atlantic	0648–BF81
215	Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Reapportion Chinook Salmon Prohibited Catch in the Gulf of Alaska Trawl Fisheries.	0648–BF84
216	Framework Action to Adjust the Red Grouper Allowable Harvest in the Gulf of Mexico	0648–BG12
217	Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions	0648–AU02
218	Designation of Critical Habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic Sturgeon **(Reg Plan Seq No. 17)**.	0648–BF28
219	Designation of Critical Habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon **(Reg Plan Seq No. 18)**.	0648–BF32

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
220	Comprehensive Fishery Management Plan for Puerto Rico	0648–BD32
221	Comprehensive Fishery Management Plan for St. Croix	0648–BD33
222	Comprehensive Fishery Management Plan for St. Thomas/St. John	0648–BD34
223	Reductions in Fishing Capacity for Lobster Management Areas 2 and 3	0648–BF01
224	Designate Critical Habitat for the Hawaiian Insular False Killer Whale Distinct Population Segment	0648–BC45
225	Designation of Critical Habitat for the Arctic Ringed Seal	0648–BC56

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
226	Requirements for Importation of Fish and Fish Products Under the U.S. Marine Mammal Protection Act	0648–AY15
227	Amendment 7 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan	0648–BC09
228	Amendment 28 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico	0648–BD68
229	Amendment 35 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region.	0648–BE70
230	Amendment 109 to the Fishery Management Plan for Groundfish of the BSAI to Facilitate Development of Groundfish Fisheries for Small Vessels in the Western Alaska Community Development Quota Program.	0648–BF05
231	Process for Divestiture of Excess Quota Shares	0648–BF11
232	Implementation of Salmon Bycatch Management Measures for the Bering Sea Pollock Fishery	0648–BF25
233	Cost Recovery Authorized Payment Methods	0648–BF35
234	Amendment 102 to the Fishery Management Plan for Groundfish of the Gulf of Alaska	0648–BF36
235	2016–2018 Specifications and Management Measures for the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan.	0648–BF53
236	Framework Adjustment 27 to the Atlantic Sea Scallop Fishery Management Plan	0648–BF59
237	Revisions to the Pacific Halibut Catch Sharing Plan, Codified Regulations, and Annual Management Measures for 2016 and Beyond.	0648–BF60
238	Regulatory Amendment 25 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region.	0648–BF61
239	Amendment 17A to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters.	0648–BF77
240	Framework Adjustment 3 to the Northeast Skate Complex Fishery Management Plan	0648–BF87
241	2016–2018 Spiny Dogfish Fishery Specifications	0648–BF88

PATENT AND TRADEMARK OFFICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
242	Setting and Adjusting Patent Fees During Fiscal Year 2017	0651–AD02

DEPARTMENT OF COMMERCE (DOC)

Bureau of the Census (CENSUS)

Final Rule Stage

192. Foreign Trade Regulations (15 CFR 30): Clarification on Filing Requirements

Legal Authority: 13 U.S.C. 301

Abstract: The Census Bureau is proposing to amend its regulations to reflect new export reporting requirements related to the implementation of the International Trade Data System (ITDS), in accordance with the Executive Order 13659, Streamlining the Export/Import Process for American Businesses. The ITDS was established by the Security and Accountability for Every (SAFE) Port Act of 2006. The proposed changes also include the addition of a new data element in the Automated Export System (AES), the original Internal Transaction Number (ITN) field. Lastly, the Census Bureau proposes to make changes to the Foreign Trade Regulations (FTR) to provide clarity on existing reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/09/16	81 FR 12423
NPRM Comment Period End.	05/09/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dale Kelly, Department of Commerce, Bureau of the Census, 4700 Silver Hill Road, Room 6K1285, Suitland, MD 20233, *Phone:* 301 763–6937, *Email: dale.c.kelly@census.gov*.

RIN: 0607–AA55

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Proposed Rule Stage

National Marine Fisheries Service

193. Amendment 5B to the Highly Migratory Species Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 971 *et seq.*

Abstract: This rulemaking would propose management measures for dusky sharks based on the latest stock assessment, taking into consideration comments received on the proposed rule and Amendment 5 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan. This rulemaking considers a range of commercial and recreational management measures in both directed and incidental shark fisheries including, among other things, gear modifications, time/area closures, permitting, shark identification requirements, and reporting requirements. The National Marine Fisheries Service determined dusky sharks are still overfished and still experiencing overfishing. The National Marine Fisheries Service originally proposed management measures to end overfishing and rebuild dusky sharks in a proposed rule for Draft Amendment 5 to the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan. That proposed rule also contained management measures for scalloped hammerhead, sandbar, blacknose and Gulf of Mexico blacktip sharks. The National Marine Fisheries Service decided to move forward with Draft Amendment 5's management measures for scalloped hammerhead, sandbar, blacknose and Gulf of Mexico blacktip sharks in a final rule and final amendment that will now be referred to as ''Amendment 5a'' to the 2006 Consolidated Atlantic Highly Migratory

Species Fishery Management Plan. Dusky shark management measures will be addressed in this separate, but related, action and will be referred to as ''Amendment 5b.''

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2334, *Fax:* 301 713–0596, *Email: alan.risenhoover@noaa.gov*.

RIN: 0648–BD22

194. Implementation of a Program for Transshipments by Large Scale Fishing Vessels in the Eastern Pacific Ocean

Legal Authority: 16 U.S.C. 951 *et seq.*; 16 U.S.C. 971 *et seq.*

Abstract: This rule would implement the Inter-American Tropical Tuna Commission program to monitor transshipments by large-scale tuna fishing vessels, and would govern transshipments by U.S. large-scale tuna fishing vessels and carrier, or receiving, vessels. The rule would establish: Criteria for transshipping in port; criteria for transshipping at sea by longline vessels to an authorized carrier vessel with an Inter-American Tropical Tuna Commission observer onboard and an operational vessel monitoring system; and require the Pacific Transshipment Declaration Form, which must be used to report transshipments in the Inter-American Tropical Tuna Commission Convention Area. This rule is necessary for the United States to satisfy its international obligations under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna, to which it is a Contracting Party.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BD59

195. Omnibus Acceptable Biological Catch Framework Adjustment

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

Abstract: This action would make two administrative adjustments to the Mid-Atlantic Fishery Management Council's (Council) Omnibus Annual Catch Limit Amendment: (1) Adjust the Council's risk policy so that the Scientific and Statistical Committee may apply an average probability of overfishing when recommending multi-year Acceptable Biological Catches; and (2) make all of the Council's fishery management plans consistent in allowing new status determination criteria (overfishing definitions, etc.) to be accepted as the best available scientific information.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BE65

196. Modification of the Temperature-Dependent Component of the Pacific Sardine Harvest Guideline Control Rule To Incorporate New Scientific Information

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

Abstract: Pursuant to a recommendation of the Pacific Fishery Management Council (Council) under the Magnuson-Stevens Act, the National Marine Fisheries Service is proposing to use a new temperature index to calculate the temperature parameter of the Pacific sardine harvest guideline control rule under the Fishery Management Plan. The harvest guideline control rule, in conjunction with the overfishing limit and acceptable biological catch control rules, is used to set annual harvest levels for Pacific sardine. The temperature parameter is calculated annually. The National Marine Fisheries Service determined that a new temperature index is more statistically sound and this action will adopt that index. This action also will revise the upper temperature limit to allow for additional sardine harvest where prior guidelines set catch unnecessarily low.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BE77

197. Amendment 18 to the Northeast Multispecies Fishery Management Plan (Section 610 Review)

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

Abstract: Amendment 18 to the Northeast Multispecies Fishery Management Plan would make necessary minor administrative adjustments to several groundfish sectors, as well as minor adjustments to fishing activity designed to protect fishery resources while maximizing flexibility and efficiency. Specifically, it would include the following management measures: Creating an accumulation limit for either the holdings of Potential Sector Contribution or of Northeast multispecies permits; creating a sub-annual catch limit that Handgear A permits could enroll in and other measures pertaining to fishing with Handgear A permits; adjusting what fishery data are considered confidential, specifically the price of annual catch entitlement transferred within a sector or leased between sectors; establishing an inshore/offshore boundary within the Gulf of Maine with associated measures, including creation of a Gulf of Maine cod sub-annual catch limit, adjusting the Gulf of Maine Gear Restricted Area boundary to align with the inshore/offshore boundary, and creating declaration time periods for fishing in the inshore or offshore areas; and establishing a Redfish Exemption Area, in which vessels could fish with a smaller mesh net than the standard mesh size, targeting redfish.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic

Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF26

198. Omnibus Essential Fish Habitat Amendment 2

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

Abstract: The New England Fishery Management Council voted to issue this update rulemaking that would revise the essential fish habitat and habitat areas of particular concern designation based on recent groundfish data. This rule would update groundfish seasonal spawning closures and identify Habitat Research Areas. The proposed revisions include adding a habitat management area in the eastern Gulf of Maine and modifying the existing habitat management areas in the central and western Gulf of Maine, while maintaining additional protections for large-mesh groundfish, including cod. In addition, the amendment would allow for the potential for development of a scallop access area within Georges Bank. A habitat management area would be established on Georges Shoal, with allowances for the clam dredge fishery. In Southern New England, a habitat management area in the Great South Channel would replace the current habitat protections further west. These revisions are intended to comply with the Magnuson-Stevens Act requirement to minimize to the extent practicable the adverse effects of fishing on essential fish habitat.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF82

199. • Amendment 43 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

Abstract: Based on a recent stock assessment and per the Magnuson-Stevens Fishery Conservation and Management Act, action is needed to adjust management measures for the Gulf of Mexico (Gulf) hogfish stock to prevent overfishing and achieve optimum yield. Consistent with the stock assessment, this action would redefine the geographic range of the Gulf hogfish stock, set the status determination criteria, and set the annual catch limits. This action would also revise the hogfish minimum size limit to reduce the likelihood of a season closure due to the annual catch limit being reached and remove the provision in the regulations that exempts hogfish from the prohibition on the use of powerheads to take Gulf reef fish in the Gulf stressed area.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BG18

200. • Amendment 45 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

Abstract: The Gulf of Mexico Fishery Management Council is working to develop and implement separate federal for-hire and private angling components for red snapper management measures to better prevent overfishing while achieving the optimum yield. Amendment 40 defined the components, allocated the recreational red snapper quota between the components, and established a three-year sunset provision for the components. The purpose of this action is to extend the sector separation sunset provision established in Amendment 40 for five additional years to allow completion of component-focused management strategies.

Timetable:

Action	Date	FR Cite
Notice of Availability.	08/25/16	81 FR 58466
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BG19

201. • Protected Species Hard Caps for the California/Oregon Large-Mesh Drift Gillnet Fishery

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

Abstract: The National Marine Fisheries Service intends to establish two-year rolling hard caps (*i.e.,* limits) on the numbers of certain marine mammals and sea turtles observed killed or injured in the California/Oregon large-mesh drift gillnet fishery. The caps would be established for five marine mammal species and four sea turtle species. When any of the caps are reached or exceeded, the fishery would close for the rest of the fishing season and possibly through the following season. This measure was recommended by the Pacific Fishery Management Council in September 2015.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BG23

NOS/ONMS

202. • Mallows Bay-Potomac National Marine Sanctuary Designation

Legal Authority: 16 U.S.C. 1431 *et seq.*

Abstract: On September 16, 2014, pursuant to section 304 of the National Marine Sanctuaries Act (NMSA) and the Sanctuary Nomination Process (79 FR 33851), a coalition of community groups submitted a nomination asking NOAA to designate Mallows Bay-Potomac River as a national marine sanctuary. The Mallows Bay area of the tidal Potomac River being considered for designation as a national marine sanctuary is an area 40 miles south of Washington, DC, off the Nanjemoy Peninsula of Charles County, MD. The designation of a national marine sanctuary would focus on conserving the collection of maritime heritage resources (shipwrecks) in the area as well as expand the opportunities for public access, recreation, tourism, research, and education. NOAA

completed its review of the nomination in accordance with the Sanctuary Nomination Process and on January 12, 2015, added the area to the inventory of nominations that are eligible for designation. On October 7, 2015, NOAA issued a notice of intent to begin the designation process and asked for public comment on making this area a national marine sanctuary. Designation under the NMSA would allow NOAA to supplement and complement work by the State of Maryland and other federal agencies to protect this collection of nationally significant shipwrecks.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Annie Sawabini, Department of Commerce, National Oceanic and Atmospheric Administration, 1305 East-West Highway, Silver Spring, MD 20910, *Phone:* 240 533–0658.

RIN: 0648–BG02

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Final Rule Stage

National Marine Fisheries Service

203. Amendment 39 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

Abstract: The purpose of this action is to facilitate management of the recreational red snapper component in the reef fish fishery by reorganizing the federal fishery management strategy to better account for biological, social, and economic differences among the regions of the Gulf of Mexico. Regional management would enable regions and their associated communities to specify the optimal management parameters that best meet the needs of their local constituents thereby addressing regional socio-economic concerns.

Timetable:

Action	Date	FR Cite
Notice	05/13/13	78 FR 27956
Next Stage Undetermined.	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD25

204. Regulatory Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region

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

Abstract: Regulatory Amendment 16 contained an action to address the prohibition on the use of black sea bass pots annually from November 1 through April 30 that was implemented through Regulatory Amendment 19. The prohibition was a precautionary measure to prevent interactions between black sea bass pot gear and whales listed under the Endangered Species Act during large whale migrations and the right whale calving season off the southeastern coast. The South Atlantic Fishery Management Council, through Regulatory Amendment 16, removed the closure, changed the length of the closure, and changed the area of the closure. The goal was to minimize adverse socio-economic impacts to black sea bass pot endorsement holders while maintaining protection for Endangered Species Act-listed whales in the South Atlantic region.

Timetable:

Action	Date	FR Cite
NPRM	08/11/16	81 FR 53109
NPRM Comment Period End.	09/12/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD78

205. Pacific Coast Groundfish Fishing Capacity Reduction Loan Refinance (Section 610 Review)

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 1861 *et seq.;* 5 U.S.C. 561 *et seq.*

Abstract: The National Marine Fisheries Service issued proposed regulations to refinance the voluntary fishing capacity reduction loan program implemented in 2004 in the Pacific Coast groundfish Federal limited-entry trawl, Washington coastal Dungeness crab, and California pink shrimp fisheries (collectively known hereafter as the refinanced reduction fisheries). The refinance loan of up to $30 million could establish a new industry fee system for future landings of the refinanced reduction fisheries. Upon publishing a final rule and receipt of an appropriation, the National Marine Fisheries Service would conduct three referenda to refinance the existing debt obligation in each of the refinanced reduction fisheries. If a referendum in one, two, or all three of the fisheries is successful, that fishery's current loan will be repaid in full and a new loan in the amount of the principal and interest balance as of the date of funding will be issued. The terms were prescribed in the 2015 National Defense Authorization Act and include a 45-year term to maturity, interest charged at a current Treasury interest rate, and a maximum repayment fee of 3 percent of ex-vessel value.

Timetable:

Action	Date	FR Cite
NPRM	08/07/15	80 FR 46941
NPRM Comment Period End.	09/08/15	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Pawlak, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8621, *Email: brian.t.pawlak@noaa.gov*.

RIN: 0648–BE90

206. Magnuson–Stevens Fisheries Conservation and Management Act; Seafood Import Monitoring Program

Regulatory Plan: This entry is Seq. No. 16 in part II of this issue of the **Federal Register**.

RIN: 0648–BF09

207. Pacific Coast Groundfish Trawl Rationalization Program; Widow Rockfish Reallocation in the Individual Fishing Quota Fishery

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

Abstract: In January 2011, the National Marine Fisheries Service implemented the groundfish trawl rationalization program (a catch share program) for the Pacific coast groundfish limited entry trawl fishery. The program was implemented through Amendments 20 and 21 to the Pacific Coast Groundfish Fishery Management Plan and the corresponding implementing regulations. Amendment 20 established the trawl rationalization program, which includes an Individual Fishing Quota program for limited entry

trawl participants, and Amendment 21 established fixed allocations for limited entry trawl participants. During implementation of the trawl individual fishing quota program, widow rockfish was overfished and the initial allocations were based on its overfished status and management as a non-target species. The National Marine Fisheries Service declared the widow rockfish rebuilt in 2011 and, accordingly, the Pacific Fishery Management Council has now recommended actions to manage the increased abundance of widow rockfish. The action would reallocate individual fishing quota widow rockfish quota share to facilitate directed harvest and would lift the moratorium on widow rockfish quota share trading.

Timetable:

Action	Date	FR Cite
NPRM	06/29/16	81 FR 42295
NPRM Comment Period End.	07/29/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BF12

208. Allow the Use of Longline Pot Gear in the Gulf of Alaska Sablefish Individual Fishing Quota Fishery

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 773 *et seq.*

Abstract: This action would amend Federal regulations to allow fishermen to use longline pot gear to harvest sablefish in the Gulf of Alaska Individual Fishing Quota fishery. Hook-and-line gear is currently the only authorized gear type in the sablefish Individual Fishing Quota fishery. The action would authorize Individual Fishing Quota fishermen to use either longline pot gear or hook-and-line gear in the sablefish Individual Fishing Quota fishery. Some fishermen would like to use longline pot gear because it is less prone to whale interactions than hook-and-line gear. Whales can remove sablefish from hook-and-line gear, which reduces fishing efficiency and increases costs for sablefish Individual Fishing Quota fishermen because the whale interactions damage hook-and-line gear and reduce sablefish catch rates. However, whales cannot remove sablefish from longline pot gear, and the action to authorize longline pot gear in the sablefish Individual Fishing Quota fishery is intended to reduce fishery interactions with whales and reduce the negative impacts of whale interactions on the sablefish Individual Fishing Quota fleet. The action would establish management measures to minimize conflicts between hook-and-line and longline pot gear on the fishing grounds and to prevent significant consolidation of sablefish Individual Fishing Quota onto fewer vessels.

Timetable:

Action	Date	FR Cite
Notice of Availability.	08/08/16	81 FR 52394
NPRM	08/19/16	81 FR 55408
NPRM Comment Period End.	09/19/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF42

209. Atlantic Highly Migratory Species; Atlantic Blacknose Shark Commercial Retention Limit

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 971 *et seq.*

Abstract: This rule would evaluate the management measures for blacknose sharks in the Atlantic region. It would consider, among other things, a range of commercial management measures in both directed and incidental shark fisheries including, but not limited to, retention limits. In addition, this action would address commercial retention limits to help prevent early closures of the non-blacknose small coastal shark management group and fully utilize the quota.

Timetable:

Action	Date	FR Cite
NPRM	08/03/16	81 FR 51165
NPRM Comment Period End.	09/20/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2334, *Fax:* 301 713–0596, *Email: alan.risenhoover@noaa.gov*.

RIN: 0648–BF49

210. Amendment 113 to the FMP for Groundfish of the BSAI To Establish a Catcher Vessel Fishing Period and Shoreside Processing Delivery Requirements for Aleutian Islands Pacific Cod

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

Abstract: This rule would restrict participation in the Aleutian Islands Pacific cod fishery. This action is necessary to provide stability to catcher vessels that participate in the Aleutian Islands Pacific cod fishery and the shoreside processors to which they deliver, and to the communities in which these processors are located. Specifically, this rule would establish catch limits for Pacific cod in the Aleutian Islands and the Bering Sea. The revised allocation is intended to provide catcher vessels with a sufficient opportunity to harvest Pacific cod in an inshore fishery by restricting participation in the fisheries by catcher processors that can harvest significantly larger volumes of Pacific cod further offshore. This rule may include provisions to relieve the restrictions on catcher processor participation if catcher vessels would not be able to harvest the allocation or Aleutian Islands shoreside processors would not be able to process catcher vessel harvests of Pacific cod.

Timetable:

Action	Date	FR Cite
Notice of Availability.	07/19/16	81 FR 46883
NPRM	08/01/16	81 FR 50444
NPRM Comment Period End.	08/31/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF54

211. Specification of Management Measures for Atlantic Herring for the 2016–2018 Fishing Years

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

Abstract: The Atlantic herring fishery specifications are annual catch amounts

for the 2016–2018 fishing years, January–December. These specifications are required by regulation to be set for 3 years. If implemented, these specifications will change the current catch limit levels and will continue to prevent overfishing of the herring resource and achieve optimum yield. The catch limits established in these specifications set a constant catch amount available to the industry that provides a stable allowable catch for 3-year business planning purposes. In addition, the specifications add catch that was not caught under last year's catch limit for one management area and reduce catch that exceeded the catch limits set in other management areas. Finally, the specifications set annual gear-specific and area-specific catch caps for river herring and shad, consistent with Framework Adjustment 3 to the Atlantic Herring Fishery Management Plan.

Timetable:

Action	Date	FR Cite
NPRM	06/21/16	81 FR 40253
NPRM Comment Period End.	07/21/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF64

212. Amendment 19 to the Atlantic Sea Scallop Fishery Management Plan

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

Abstract: Amendment 19 would incorporate a specifications process into the Atlantic Sea Scallop Fishery Management Plan and change the start of the fishing year. Developing specifications to set annual or biennial allocations will allow for a more efficient process for setting annual allocations than currently possible through framework adjustments. By adjusting the start of the scallop fishing year, the National Marine Fisheries Service would be able to implement simple specifications actions at the start of the fishing year on a more consistent basis.

Timetable:

Action	Date	FR Cite
Notice of Availability.	07/20/16	81 FR 47152
NPRM	08/16/16	81 FR 54533
NPRM Comment Period End.	09/15/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF72

213. Observer Coverage Requirements for Catcher Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands Management Area

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

Abstract: This rule would allow the owner of a catcher vessel in the Bering Sea and Aleutian Islands Management Area trawl limited access fisheries to annually choose to have the vessel placed in the full observer coverage category for all fishing in the Bering Sea and Aleutian Islands Management Area in the upcoming year. Under current regulations for the North Pacific Groundfish and Halibut Observer Program, catcher vessels in the Bering Sea and Aleutian Islands Management Area trawl limited access fisheries are assigned to the partial observer coverage category. Vessels in the partial observer coverage category must carry an observer on selected fishing trips, whereas vessels in the full observer coverage category must carry an observer for all of their fishing activity. Owners of trawl catcher vessels have requested to be allowed to voluntarily choose full coverage to obtain observer data from all of their fishing trips to better manage their halibut prohibited species catch.

Timetable:

Action	Date	FR Cite
NPRM	07/07/16	81 FR 44251
NPRM Comment Period End.	08/08/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF80

214. Framework Amendment 1 to the Dolphin and Wahoo Fishery Management Plan of the Atlantic

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

Abstract: Dolphin Wahoo 1 would establish a commercial trip limit after a specified percentage of the commercial sector annual catch limit has been reached and would continue until the end of the fishing year or until the entire commercial annual catch limit is met, whichever comes first.

Timetable:

Action	Date	FR Cite
NPRM	06/30/16	81 FR 42625
NPRM Comment Period End.	08/01/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BF81

215. Amendment 103 to the Fishery Management Plan for Groundfish of the Gulf of Alaska to Reapportion Chinook Salmon Prohibited Catch in the Gulf Of Alaska Trawl Fisheries

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 3631 *et seq.;* 16 U.S.C. 773 *et seq.;* Pub. L. 08–199

Abstract: This action would allow the National Marine Fisheries Service to reapportion unused Chinook salmon prohibited species catch within and between trawl sectors in the Gulf of Alaska groundfish fisheries to reduce the potential for early fishery closures. Amendments 93 and 97 to the Fishery Management Plan for Groundfish of the Gulf of Alaska and implementing regulations established Chinook salmon prohibited species catch limits for pollock and non-pollock trawl fisheries. If a sector reaches a prohibited species catch limit, the fishery is closed for the remainder of the fishing year—currently, the fishery management plan and regulations do not allow NMFS to reapportion unused Chinook salmon prohibited species catch among trawl sectors. Specifically, this action would: Allow the National Marine Fisheries Service to reapportion remaining Chinook salmon prohibited species catch among trawl catcher vessel sectors and from the trawl catcher/processor sector to trawl catcher vessel sectors

based on criteria established for inseason reapportionments and within specified limits; increase management flexibility without exceeding the current overall 32,500 Chinook salmon prohibited species catch limit or negating the current prohibited species catch limits under Amendments 93 and 97; and increase the likelihood that groundfish resources are more fully harvested, and minimize the adverse socioeconomic impacts of the fishery closures on harvesters, processors, and communities.

Timetable:

Action	Date	FR Cite
Notice of Availability.	05/26/16	81 FR 33456
NPRM	06/16/16	81 FR 39237
NPRM Comment Period End.	07/18/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF84

216. • Framework Action To Adjust the Red Grouper Allowable Harvest in the Gulf of Mexico

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

Abstract: This Framework Action would adjust the red grouper allowable harvest in the Gulf of Mexico, consistent with the results of a 2015 stock assessment. The commercial annual catch limit and annual catch target would be adjusted from 6.03 million pounds gutted weight and 5.72 million pounds gutted weight, to 8.19 million pounds gutted weight, and 7.78 million pounds gutted weight, respectively. The recreational annual catch limit and annual catch target would be adjusted from 1.9 million pounds gutted weight and 1.73 million pounds gutted weight, to 2.58 million pounds gutted weight, and 2.37 million pounds gutted weight, respectively. These increases in the annual catch limits and annual catch targets will provide more quota to the commercial fisherman and are expected to extend the recreational fishing season, which has been closed in-season in recent years, through the end of the year.

Timetable:

Action	Date	FR Cite
NPRM	07/26/16	81 FR 48728
NPRM Comment Period End.	08/25/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BG12

217. Reducing Disturbances to Hawaiian Spinner Dolphins From Human Interactions

Legal Authority: 16 U.S.C. 1361 *et seq.*

Abstract: This action would implement regulatory measures under the Marine Mammal Protection Act to protect Hawaiian spinner dolphins that are resting in protected bays from take due to close approach interactions with humans.

Timetable:

Action	Date	FR Cite
ANPRM	12/12/05	70 FR 73426
ANPRM Comment Period End.	01/11/06	
NPRM	08/24/16	81 FR 57854
NPRM Comment Period End.	10/23/16	
Final Action	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Director, Office of Protected Resources, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 427–8400.

RIN: 0648–AU02

218. Designation of Critical Habitat for the Gulf of Maine, New York Bight, and Chesapeake Bay Distinct Population Segments of Atlantic Sturgeon

Regulatory Plan: This entry is Seq. No. 17 in part II of this issue of the **Federal Register**.

RIN: 0648–BF28

219. Designation of Critical Habitat for the Carolina and South Atlantic Distinct Population Segments of Atlantic Sturgeon

Regulatory Plan: This entry is Seq. No. 18 in part II of this issue of the **Federal Register**.

RIN: 0648–BF32

DEPARTMENT OF COMMERCE (DOC)

Long-Term Actions

National Oceanic and Atmospheric Administration (NOAA)

National Marine Fisheries Service

220. Comprehensive Fishery Management Plan for Puerto Rico

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

Abstract: This comprehensive Puerto Rico Fishery Management Plan will incorporate, and modify as needed, federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to Puerto Rico exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of Puerto Rico. If approved, this new Puerto Rico Fishery Management Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for St. Croix and St. Thomas/St. John, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD32

221. Comprehensive Fishery Management Plan for St. Croix

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

Abstract: This comprehensive St. Croix Fishery Management Plan will incorporate, and modify as needed, federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Croix exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the

specific fishery management needs of St. Croix. If approved, this new St. Croix Fishery Management Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for Puerto Rico and St. Thomas/St. John, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD33

222. Comprehensive Fishery Management Plan for St. Thomas/St. John

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

Abstract: This comprehensive St. Thomas/St. John Fishery Management Plan will incorporate, and modify as needed, federal fisheries management measures presently included in each of the existing species-based U.S. Caribbean Fishery Management Plans (Spiny Lobster, Reef Fish, Coral, and Queen Conch Fishery Management Plans) as those measures pertain to St. Thomas/St. John exclusive economic zone waters. The goal of this action is to create a Fishery Management Plan tailored to the specific fishery management needs of St. Thomas/St. John. If approved, this new St. Thomas/St. John Fishery Management Plan, in conjunction with similar comprehensive Fishery Management Plans being developed for St. Croix and Puerto Rico, will replace the Spiny Lobster, Reef Fish, Coral and Queen Conch Fishery Management Plans presently governing the commercial and recreational harvest in U.S. Caribbean exclusive economic zone waters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD34

223. Reductions in Fishing Capacity for Lobster Management Areas 2 and 3

Legal Authority: 16 U.S.C. 5101 *et seq.*

Abstract: This action proposes several reductions in fishing capacity for Lobster Management Areas 2 and 3. The proposed measures include: Caps on the number of traps that can be actively fished; caps on the number of traps associated with a permit (*i.e.,* allowing trap banking); and caps on the number of traps or permits issued to a given owner. This action is intended to assist in rebuilding the Southern New England lobster stock.

Timetable:

Action	Date	FR Cite
NPRM	11/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Phone: 978 281–9287, Email: *john.bullard@noaa.gov*.

RIN: 0648–BF01

224. Designate Critical Habitat for the Hawaiian Insular False Killer Whale Distinct Population Segment

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

Abstract: This action would designate critical habitat for the Hawaiian insular false killer whale distinct population segment, pursuant to section 4 of the Endangered Species Act. Proposed critical habitat would be designated in the main Hawaiian islands.

Timetable:

Action	Date	FR Cite
NPRM	11/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Phone: 301 427–8400.

RIN: 0648–BC45

225. Designation of Critical Habitat for the Arctic Ringed Seal

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

Abstract: The National Marine Fisheries Service published a final rule to list the Arctic ringed seal as a threatened species under the Endangered Species Act (ESA) in December 2012. The ESA requires designation of critical habitat at the time a species is listed as threatened or endangered, or within one year of listing if critical habitat is not then determinable. This rulemaking would designate critical habitat for the Arctic ringed seal. The critical habitat designation would be in the northern Bering, Chukchi, and Beaufort seas within the current range of the species.

Timetable:

Action	Date	FR Cite
NPRM	12/03/14	79 FR 71714
Proposed Rule	12/09/14	79 FR 73010
Notice of Public Hearings.	01/13/15	80 FR 1618
Comment Period Extended.	02/02/15	80 FR 5498
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donna Wieting, Phone: 301 427–8400.

RIN: 0648–BC56

DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

226. Requirements for Importation of Fish and Fish Products Under the U.S. Marine Mammal Protection Act

Legal Authority: 16 U.S.C. 1371 *et seq.*

Abstract: With this action, the National Marine Fisheries Service developed procedures to implement the provisions of section 101(a)(2) of the Marine Mammal Protection Act for imports of fish and fish products. Those provisions require the Secretary of the Treasury to ban imports of fish and fish products from fisheries with bycatch of marine mammals in excess of U.S. standards. The provisions further require the Secretary of Commerce to insist on reasonable proof from exporting nations of the effects on marine mammals of bycatch incidental to fisheries that harvest the fish and fish products to be imported.

Timetable:

Action	Date	FR Cite
ANPRM	04/30/10	75 FR 22731
Reopening ANPRM Comment Period.	07/01/10	75 FR 38070
NPRM	08/11/15	80 FR 48171
NPRM Comment Period End.	11/09/15	
Final Action	08/15/16	81 FR 54389
Final Action Effective.	01/01/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Henderschedt, Director, Office for International Affairs and Seafood Inspection, Department of Commerce, National Oceanic and Atmospheric Administration, 1315 East West Highway, Room 10362, Silver Spring, MD 20910, *Phone:* 301 427–

8314, *Email: john.henderschedt@noaa.gov*.

RIN: 0648–AY15

227. Amendment 7 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan

Legal Authority: 16 U.S.C. 1801 *et seq.;* 16 U.S.C. 971 *et seq.*

Abstract: Amendment 7 focused on bluefin tuna fishery management issues consistent with the need to end overfishing and rebuild the stock. Measures in Amendment 7 addressed several of the longstanding challenges facing the fishery and analyzed, among other things, revisiting quota allocations; reducing and accounting for dead discards; adding or modifying time/area closures or gear-restricted areas; and improving the reporting and monitoring of dead discards and landings in all categories.

Timetable:

Action	Date	FR Cite
Notice	04/23/12	77 FR 24161
Notice	06/08/12	77 FR 34025
NPRM	08/21/13	78 FR 52032
NPRM Comment Period Extended.	09/18/13	78 FR 57340
Public Hearing	11/05/13	78 FR 66327
NPRM Comment Period Reopened.	12/11/13	78 FR 75327
Public Hearing	12/26/13	78 FR 78322
Final Rule	12/02/14	79 FR 71509
Notice of Public Webinars.	12/16/14	79 FR 74652
Final Rule	12/30/14	79 FR 78310
Final Rule	02/04/15	80 FR 5991
Final Rule Effective.	02/04/15	
Final Action—Notice.	05/07/15	80 FR 26196

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alan Risenhoover, Director, Office of Sustainable Fisheries, Department of Commerce, National Oceanic and Atmospheric Administration, Room 13362, 1315 East-West Highway, Silver Spring, MD 20910, *Phone:* 301 713–2334, *Fax:* 301 713–0596, *Email: alan.risenhoover@noaa.gov*.

RIN: 0648–BC09

228. Amendment 28 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico

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

Abstract: The National Marine Fisheries Service implemented management measures as requested by the Gulf of Mexico Fishery Management Council in Amendment 28 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico. The Council voted to reallocate the Gulf of Mexico 2016 and 2017 red snapper stock annual catch limit between the commercial and recreational sectors from 51:49 percent to 48.5:51.5 percent, respectively. As a result of the revised sector allocations finalized in Amendment 28, this rule revised the red snapper commercial and recreational quotas (which are equivalent to the annual catch limits) and the recreational annual catch targets. This rule also set the Federal charter vessel/headboat and private angling component quotas and annual catch targets based on the revised recreational sector's annual catch limit and annual catch target.

Timetable:

Action	Date	FR Cite
Notice	12/24/15	80 FR 80310
NPRM	01/25/16	81 FR 4010
NPRM Comment Period End.	03/10/16	
Final Action	04/28/16	81 FR 25575
Final Action Effective.	05/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BD68

229. Amendment 35 to the Fishery Management Plan for the Snapper Grouper Fishery of the South Atlantic Region

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

Abstract: Amendment 35 removed black snapper, dog snapper, mahogany snapper, and schoolmaster from the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region because these species have extremely low commercial landings in state and Federal waters. Almost all harvest (recreational and commercial) occurs in South Florida, and the Florida Fish and Wildlife Conservation Commission agreed that if the four species were removed from the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region they will extend state regulations for those species into Federal waters. Additionally, the South Atlantic Fishery Management Council (Council) desires consistent regulations for snapper-grouper species caught primarily in South Florida. Removing the four subject species established a consistent regulatory environment in Federal and state waters off southern Florida where they are most frequently encountered. Amendment 35 also clarified—in accordance with the Council's intent—regulations governing use of golden tilefish longline endorsements.

Timetable:

Action	Date	FR Cite
Notice	02/05/16	81 FR 6222
NPRM	03/04/16	81 FR 11502
NPRM Comment Period End.	04/04/16	
Final Action	05/23/16	81 FR 32249
Final Action Effective.	06/22/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BE70

230. Amendment 109 to the Fishery Management Plan for Groundfish of the BSAI To Facilitate Development of Groundfish Fisheries for Small Vessels in the Western Alaska Community Development Quota Program

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

Abstract: This action amended the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area and revised regulations governing the groundfish and halibut fisheries managed under the Western Alaska Community Development Quota Program in order to support increased participation in the groundfish Community Development Quota fisheries (primarily Pacific cod) by catcher vessels less than or equal to 46 feet (14.0 m) length overall using hook-and-line gear. This action was necessary to promote the goals of the Community Development Quota Program, to increase participation by residents of Community Development Quota communities in the Bering Sea and Aleutian Islands Management Area groundfish and halibut fisheries, and to support economic development in western Alaska. This action benefited the six Community Development Quota groups and the operators of the small catcher vessels that the Community Development Quota groups authorize to fish on their behalf by reducing the costs of participating in the groundfish

and halibut Community Development Quota fisheries.

Timetable:

Action	Date	FR Cite
Notice	01/21/16	81 FR 3374
NPRM	02/08/16	81 FR 6489
NPRM Comment Period End.	03/09/16	
Final Action	05/04/16	81 FR 26738
Final Action Effective.	06/03/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF05

231. Process for Divestiture of Excess Quota Shares

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

Abstract: In January 2011, the National Marine Fisheries Service implemented the groundfish trawl rationalization program (a catch share program) for the Pacific coast groundfish limited entry trawl fishery. The program was implemented through Amendments 20 and 21 to the Pacific Coast Groundfish Fishery Management Plan and the corresponding implementing regulations. Amendment 20 established the trawl rationalization program, which includes an Individual Fishing Quota program for limited entry trawl participants, and Amendment 21 established fixed allocations for limited entry trawl participants, with limits on how much quota each participant can accumulate. Under previous regulations, quota share owners had to divest quota shareholdings that exceeded individual accumulation limits by November 30, 2015. This action made minor procedural modifications to the program regulations to clarify how divestiture of excess quota share could occur.

Timetable:

Action	Date	FR Cite
NPRM	09/02/15	80 FR 53088
NPRM Comment Period End.	10/02/15	
Final Action Effective.	11/04/15	
Final Action	11/09/15	80 FR 69138

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BF11

232. Implementation of Salmon Bycatch Management Measures for the Bering Sea Pollock Fishery

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

Abstract: Regulatory Amendment 110 made substantive changes to the management of salmon bycatch in the Bering Sea pollock fishery to minimize salmon bycatch in the pollock fishery to the extent practicable. Currently, Chinook and chum salmon bycatch are managed under two different programs, which have led to inefficiencies and do not allow the pollock fishery the flexibility to modify their harvest patterns and practices to effectively minimize both Chinook and chum salmon bycatch. This regulation made salmon bycatch management more effective, comprehensive, and efficient by increasing flexibility to respond to changing conditions and providing greater incentives to reduce bycatch of both salmon species. This regulation provided the flexibility to harvest pollock in times and places that best achieve salmon avoidance and to adapt to changing conditions quickly.

Timetable:

Action	Date	FR Cite
Notice	01/08/16	81 FR 897
NPRM	02/03/16	81 FR 5681
NPRM Comment Period End.	03/04/16	
Final Action	06/10/16	81 FR 37534
Final Action Effective.	07/11/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF25

233. Cost Recovery Authorized Payment Methods

Legal Authority: 16 U.S.C. 1862; 16 U.S.C. 773 *et seq.;* Pub. L. 108–447; Pub. L. 109–241; Pub. L. 109–479; Pub. L. 111–281

Abstract: This rule amended authorized payment methods in existing cost recovery fee programs for the halibut, sablefish, and crab catch share programs. The Magnuson-Stevens Fishery Conservation and Management Act authorizes and requires the collection of cost recovery fees for fishery management programs that issue a permit allocating exclusive harvest privileges. Cost recovery fees recover the actual costs directly related to the management, data collection, and enforcement of the programs. Permit holders are required to submit cost recovery fee payments to the National Marine Fisheries Service annually. The National Marine Fisheries Service undertook a security review of the cost recovery fee payment process and developed the rule to improve security procedures for protecting sensitive financial information and to reduce costs associated with administering the cost recovery programs. The final rule eliminated manual processing of credit card information and required use of the Federal government's online payment system, pay.gov, for permit holders paying by credit card. The final rule also eliminated payments by paper check or money order and required the use of pay.gov beginning in 2020. The rule is expected to reduce the administrative costs of processing fee payments, and this reduction in costs would reduce the total amount of cost recovery fees collected from participants in the halibut, sablefish, and crab catch share programs.

Timetable:

Action	Date	FR Cite
NPRM	12/31/15	80 FR 81798
NPRM Comment Period End.	02/01/16	
Final Action	04/22/16	81 FR 23645
Final Action Effective.	05/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF35

234. Amendment 102 to the Fishery Management Plan for Groundfish of the Gulf of Alaska

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

Abstract: This rule modified the basis for the National Marine Fisheries Service to place small catcher/processors in partial coverage in the North Pacific Groundfish and Halibut Observer Program (Observer Program). Under this action, the National Marine Fisheries Service classified a catcher/

processor as small—and eligible for partial coverage—for one year based on whether the catcher/processor had an average weekly production less than a specified threshold. This action decreased the cost of observer coverage for catcher/processors that process small amounts of groundfish relative to the rest of the fleet. Approximately nine vessels could have been affected by this action and we expected all newly qualified vessels would choose to participate in partial coverage for the upcoming fishing year.

Timetable:

Action	Date	FR Cite
Notice	12/17/15	80 FR 78705
NPRM	12/29/15	80 FR 81262
Correction	01/22/16	81 FR 3775
NPRM Comment Period End.	01/28/16	
Final Action	03/29/16	81 FR 17403
Final Action Effective.	03/29/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Balsiger, Regional Administrator, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, 709 West Ninth Street, Juneau, AK 99801, *Phone:* 907 586–7221, *Fax:* 907 586–7465, *Email: jim.balsiger@noaa.gov*.

RIN: 0648–BF36

235. 2016–2018 Specifications and Management Measures for the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan

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

Abstract: This action established catch levels and associated management measures for the 2016–2018 fishing years for species managed under the Atlantic Mackerel, Squid, and Butterfish Fishery Management Plan. The final rule: Lowered the Atlantic mackerel quota by 56 percent to 9,177 metric tons (mt) for the next three years; lowered the cap on river herring and shad catch in the mackerel fishery from 89 mt to 82 mt for the next three years; increased the trigger for when 3-inch mesh is required for longfin squid-butterfish moratorium permits holders from 2,500 lb to 5,000 lb; clarified that 5-inch (square or diamond) or greater strengtheners may be used outside the 3-inch mesh to avoid breaking nets during large hauls; and suspended the pre-trip notification system requirement for longfin squid-butterfish moratorium permit holders.

Timetable:

Action	Date	FR Cite
NPRM	01/22/16	81 FR 3768
NPRM Comment Period End.	02/22/16	
Final Action	04/26/16	81 FR 24504
Final Action Effective.	05/26/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF53

236. Framework Adjustment 27 to the Atlantic Sea Scallop Fishery Management Plan

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

Abstract: The purpose of Framework 27 was to set management measures for the scallop fishery for the 2016 fishing year, including the annual catch limits and annual catch targets for the limited access and limited access general category fleets, as well as days-at-sea allocations and sea scallop access area trip allocations. Allocations were similar to or slightly higher than previous years. In addition, Framework 27 implemented additional measures to protect small scallops for future harvest.

Timetable:

Action	Date	FR Cite
NPRM	02/24/16	81 FR 9151
NPRM Comment Period End.	03/25/16	
Final Action	05/04/16	81 FR 26727
Final Action Effective.	05/04/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF59

237. Revisions to the Pacific Halibut Catch Sharing Plan, Codified Regulations, and Annual Management Measures for 2016 and Beyond

Legal Authority: 16 U.S.C. 773 *et seq.*

Abstract: This action was the National Marine Fisheries Service's annual rulemaking regarding halibut fishing on the U.S. West Coast, implementing the Pacific Halibut Catch Sharing Plan (Plan). The Plan governs the allocation of the annual halibut quota for the West Coast fisheries, which is set by the International Pacific Halibut Commission and approved by NOAA Fisheries. For 2016 and beyond, the Pacific Fishery Management Council recommended several minor changes to the portion of the Plan covering sport fishery seasons and retention rules; and modifications to the processes for implementing inseason actions and sport fishery closures.

Timetable:

Action	Date	FR Cite
NPRM	02/19/16	81 FR 8466
NPRM Comment Period End.	03/10/16	
Final Action	04/01/16	81 FR 18789
Final Action Effective.	04/01/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Stelle Jr., Regional Administrator, West Coast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 7600 Sand Point Way Northeast, Building 1, Seattle, WA 98115, *Phone:* 206 526–6150, *Email: will.stelle@noaa.gov*.

RIN: 0648–BF60

238. Regulatory Amendment 25 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region

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

Abstract: This rule finalized management changes recommended by the South Atlantic Fishery Management Council to blueline tilefish, yellowtail snapper, and black sea bass in the South Atlantic Region. This rule increased the annual catch limit and optimum yield for blueline tilefish based on a new acceptable biological catch recommendation from the South Atlantic Council's Scientific and Statistical Committee. This action also finalized an increase to the current commercial trip limit and changed the recreational bag limit for blueline tilefish. The fishing year for yellowtail snapper was previously based on the calendar year. This rule implemented a summer/early fall start date of the fishing year to protect the yellowtail snapper stock during the spawning season and provide economic benefits for commercial fishermen. Lastly, this rule implemented an increase to the black sea bass recreational bag limit to increase the chance the recreational annual catch limit will be landed and

ensure that optimum yield is being achieved.

Timetable:

Action	Date	FR Cite
NPRM	06/01/16	81 FR 34944
NPRM Comment Period End.	06/16/16	
Final Action	07/13/16	81 FR 45245
Final Action Effective.	08/12/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*

RIN: 0648–BF61

239. Amendment 17A to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, U.S. Waters

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

Abstract: This rule implemented the Gulf of Mexico Fishery Management Council's decision to extend the Council-imposed moratorium on new federal commercial shrimp permits for 10 years. The moratorium began in 2006 and would have expired in 2016 if no action was taken. This action was necessary to protect federally managed Gulf of Mexico shrimp stocks while promoting catch efficiency, economic efficiency and stability.

Timetable:

Action	Date	FR Cite
Notice of Availability.	04/05/16	81 FR 19547
NPRM	04/14/16	81 FR 22042
NPRM Comment Period End.	05/16/16	
Final Action	07/22/16	81 FR 47733
Final Action Effective.	07/22/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Roy E. Crabtree, Regional Administrator, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 263 13th Avenue South, St. Petersburg, FL 33701, *Phone:* 727 824–5305, *Fax:* 727 824–5308, *Email: roy.crabtree@noaa.gov*.

RIN: 0648–BF77

240. Framework Adjustment 3 to the Northeast Skate Complex Fishery Management Plan

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

Abstract: This action, developed by the New England Fishery Management Council, includes skate fishery specifications for the 2016–2017 fishing years, and a new seasonal quota allocation in the skate wing fishery. In summary, the Council proposes: An annual catch limit for skate of 31,081 metric tons, an overall total allowable landings of 12,590 metric tons, status quo possession limits for the skate wing and bait fisheries, the addition of a seasonal quota allocation, and the National Marine Fisheries Service authority to close the fishery in-season if the seasonal quota is reached.

Timetable:

Action	Date	FR Cite
NPRM	06/06/16	81 FR 36251
NPRM Comment Period End.	06/21/16	
Final Rule	08/17/16	81 FR 54744
Final Rule Effective.	09/02/16	
Final Action	09/02/16	81 FR 60635
Final Action Effective.	09/02/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF87

241. 2016–2018 Spiny Dogfish Fishery Specifications

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

Abstract: This action includes spiny dogfish fishery specifications for the 2016–2018 fishing years, as recommended by the Mid-Atlantic and New England Fishery Management Councils. In summary, the Councils implemented: Spiny dogfish annual catch limits of 51.9 million lb for 2016, 50.7 million lb for 2017, and 49.8 million lb for 2018 (decreases from 62.3 million lb in 2015); coastwide commercial quotas of 40.4 million lb for 2016, 39.1 million lb for 2017, and 38.2 million lb for 2018 (decreases from 50.6 million lb in 2015); and spiny dogfish trip limits of 5,000 lb (status quo).

Timetable:

Action	Date	FR Cite
NPRM	06/22/16	81 FR 40650
NPRM Comment Period End.	07/07/16	
Final Action	08/15/16	81 FR 53958
Final Action Effective.	08/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John K. Bullard, Regional Administrator, Greater Atlantic Region, Department of Commerce, National Oceanic and Atmospheric Administration, 55 Great Republic Drive, Gloucester, MA 01930, *Phone:* 978 281–9287, *Email: john.bullard@noaa.gov*.

RIN: 0648–BF88

DEPARTMENT OF COMMERCE (DOC)

Patent and Trademark Office (PTO)

Proposed Rule Stage

242. Setting and Adjusting Patent Fees During Fiscal Year 2017

Legal Authority: Pub. L. 112–29

Abstract: The United States Patent and Trademark Office (Office) takes this action to set and adjust Patent fee amounts to provide the Office with a sufficient amount of aggregate revenue to recover its aggregate cost of operations while helping the Office maintain a sustainable funding model, reduce the current patent application backlog, decrease patent pendency, improve quality, and upgrade the Office's business information technology capability and infrastructure.

Timetable:

Action	Date	FR Cite
NPRM	10/04/16	81 FR 68150
NPRM Comment Period End.	12/02/16	
Final Rule	04/00/17	
Final Rule Effective.	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Hourigan, Director, Office of Planning and Budget, Department of Commerce, Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450, *Phone:* 571 272–8966, *Fax:* 571 273–8966, *Email: brendan.hourigan@uspto.gov*.

RIN: 0651–AD02

[FR Doc. 2016–29856 Filed 12–22–16; 8:45 am]

BILLING CODE 3510–12–P

FEDERAL REGISTER

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Part V

Department of Defense

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

48 CFR Ch. II

Improving Government Regulations; Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Department of Defense (DoD).

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Defense (DoD) is publishing this semiannual agenda of regulatory documents, including those that are procurement-related, for public information and comments under Executive Order 12866 ''Regulatory Planning and Review.'' This agenda incorporates the objective and criteria, when applicable, of the regulatory reform program under the Executive order and other regulatory guidance. It contains DoD regulations initiated by DoD components that may have economic and environmental impact on State, local, or tribal interests under the criteria of Executive Order 12866. Although most DoD regulations listed in the agenda are of limited public impact, their nature may be of public interest and, therefore, are published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process. Members of the public may submit comments on individual proposed and interim final rulemakings at *www.regulations.gov* during the comment period that follows publication in the **Federal Register**.

This agenda updates the report published on May 18, 2016, and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in the spring of 2017.

The complete Unified Agenda will be available online at *www.reginfo.gov.*

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Defense's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is in the Unified Agenda available online.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Ms. Patricia Toppings, telephone 571–372–0485, or write to Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301–9010, or email: *patricia.l.toppings.civ@mail.mil.*

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, write to Office of the General Counsel, 1600 Defense Pentagon, Washington, DC 20301–1600, or call 703–697–2714.

For general information on Office of the Secretary regulations, other than those which are procurement-related, contact Ms. Morgan Park, telephone 571–372–0489, or write to Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Advisory Committee Division, 9010 Defense Pentagon, Washington, DC 20301–9010, or email: *morgan.e.park.civ@mail.mil.*

For general information on Office of the Secretary regulations which are procurement-related, contact Ms. Jennifer Hawes, telephone 571–372–6115, or write to Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Defense Procurement and Acquisition Policy, Defense Acquisition Regulations System, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060, or email: *jennifer.l.hawes2.civ@mail.mil.*

For general information on Department of the Army regulations, contact Ms. Brenda Bowen, telephone 703–428–6173, or write to the U.S. Army Records Management and Declassification Agency, ATTN: AAHS–RDR–C, Casey Building, Room 102, 7701 Telegraph Road, Alexandria, Virginia 22315–3860, or email: *brenda.s.bowen.civ@mail.mil.*

For general information on the U.S. Army Corps of Engineers regulations, contact Mr. Chip Smith, telephone 703–693–3644, or write to Office of the Deputy Assistant Secretary of the Army (Policy and Legislation), 108 Army Pentagon, Room 2E569, Washington, DC 20310–0108, or email: *charles.r.smith567.civ@mail.mil.*

For general information on Department of the Navy regulations, contact CDR Noreen Hagerty-Ford, telephone 703–614–7408, or write to Department of the Navy, Office of the Judge Advocate General, Administrative Law Division (Code 13), Washington Navy Yard, 1322 Patterson Avenue SE., Suite 3000, Washington, DC 20374–5066, or email: *noreen.hagerty-ford@navy.mil.*

For general information on Department of the Air Force regulations, contact Bao-Anh Trinh, telephone 703–614–8500, or write the Office of the Secretary of the Air Force, Chief, Information Dominance/Chief Information Officer (SAF CIO/A6), 1800 Air Force Pentagon, Washington, DC 20330–1800, or email: *usaf.pentagon.saf-cio-a6.mbx.af-foia@mail.mil.*

For specific agenda items, contact the appropriate individual indicated in each DoD component report.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions is composed of the regulatory status reports, including procurement-related regulatory status reports, from the Office of the Secretary of Defense (OSD) and the Departments of the Army and Navy. Included also is the regulatory status report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of Executive Order 12866 and involve water resource projects and regulation of activities in waters of the United States.

In addition, this agenda, although published under the reporting requirements of Executive Order 12866, continues to be the DoD single-source reporting vehicle, which identifies regulations that are currently applicable under the various regulatory reform programs in progress. Therefore, DoD components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act;

b. Paperwork Reduction Act of 1995;

c. Unfunded Mandates Reform Act of 1995.

Those DoD regulations, which are directly applicable under these statutes, will be identified in the agenda and their action status indicated. Generally, the regulatory status reports in this agenda will contain five sections: (1) Prerule stage; (2) proposed rule stage; (3) final rule stage; (4) completed actions; and (5) long-term actions. Where certain regulatory actions indicate that small entities are affected, the effect on these entities may not necessarily have significant economic impact on a

substantial number of these entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)).

Although not a regulatory agency, DoD will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD component representatives identified in the regulatory status reports. Although sensitive to the needs of the public, as well as regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission. The publishing of this agenda does not waive the applicability of the military affairs exemption in section 553 of title 5 U.S.C. and section 3 of Executive Order 12866. Executive Order 13563 recognizes the importance of maintaining a consistent culture of retrospective review and analysis throughout the executive branch. DoD's retrospective review plan is intended to identify certain significant rules that are obsolete, unnecessary, unjustified, excessively burdensome, or counterproductive and can be accessed at: *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

Dated: August 30, 2016.

David Tillotson III,

Assistant Deputy Chief Management Officer.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH AFFAIRS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
243	TRICARE; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities (Reg Plan Seq No. 22).	0720–AB47

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEPARTMENT OF DEFENSE (DOD)

Office of Assistant Secretary for Health Affairs (DODOASHA)

Final Rule Stage

243. Tricare; Reimbursement of Long Term Care Hospitals and Inpatient Rehabilitation Facilities

Regulatory Plan: This entry is Seq. No. 22 in part II of this issue of the **Federal Register**.

RIN: 0720–AB47

[FR Doc. 2016–29858 Filed 12–22–16; 8:45 am]

BILLING CODE 5001–06–P

FEDERAL REGISTER

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Part VI

Department of Education

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, Department of Education.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Secretary of Education publishes a semiannual agenda of Federal regulatory and deregulatory actions. The agenda is issued under the authority of section 4(b) of Executive Order 12866, ''Regulatory Planning and Review.'' The purpose of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the regulatory actions we plan to take.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the agency contact listed for the regulations. Other questions or comments on this agenda should be directed to LaTanya Cannady, Program Specialist, Emily Fridman, Attorney, Rachel Disario, Attorney, or Hilary Malawer, Assistant General Counsel, Division of Regulatory Services, Department of Education, Room 6C128, 400 Maryland Avenue SW., Washington, DC 20202–2241; telephone: LaTanya Cannady (202) 401–9676, Emily Fridman (202) 453–7421, Rachel Disario (202) 401–0897, or Hilary Malawer (202) 401–6148. Individuals who use a telecommunications device for the deaf or a text telephone may call the Federal Relay Service at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 4(b) of Executive Order 12866, dated September 30, 1993, requires the Department of Education (ED) to publish, at a time and in a manner specified by the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget, an agenda of all regulations under development or review. The Regulatory Flexibility Act, 5 U.S.C. 602(a), requires ED to publish, in October and April of each year, a regulatory flexibility agenda.

The regulatory flexibility agenda may be combined with any other agenda that satisfies the statutory requirements (5 U.S.C. 605(a)). In compliance with the Executive order and the Regulatory Flexibility Act, the Secretary publishes this agenda.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation to any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract that includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).
- A reference to where a reader can find the current regulations in the Code of Federal Regulations.
- A citation of legal authority.
- The name, address, and telephone number of the contact person at ED from whom a reader can obtain additional information regarding the planned action.

In accordance with ED's Principles for Regulating listed in its regulatory plan (78 FR 1361, published January 8, 2013), ED is committed to regulations that improve the quality and equality of services to its customers. ED will regulate only if absolutely necessary and then in the most flexible, most equitable, least burdensome way possible.

Interested members of the public are invited to comment on any of the items listed in this agenda that they believe are not consistent with the Principles for Regulating. Members of the public are also invited to comment on any uncompleted actions in this agenda that ED plans to review under section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine their economic impact on small entities.

This publication does not impose any binding obligation on ED with regard to any specific item in the agenda. ED may elect not to pursue any of the regulatory actions listed here, and regulatory action in addition to the items listed is not precluded. Dates of future regulatory actions are subject to revision in subsequent agendas.

Electronic Access to This Document

The entire Unified Agenda is published electronically and is available online at *www.reginfo.gov.*

Philip Rosenfelt,

Deputy General Counsel.

OFFICE OF POSTSECONDARY EDUCATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
244	Borrower Defense	1840–AD19

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Completed Actions

244. Borrower Defense

Legal Authority: 20 U.S.C. 1001 *et seq.*

Abstract: The Department is establishing regulations for determining which acts or omissions of an institution of higher education a borrower may assert as a defense to repayment of a loan made under the William D. Ford Federal Direct Loan (Federal Direct Loan) Program and identifying the consequences of such borrower defenses for borrowers, institutions, and the Secretary.

Completed:

Reason	Date	FR Cite
NPRM	06/16/16	81 FR 39329
Final Action	11/01/16	81 FR 75926

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Annmarie Weisman, *Phone:* 202 453–6712, *Email: annmarie.weisman@ed.gov.*

RIN: 1840–AD19

[FR Doc. 2016–29859 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part VII

Department of Energy

Semiannual Regulatory Agenda

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

48 CFR Ch. 9

Semiannual Regulatory Agenda

AGENCY: Department of Energy.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Energy (DOE) has prepared and is making available its portion of the semiannual Unified Agenda of Federal Regulatory and Deregulatory Actions (Agenda), including its Regulatory Plan (Plan), pursuant to Executive Order 12866, ''Regulatory Planning and Review,'' and the Regulatory Flexibility Act.

SUPPLEMENTARY INFORMATION: The Agenda is a government-wide compilation of upcoming and ongoing regulatory activity, including a brief description of each rulemaking and a timetable for action. The Agenda also includes a list of regulatory actions completed since publication of the last Agenda. The Department of Energy's portion of the Agenda includes regulatory actions called for by statute, including amendments contained in the Energy Independence and Security Act of 2007 and the American Energy Manufacturing Technical Corrections Act, and programmatic needs of DOE offices.

The Internet is the basic means for disseminating the Agenda and providing users the ability to obtain information from the Agenda database. DOE's entire Fall 2016 Agenda can be accessed online by going to *www.reginfo.gov.* Agenda entries reflect the status of activities as of approximately November 30, 2016.

Publication in the **Federal Register** is mandated by the Regulatory Flexibility Act (5 U.S.C. 602) only for Agenda entries that require either a regulatory flexibility analysis or periodic review under section 610 of that Act. DOE's regulatory flexibility agenda is made up of seven rulemakings that will set energy conservation standards for the following products:

- Walk-In Coolers and Walk-In Freezers (1904–AD59)
- Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces (1904–AD20)
- Commercial Water Heaters (1904–AD34)
- Commercial Packaged Boilers (1904–AD01)
- General Service Fluorescent Lamps (1904–AD09)
- Dedicated Purpose Pool Pumps (1904–AD52)
- Manufactured Housing (1904–AC11)

The Plan appears in both the online Agenda and the **Federal Register** and includes the most important of DOE's significant regulatory actions and a Statement of Regulatory and Deregulatory Priorities.

Steven P. Croley,

General Counsel.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
245	Energy Conservation Standards for General Service Lamps **(Reg Plan Seq No. 26)**	1904–AD09
246	Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces **(Reg Plan Seq No. 27)**.	1904–AD20
247	Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers **(Reg Plan Seq No. 28)**	1904–AD59

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
248	Energy Conservation Standards for Commercial Packaged Boilers **(Reg Plan Seq No. 30)**	1904–AD01
249	Energy Conservation Standards for Ceiling Fans	1904–AD28
250	Energy Conservation Standards for Commercial Water Heating Equipment **(Reg Plan Seq No. 31)**	1904–AD34
251	Energy Conservation Program: Test Procedures for Walk-In Cooler and Freezer Refrigeration Systems	1904–AD72

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ENERGY EFFICIENCY AND RENEWABLE ENERGY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
252	Energy Conservation Standards for Hearth Products	1904–AD35

ENERGY EFFICIENCY AND RENEWABLE ENERGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
253	Enforcement of Regional Standards for Residential Furnaces and Central Air Conditioners and Heat Pumps.	1904–AC68
254	Energy Efficiency Standards for Residential Dehumidifiers	1904–AC81
255	Energy Conservation Standards for Small, Large, and Very Large Commercial Package Air Conditioning and Heating Equipment.	1904–AC95
256	Energy Conservation Standards for Commercial Warm Air Furnaces	1904–AD11
257	Test Procedure for Commercial Water Heating Equipment	1904–AD18

DEFENSE AND SECURITY AFFAIRS—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
258	Workplace Substance Abuse Programs at DOE Sites	1992–AA53

DEFENSE AND SECURITY AFFAIRS—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
259	Chronic Beryllium Disease Prevention Program	1992–AA39

OFFICE OF GENERAL COUNSEL—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
260	Energy Conservation Program: Certification and Enforcement—Import Data Collection	1990–AA44

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Proposed Rule Stage

245. Energy Conservation Standards for General Service Lamps

Regulatory Plan: This entry is Seq. No. 26 in part II of this issue of the **Federal Register**.
RIN: 1904–AD09

246. Energy Conservation Standards for Residential Non-Weatherized Gas Furnaces and Mobile Home Gas Furnaces

Regulatory Plan: This entry is Seq. No. 27 in part II of this issue of the **Federal Register**.
RIN: 1904–AD20

247. Energy Conservation Standards for Walk-In Coolers and Walk-In Freezers

Regulatory Plan: This entry is Seq. No. 28 in part II of this issue of the **Federal Register**.
RIN: 1904–AD59

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Final Rule Stage

248. Energy Conservation Standards for Commercial Packaged Boilers

Regulatory Plan: This entry is Seq. No. 30 in part II of this issue of the **Federal Register**.
RIN: 1904–AD01

249. Energy Conservation Standards for Ceiling Fans

Legal Authority: 42 U.S.C. 6295(ff); 42 U.S.C. 6291 (49)

Abstract: EPCA authorizes the Secretary to determine whether updating the statutory energy conservation standards for ceiling fans is technically feasible and economically justified and would result in significant energy savings. If these criteria are met, the Secretary may issue amended energy conservation standards for ceiling fans.

Timetable:

Action	Date	FR Cite
NPRM	01/13/16	81 FR 1688
NPRM Comment Period End.	03/14/16	
NPRM Comment Period Extended.	03/15/16	81 FR 13763
NPRM Comment Period Extended End.	04/14/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lucy DeButts, Office of Buildings Technologies Program, EE–5B, Department of Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–1604, *Email: lucy.debutts@ee.doe.gov*.

RIN: 1904–AD28

250. Energy Conservation Standards for Commercial Water Heating Equipment

Regulatory Plan: This entry is Seq. No. 31 in part II of this issue of the **Federal Register**.
RIN: 1904–AD34

251. • Energy Conservation Program: Test Procedures for Walk-In Cooler and Freezer Refrigeration Systems

Legal Authority: 42 U.S.C. 6311 *et seq.*

Abstract: DOE established a Working Group to negotiate amended energy conservation standards for six classes of walk-in cooler and freezer (walk-in) refrigeration systems. After holding a series of meetings as part of a negotiated rulemaking, the Working Group developed a Term Sheet containing a series of recommendations regarding potential energy conservation standards for these refrigeration systems and the current test procedure for evaluating the energy efficiency of a walk-in refrigeration system. This rulemaking proposes several test procedure amendments to implement these recommendations. These proposed amendments include certain changes to improve test procedure clarity, updating related certification and enforcement provisions to address the performance-based energy conservation standards for walk-in cooler and freezer equipment, and establishing labeling requirements that will aid manufacturers in determining which components would be considered for compliance purposes as intended for walk-in cooler and freezer applications. The proposal would also add certain equipment-specific definitions, remove the test method for refrigeration systems with hot gas defrost, and include a method to accommodate refrigeration equipment that use adaptive defrost and on-cycle variable-speed evaporator fan control.

Timetable:

Action	Date	FR Cite
NPRM	08/17/16	81 FR 54926
NPRM Comment Period End.	10/17/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ashley Armstrong, General Engineer, EE–5B, Department of

Energy, Energy Efficiency and Renewable Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–6590, *Email: ashley.armstrong@ee.doe.gov.*

RIN: 1904–AD72

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Long-Term Actions

252. Energy Conservation Standards for Hearth Products

Legal Authority: 42 U.S.C. 6292(a)(20) and (b); 42 U.S.C. 6295(l)(1)

Abstract: DOE is conducting a rulemaking to analyze potential energy conservation standards for hearth products. DOE is developing this rulemaking concurrent with its coverage determination for these products.

Timetable:

Action	Date	FR Cite
NPRM and Notice of Public Meeting.	02/09/15	80 FR 7082
NPRM Comment Period End.	04/10/15	
NPRM Comment Period Extended.	04/13/15	80 FR 19569
NPRM Comment Period Extended End.	05/11/15	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cymbalsky, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AD35

DEPARTMENT OF ENERGY (DOE)

Energy Efficiency and Renewable Energy (EE)

Completed Actions

253. Enforcement of Regional Standards for Residential Furnaces and Central Air Conditioners and Heat Pumps

Legal Authority: 42 U.S.C. 6295(o)(6)(G)(ii)(l)

Abstract: DOE has developed three separate possible approaches to enforcement of regional standards for residential furnaces and residential central air conditioners and heat pumps set forth by direct final rule published in the **Federal Register** on June 27, 2011. 76 FR 37549. Adoption of these regional standards was addressed on October 31, 2011. (76 FR 67037) DOE intends to select one of these three approaches, or a combination of elements in these approaches, as a framework for an enforcement plan for regional standards. DOE is also considering a possible waiver process for regional standards applicability. DOE is required to promulgate an enforcement final rule covering the enforcement of regional standards ''[n]ot later than 15 months after the date of the issuance of a final rule that establishes a regional standard'' (42 U.S.C. 6295(o)(6)(G)(ii)(III)). In a notice published in the **Federal Register** on June 13, 2014, 79 FR 33870, DOE announced that it was forming a working group under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) to develop proposed energy efficiency requirements for regional standards enforcement. On November 19, 2015, DOE published a notice of proposed rulemaking that included the recommendations of the working group (80 FR 72373). On July 14, 2016, DOE published a final rule. (81 FR 45387)

Completed:

Reason	Date	FR Cite
Final Action	07/14/16	81 FR 45387
Final Action Effective.	08/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ashley Armstrong, *Phone:* 202 586–6590, *Email: ashley.armstrong@ee.doe.gov.*

RIN: 1904–AC68

254. Energy Efficiency Standards for Residential Dehumidifiers

Legal Authority: 42 U.S.C. 6295(m) and (cc)

Abstract: EPCA requires the Secretary to determine whether updating the statutory energy conservation standards for residential dehumidifiers is technically feasible and economically justified and would result in significant energy savings. If these criteria are met, the Secretary will issue amended energy conservation standards.

Completed:

Reason	Date	FR Cite
Final Rule	06/13/16	81 FR 38338
Final Rule Effective.	08/12/16	
Final Rule; Technical Correction.	08/22/16	81 FR 56471
Final Rule; Technical Correction Effective.	08/22/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cymbalsky, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AC81

255. Energy Conservation Standards for Small, Large, and Very Large Commercial Package Air Conditioning and Heating Equipment

Legal Authority: 42 U.S.C. 6313(a)(6)(c)(i) and (vi); 42 U.S.C. 6316; 42 U.S.C. 6295(p)(4)

Abstract: The Energy Policy and Conservation Act of 1975, as amended, requires DOE to periodically review its standards for small, large, and very large commercial package air conditioners and heating equipment (which includes commercial unitary air conditioners and heat pumps—or CUACs). Under amendments to EPCA made by the American Energy Manufacturing Technical Corrections Act of 2012, Pub. L. 112–210 (Dec. 18, 2012), DOE must review its standards for this equipment every six years and determine whether they need amending. It also requires that, for those equipment types for which more than six years have elapsed since the most recent final rules establishing or amending a standard for that equipment, DOE must publish either a notice of determination not to amend standards or a proposal to amend the applicable standard by December 31, 2013. More than six years has elapsed since the standards for this equipment were last amended. On April 1, 2015, DOE published a notice announcing that a working group, under the Appliance Standards Federal Rulemaking Advisory Committee (ASRAC), was created to potentially develop negotiated standards (80 FR 17363). DOE is conducting this rulemaking to consider amended energy conservation standards for commercial unitary air conditioners and heat pumps as required by EPCA, as amended.

Completed:

Reason	Date	FR Cite
Direct Final Rule and Accompanying SNPRM Comment Period End.	05/04/16	
Direct Final Rule Effective.	05/16/16	
Confirmation of Effective Date and Compliance Dates for Direct Final Rule.	05/24/16	81 FR 32628

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cymbalsky, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AC95

256. Energy Conservation Standards for Commercial Warm Air Furnaces

Legal Authority: 42 U.S.C. 6313(a)(6)(C)(i) and (vi); 42 U.S.C. 6316; 42 U.S.C. 6295(p)(4); 42 U.S.C. 6311 (11)(A)

Abstract: EPCA, as amended by the American Energy Manufacturing Technical Corrections Act (AEMTCA) of 2012, Pub. L. 112–210 (Dec. 18, 2012), requires the Secretary to review its standards for this equipment every six years and to determine whether updating the statutory energy conservation standards for commercial warm air furnaces is technically feasible and economically justified and would save a significant amount of energy. It also requires that, for those equipment types for which more than six years have elapsed since the most recent final rules establishing or amending a standard for that equipment, DOE must publish either a notice of determination not to amend standards or a proposal to amend the applicable standards by December 31, 2013. More than six years have elapsed since the standards for this equipment were last amended. On April 1, 2015, DOE published a notice announcing the creation of a working group under the Appliance Standards Federal Rulemaking Advisory Committee (ASRAC) to potentially develop negotiated standards (80 FR 17363). DOE is conducting this rulemaking to consider amended energy conservation standards for commercial warm air furnaces as required by EPCA, as amended.

Completed:

Reason	Date	FR Cite
Direct Final Rule and Accompanying SNPRM Comment Period End.	05/04/16	
Direct Final Rule Effective.	05/16/16	
Confirmation of Effective Date and Compliance Date for Direct Final Rule.	05/24/16	81 FR 32628

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Cymbalsky, *Phone:* 202 287–1692, *Email: john.cymbalsky@ee.doe.gov.*

RIN: 1904–AD11

257. Test Procedure for Commercial Water Heating Equipment

Legal Authority: 42 U.S.C. 6314(a)(1)(A); 42 U.S.C. 6314(a)(4)(B)

Abstract: EPCA, as amended by EISA 2007 and AEMTCA, requires the Secretary to update test procedures for commercial water heating equipment to be consistent with the amended industry test procedure so as to reflect any technological advances in this equipment and accurately represent the energy consumption of this equipment. The statute also requires DOE to consider any necessary amendments to its test procedures at least once every seven years. This rulemaking will satisfy both statutory provisions.

Completed:

Reason	Date	FR Cite
NPRM	05/09/16	81 FR 28588
Final Rule	11/10/16	81 FR 79261
Final Action Effective.	12/12/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ashley Armstrong, *Phone:* 202 586–6590, *Email: ashley.armstrong@ee.doe.gov.*

RIN: 1904–AD18

DEPARTMENT OF ENERGY (DOE)

Defense and Security Affairs (DSA)

Proposed Rule Stage

258. Workplace Substance Abuse Programs at DOE Sites

Legal Authority: 41 U.S.C. 701 *et seq.;* 41 U.S.C. 2012, 2013, 2051, 2061, 2165, 2201b, 2201i, and 2201(p); 42 U.S.C 5814 and 5815; 42 U.S.C. 7151, 7251, and 7256; 50 U.S.C. 2401 *et seq.*

Abstract: The Department of Energy is amending its regulation related to workplace substance abuse programs at DOE sites. The proposed amendments would address drug and alcohol abuse, testing workers in certain sensitive positions, development and approval of a workplace substance abuse program, employee assistance programs and training. The proposed amendments would improve and strengthen the substance abuse programs and enhance consistency with advances in similar rules and other Federal drug and alcohol programs that place similar requirements on the private sector.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	
Final Action	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jacqueline D. Rogers, Industrial Hygienist, AU–11, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–4714, *Email: jackie.rogers@hq.doe.gov.*

RIN: 1992–AA53

DEPARTMENT OF ENERGY (DOE)

Defense and Security Affairs (DSA)

Final Rule Stage

259. Chronic Beryllium Disease Prevention Program

Legal Authority: 42 U.S.C. 2201(i)(3), and (p); 42 U.S.C. 2282(c); 29 U.S.C. 668; 42 U.S.C. 7107 *et seq.;* 50 U.S.C. 2401 *et seq.;* E.O. 12196

Abstract: The Department of Energy is amending its current chronic beryllium disease prevention program regulation. The proposed amendments would improve and strengthen the current provisions and continue to be applicable to DOE Federal and contractor employees who are, were, or potentially were exposed to beryllium at DOE sites.

Timetable:

Action	Date	FR Cite
NPRM	06/07/16	81 FR 36704
NPRM Comment Period End.	09/06/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jacqueline D. Rogers, Industrial Hygienist, AU–11, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 586–4714, *Email: jackie.rogers@hq.doe.gov.*

RIN: 1992–AA39

DEPARTMENT OF ENERGY (DOE)

Office of General Counsel (OGC)

Final Rule Stage

260. Energy Conservation Program: Certification and Enforcement-Import Data Collection

Legal Authority: 42 U.S.C. 6291 to 6317

Abstract: This rulemaking will provide DOE an automated mechanism to advise U.S. Customs and Border

Protection (CBP) of imports that do not comply with energy conservation standards and/or to advise CBP of DOE's recommendation for conditional release of goods.

Timetable:

Action	Date	FR Cite
NPRM	12/29/15	80 FR 81199
NPRM Comment Period End.	02/12/16	
Notice of Public Meeting and NPRM Comment Period Reopened.	02/17/16	81 FR 8022
NPRM Comment Period Reopened End.	02/29/16	
2nd NPRM Comment Period Reopened.	03/07/16	81 FR 11686
2nd NPRM Comment Period Reopened End.	03/14/16	
3rd NPRM Comment Period Reopened.	05/16/16	81 FR 30217
3rd NPRM Comment Period Reopened End.	06/15/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Laura Barhydt, Assistant General Counsel for Enforcement, Department of Energy, Office of General Counsel, 1000 Independence Avenue SW., Washington, DC 20585, *Phone:* 202 287–5772, *Email: laura.barhydt@hq.doe.gov.*

RIN: 1990–AA44

[FR Doc. 2016–29860 Filed 12–22–16; 8:45 am]

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Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

21 CFR Ch. I

25 CFR Ch. V

42 CFR Chs. I–V

45 CFR Subtitle A; Subtitle B, Chs. II, III, and XIII

Regulatory Agenda

AGENCY: Office of the Secretary, HHS.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Regulatory Flexibility Act of 1980 and Executive Order (E.O.) 12866 require the semiannual issuance of an inventory of rulemaking actions under development throughout the Department, offering for public review summarized information about forthcoming regulatory actions.

FOR FURTHER INFORMATION CONTACT: Wilma Robinson, Deputy Executive Secretary, Department of Health and Human Services, 200 Independence Avenue SW., Washington, DC 20201; (202) 690–5627.

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) is the Federal government's lead agency for protecting the health of all Americans and providing essential human services, especially for those who are least able to help themselves. HHS enhances the health and well-being of Americans by promoting effective health and human services and by fostering sound, sustained advances in the sciences underlying medicine, public health, and social services.

This Agenda presents the rulemaking activities that the Department expects to undertake in the foreseeable future to advance this mission. The Agenda furthers several Departmental goals, including strengthening health care; advancing scientific knowledge and innovation; advancing the health, safety, and well-being of the American people; increasing efficiency, transparency, and accountability of HHS programs; and strengthening the nation's health and human services infrastructure and workforce.

HHS has an agency-wide effort to support the Agenda's purpose of encouraging more effective public participation in the regulatory process. For example, to encourage public participation, we regularly update our regulatory Web page (*http://www.HHS.gov/regulations*) which includes links to HHS rules currently open for public comment, and also provides a ''regulations toolkit'' with background information on regulations, the commenting process, how public comments influence the development of a rule, and how the public can provide effective comments. HHS also actively encourages meaningful public participation in its retrospective review of regulations, through a comment form on the HHS retrospective review Web page (*http://www.HHS.gov/RetrospectiveReview*).

The rulemaking abstracts included in this paper issue of the **Federal Register** cover, as required by the Regulatory Flexibility Act of 1980, those prospective HHS rulemakings likely to have a significant economic impact on a substantial number of small entities. The Department's complete Regulatory Agenda is accessible online at *http://www.RegInfo.gov.*

Madhura C. Valverde,

Executive Secretary to the Department.

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
261	Removal of 2 CFR Subsection 376.147 (Rulemaking Resulting From a Section 610 Review)	0991–AC08
262	Uniform Administrative Requirements, Costs Principles and Adult Requirements (45 CFR 75) (Rulemaking Resulting From a Section 610 Review).	0991–AC09

OFFICE FOR CIVIL RIGHTS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
263	Nondiscrimination Under the Patient Protection and Affordable Care Act	0945–AA02

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
264	ONC Health IT Certification Program: Enhanced Oversight and Accountability	0955–AA00

FOOD AND DRUG ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
265	Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products	0910–AF31
266	Updated Standards for Labeling of Pet Food	0910–AG09
267	Format and Content of Reports Intended To Demonstrate Substantial Equivalence	0910–AG96
268	Radiology Devices; Designation of Special Controls for the Computed Tomography X-Ray System	0910–AH03
269	Mammography Quality Standards Act; Regulatory Amendments **(Reg Plan Seq No. 35)**	0910–AH04
270	Investigational New Drug Application Annual Reporting	0910–AH07
271	Requirements for Tobacco Product Manufacturing Practice	0910–AH22
272	Use of Ozone Depleting Substances (Section 610 Review)	0910–AH36

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FOOD AND DRUG ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
273	Postmarketing Safety Reporting Requirements for Human Drug and Biological Products	0910–AA97
274	Medical Gas Containers and Closures; Current Good Manufacturing Practice Requirements	0910–AC53
275	Human Subject Protection; Acceptance of Data From Clinical Investigations for Medical Devices	0910–AG48
276	Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products	0910–AG94
277	Food Labeling; Gluten-Free Labeling of Fermented, Hydrolyzed, or Distilled Foods	0910–AH00
278	General and Plastic Surgery Devices: Sunlamp Products	0910–AH14
279	Submission of Food and Drug Administration Import Data in the Automated Commercial Environment (Section 610 Review).	0910–AH41

FOOD AND DRUG ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
280	Laser Products; Amendment to Performance Standard	0910–AF87
281	Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives	0910–AG59
282	Regulations on Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act.	0910–AH10
283	Topical Antimicrobial Drug Products for Over-the-Counter Human Use: Final Monograph for Consumer Antiseptic Wash Products.	0910–AH40

FOOD AND DRUG ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
284	Requirements for Foreign and Domestic Establishment Registration and Listing for Human Drugs, Including Drugs That Are Regulated Under a Biologics License Application, and Animal Drugs.	0910–AA49
285	Food Labeling: Revision of the Nutrition and Supplement Facts Labels	0910–AF22
286	Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed At One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCs.	0910–AF23
287	Safety and Effectiveness of Consumer Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use.	0910–AF69
288	Abbreviated New Drug Applications and 505(b)(2) Applications	0910–AF97
289	''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act.	0910–AG38
290	Focused Mitigation Strategies To Protect Food Against Intentional Adulteration	0910–AG63

CENTERS FOR MEDICARE & MEDICAID SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
291	Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2018 Rates (CMS–1677–P) (Section 610 Review).	0938–AS98
292	CY 2018 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1676–P) (Section 610 Review).	0938–AT02
293	CY 2018 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1678–P) (Section 610 Review) **(Reg Plan Seq No. 46)**.	0938–AT03

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CENTERS FOR MEDICARE & MEDICAID SERVICES—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
294	Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APMs) in Medicare Fee-for-Service (CMS–5517–FC) (Section 610 Review).	0938–AS69
295	CY 2017 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model; and Home Health Quality Reporting Requirements (CMS–1648–F) (Section 610 Review).	0938–AS80
296	CY 2017 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1654–F) (Section 610 Review).	0938–AS81
297	CY 2017 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1656–FC) (Section 610 Review).	0938–AS82

CENTERS FOR MEDICARE & MEDICAID SERVICES—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
298	Conditions of Participation for Home Health Agencies (CMS–3819–F) (Rulemaking Resulting From a Section 610 Review).	0938–AG81
299	Hospital and Critical Access Hospital (CAH) Changes to Promote Innovation, Flexibility, and Improvement in Patient Care (CMS–3295–F) (Rulemaking Resulting From a Section 610 Review).	0938–AS21
300	Imaging Accreditation (CMS–3309–P) (Section 610 Review)	0938–AS62
301	Part B Drug Payment Model (CMS–1670–F) (Section 610 Review)	0938–AS85

CENTERS FOR MEDICARE & MEDICAID SERVICES—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
302	Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers (CMS–3178–F) (Section 610 Review).	0938–AO91
303	Reform of Requirements for Long-Term Care Facilities (CMS–3260–F) (Rulemaking Resulting From a Section 610 Review).	0938–AR61
304	Medicare Clinical Diagnostic Laboratory Test Payment System (CMS–1621–F) (Completion of a Section 610 Review).	0938–AS33
305	Medicare Shared Savings Program; Accountable Care Organizations (ACOs)—Revised Benchmark Rebasing Methodology (CMS–1644–F) (Completion of a Section 610 Review).	0938–AS67
306	Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2017 Rates (CMS–1655–F) (Completion of a Section 610 Review).	0938–AS77

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Final Rule Stage

261. • Removal of 2 CFR Subsection 376.147 (Rulemaking Resulting From a Section 610 Review)

Legal Authority: 5 U.S.C. 301; 31 U.S.C. 6101

Abstract: HHS is amending its adoption of the Office of the Management and Budget's Nonprocurement Common Rule, found at 2 CFR part 180. This will remove 2 CFR subsection 376.147, which provides information about the scope of HHS OIG exclusions under title XI of the Social Security Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Agency Contact: Tiffani Redding, Program Analyst, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 202 202–4321.

RIN: 0991–AC08

262. • Uniform Administrative Requirements, Costs Principles and Adult Requirements (45 CFR 75) (Rulemaking Resulting From a Section 610 Review)

Legal Authority: 5 U.S.C. 301

Abstract: This will address the comments of the NPRM to 45 CFR 75 and to include additional provision that are not in conflict with OMB's language, and provide additional guidance regulated community.

Timetable:

Action	Date	FR Cite
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Quadira Dantro, Federal Assistance Policy Specialist, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 202 260–6825.

RIN: 0991–AC09

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office for Civil Rights (OCR)

Completed Actions

263. Nondiscrimination Under the Patient Protection and Affordable Care Act

Legal Authority: 42 U.S.C. 18116

Abstract: This final rule implements prohibitions against discrimination on the basis of race, color, national origin, sex, age, and disability as provided in section 1557 of the Affordable Care Act. Section 1557 provides protection from discrimination in health programs and activities of covered entities. This section also identifies additional forms of Federal financial assistance to which the section will apply.

Timetable:

Action	Date	FR Cite
NPRM	09/08/15	80 FR 54172
NPRM Comment Period End.	11/09/15	
Final Action	05/18/16	81 FR 31376

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eileen Hanrahan, Senior Civil Rights Analyst, Department of Health and Human Services, Office for Civil Rights, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 202 205–4925, *Email: eileen.hanrahan@hhs.gov.*

RIN: 0945–AA02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the National Coordinator for Health Information Technology (ONC)

Completed Actions

264. ONC Health IT Certification Program: Enhanced Oversight and Accountability

Legal Authority: Sec. 3001(c)(5) of the Public Health Service Act

Abstract: The rulemaking introduces modifications and new requirements under the ONC Health IT Certification Program (''Program''), including provisions related to the Office of the National Coordinator for Health Information Technology (ONC)'s role in the Program. The proposed rule proposes to establish processes for ONC to directly review health IT certified under the Program and take action when necessary, including requiring the correction of non-conformities found in health IT certified under the Program and suspending and terminating certifications issued to Complete EHRs and Health IT Modules. The proposed rule includes processes for ONC to authorize and oversee accredited testing laboratories under the Program. It also includes a provision for the increased transparency and availability of surveillance results.

Timetable:

Action	Date	FR Cite
NPRM	03/02/16	81 FR 11056
NPRM Comment Period End.	05/02/16	
Final Action	10/19/16	81 FR 72404
Final Action Effective.	12/19/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Lipinski, Policy Analyst, Department of Health and Human Services, Office of the National Coordinator for Health Information Technology, Room 729D, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, *Phone:* 202 690–7151.

RIN: 0955–AA00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Proposed Rule Stage

265. Over-the-Counter (OTC) Drug Review—Cough/Cold (Antihistamine) Products

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371

Abstract: FDA will be proposing a rule to add the common cold indication to certain over-the-counter (OTC) antihistamine active ingredients. This proposed rule is the result of collaboration under the U.S.-Canada Regulatory Cooperation Council (RCC) as part of efforts to reduce unnecessary duplication and differences. This pilot exercise will help determine the feasibility of developing an ongoing mechanism for alignment in review and adoption of OTC drug monograph elements.

Timetable:

Action	Date	FR Cite
Reopening of Administrative Record.	08/25/00	65 FR 51780
Comment Period End.	11/24/00	
NPRM (Amendment) (Common Cold).	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janice Adams-King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov*.

RIN: 0910–AF31

266. Updated Standards for Labeling of Pet Food

Legal Authority: 21 U.S.C. 343; 21 U.S.C. 371; Pub. L. 110–85, sec. 1002(a)(3)

Abstract: FDA is proposing updated standards for the labeling of pet food that include nutritional and ingredient information, as well as style and formatting standards. FDA is taking this action to provide pet owners and animal health professionals more complete and consistent information about the nutrient content and ingredient composition of pet food products.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Burkholder, Veterinary Medical Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine, MPN–4, Room 2642, HFV–228, 7519 Standish Place, Rockville, MD 20855, *Phone:* 240 402–5900, *Email: william.burkholder@fda.hhs.gov*.

RIN: 0910–AG09

267. Format and Content of Reports Intended To Demonstrate Substantial Equivalence

Legal Authority: 21 U.S.C. 387e(j); 21 U.S.C. 387j(a); 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 387b; 21 U.S.C 387c; 21 U.S.C. 387i

Abstract: This regulation would establish the format and content of reports intended to demonstrate substantial equivalence. This regulation also would provide information as to how the Agency will review and act on these submissions.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Annette L. Marthaler, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Fax:* 877 287–1426, *Email: ctpregulations@fda.hhs.gov*.

RIN: 0910–AG96

268. Radiology Devices; Designation of Special Controls for the Computed Tomography X-Ray System

Legal Authority: 21 U.S.C. 360c

Abstract: The proposed rule would establish special controls for the computed tomography (CT) X-ray system. A CT X-ray system is a diagnostic X-ray imaging system intended to produce cross-sectional images of the body through use of a computer to reconstruct an image from the same axial plane taken at different angles. High doses of ionizing radiation can cause acute (deterministic) effects such as burns, reddening of the skin, cataracts, hair loss, sterility, and, in extremely high doses, radiation

poisoning. The design of a CT X-ray system should balance the benefits of the device (*i.e.,* the ability of the device to produce a diagnostic quality image) with the known risks (*e.g.,* exposure to ionizing radiation). FDA is establishing proposed special controls, which are necessary to provide reasonable assurance of the safety and effectiveness of a class II CT X-ray system.

Timetable:

Action	Date	FR Cite
NPRM	08/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Erica Blake-Payne, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4426, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: erica.payne@fda.hhs.gov*.

RIN: 0910–AH03

269. Mammography Quality Standards Act; Regulatory Amendments

Regulatory Plan: This entry is Seq. No. 35 in part II of this issue of the **Federal Register**.

RIN: 0910–AH04

270. Investigational New Drug Application Annual Reporting

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 353; 21 U.S.C. 355(i); 21 U.S.C. 371(a); 42 U.S.C. 262(a)

Abstract: This proposed rule would revise the requirements concerning annual reports submitted to investigational new drug applications (INDs) by replacing the current annual reporting requirement with a requirement that is generally consistent with the format, content, and timing of submission of the development safety update report devised by the International Conference on Harmonization of Technical Requirements for Registration of Pharmaceuticals for Human Use (ICH).

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ebla Ali Ibrahim, Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Building 51, Room 6302, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3691, *Email: ebla.ali-ibrahim@fda.hhs.gov*.

RIN: 0910–AH07

271. Requirements for Tobacco Product Manufacturing Practice

Legal Authority: 21 U.S.C. 371; 21 U.S.C. 387b; 21 U.S.C. 387f

Abstract: FDA is proposing requirements that govern the methods used in, and the facilities and controls used for, the pre-production design validation, manufacture, packing, and storage of tobacco products.

Timetable:

Action	Date	FR Cite
ANPRM	03/19/13	78 FR 16824
ANPRM Comment Period End.	05/20/13	
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Darin Achilles, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Document Control Center, Building 71, Room G335, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Fax:* 301 595–1426, *Email: ctpregulations@fda.hhs.gov*.

RIN: 0910–AH22

272. Use of Ozone Depleting Substances (Section 610 Review)

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 335; 21 U.S.C. 342; 21 U.S.C. 346a; 21 U.S.C. 348; 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 355; 21 U.S.C. 360b; 21 U.S.C. 361; 21 U.S.C. 371; 21 U.S.C. 372; 21 U.S.C. 374; 15 U.S.C. 402; 15 U.S.C. 409

Abstract: The Food and Drug Administration (FDA or the Agency) is proposing to amend its regulation (21 CFR 2.125) on uses of ozone-depleting substances (ODSs), including chlorofluorocarbons (CFCs), to remove designations for certain products as essential uses under the Clean Air Act. Essential-use products are exempt from FDA's ban on the use of CFC propellants in FDA-regulated products and the Environmental Protection Agency's (EPA's) ban on the use of CFCs and other ODSs in pressurized dispensers. This action, if finalized, will remove essential use exemptions for sterile aerosol talc administered intrapleurally by thoracoscopy for human use, metered-dose atropine sulfate aerosol human drugs administered by oral inhalation, and anesthetic drugs for topical use on accessible mucous membranes of humans where a cannula is used for application. FDA is proposing this action because alternative products that do not use ODSs are now available and because these products are no longer being marketed in approved versions that contain ODSs. On June 29, 2015, FDA published a notice and request for comment concerning its tentative conclusion that these products are no longer an essential use under the Clean Air Act (80 FR 36937). The Agency received no comments concerning removal of essential use designations for sterile aerosol talc and metered-dose atropine sulfate, and is proposing to remove these designations by direct final rule and a companion proposed rule in the event adverse comments are received. FDA received one comment concerning removal of anesthetic drugs for topical use in response to its 2015 notice and request for comment, and is proposing to remove this exemption through a separate notice. Because these products are not currently sold in the approved form, no significant economic impact is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Daniel Orr, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Building 51, Room 5199, 10993 New Hampshire Ave., Silver Spring, MD 20993, *Phone:* 240 402–0979, *Email: daniel.orr@fda.hhs.gov*

RIN: 0910–AH36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Final Rule Stage

273. Postmarketing Safety Reporting Requirements for Human Drug and Biological Products

Legal Authority: 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 242a; 42 U.S.C. 262 and 263; 42 U.S.C. 263a to 263n; 42 U.S.C. 264; 42 U.S.C. 300aa; 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 360b to 360j; 21 U.S.C. 361a; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 375; 21 U.S.C. 379e; 21 U.S.C. 381

Abstract: The final rule would amend the postmarketing expedited and periodic safety reporting regulations for human drugs and biological products to revise certain definitions and reporting

formats as recommended by the International Council on Harmonisation and to define new terms; to add to or revise current reporting requirements; to revise certain reporting time frames; and to propose other revisions to these regulations to enhance the quality of safety reports received by FDA. These revisions were proposed as part of a single rulemaking (68 FR 12406) to clarify and revise both premarketing and postmarketing safety reporting requirements for human drug and biological products. Premarketing safety reporting requirements were finalized in a separate final rule published on September 29, 2010 (75 FR 59961). This final rule applies to postmarketing safety reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/14/03	68 FR 12406
NPRM Comment Period Extended.	06/18/03	
NPRM Comment Period End.	07/14/03	
NPRM Comment Period Extension End.	10/14/03	
Final Action	08/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jane E. Baluss, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6278, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3469, *Fax:* 301 847–8440, *Email: jane.baluss@fda.hhs.gov*.

RIN: 0910–AA97

274. Medical Gas Containers and Closures; Current Good Manufacturing Practice Requirements

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 351 to 21 U.S.C. 353

Abstract: The Food and Drug Administration is amending its current good manufacturing practice regulations and other regulations to clarify and strengthen requirements for the label, color, dedication, and design of medical gas containers and closures. Despite existing regulatory requirements and industry standards for medical gases, there have been repeated incidents in which cryogenic containers of harmful industrial gases have been connected to medical oxygen supply systems in hospitals and nursing homes and subsequently administered to patients. These incidents have resulted in death and serious injury. There have also been several incidents involving high-pressure medical gas cylinders that have resulted in death and injuries to patients. These amendments, together with existing regulations, are intended to ensure that the types of incidents that have occurred in the past, as well as other types of foreseeable and potentially deadly medical gas accidents, do not occur in the future. FDA has described a number of proposals in the proposed rule including requiring that gas use outlet connections on portable cryogenic medical gas containers be securely attached to the valve body.

Timetable:

Action	Date	FR Cite
NPRM	04/10/06	71 FR 18039
NPRM Comment Period End.	07/10/06	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Patrick Raulerson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 51, Room 6368, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3522, *Fax:* 301 847–8440, *Email: patrick.raulerson@fda.hhs.gov*.

RIN: 0910–AC53

275. Human Subject Protection; Acceptance of Data From Clinical Investigations for Medical Devices

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351; 21 U.S.C. 352; 21 U.S.C. 360; 21 U.S.C. 360c; 21 U.S.C. 360e; 21 U.S.C. 360i; 21 U.S.C. 360j; 21 U.S.C. 371; 21 U.S.C. 374; 21 U.S.C. 381; 21 U.S.C. 393; 42 U.S.C. 264; 42 U.S.C. 271; . . .

Abstract: This rule will amend FDA's regulations on acceptance of data for medical devices to require that clinical investigations submitted in support of a research or marketing application submission be conducted in accordance with good clinical practice if conducted outside the United States and in accordance with FDA's regulations if conducted in the United States.

Timetable:

Action	Date	FR Cite
NPRM	02/25/13	78 FR 12664
NPRM Comment Period End.	05/28/13	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Soma Kalb, Biomedical Engineer, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiologica Heath, Bldg. 66, Room 1534, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6359, *Email: soma.kalb@fda.hhs.gov*

RIN: 0910–AG48

276. Supplemental Applications Proposing Labeling Changes for Approved Drugs and Biological Products

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 352; 21 U.S.C. 353; 21 U.S.C. 355; 21 U.S.C. 371; 42 U.S.C. 262; . . .

Abstract: This rule would amend the regulations regarding new drug applications (NDAs), abbreviated new drug applications (ANDAs), and biologics license application (BLAs) to revise and clarify procedures for changes to the labeling of an approved drug to reflect certain types of newly acquired information in advance of FDA's review of such change.

Timetable:

Action	Date	FR Cite
NPRM	11/13/13	78 FR 67985
NPRM Comment Period Extended.	12/27/13	78 FR 78796
NPRM Comment Period End.	01/13/14	
NPRM Comment Period Extended End.	03/13/14	
NPRM Comment Period Reopened.	02/18/15	80 FR 8577
NPRM Comment Period Reopened End.	04/27/15	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janice L. Weiner, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Building 51, Room 6268, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: janice.weiner@fda.hhs.gov*.

RIN: 0910–AG94

277. Food Labeling; Gluten-Free Labeling of Fermented, Hydrolyzed, or Distilled Foods

Legal Authority: Sec. 206 of the Food Allergen Labeling and Consumer Protection Act; 21 U.S.C. 343(a)(1); 21 U.S.C. 321(n); 21 U.S.C. 371(a)

Abstract: This proposed rule would establish requirements concerning compliance for using a ''gluten-free''

labeling claim for those foods for which there is no scientifically valid analytical method available that can reliably detect and accurately quantify the presence of 20 parts per million (ppm) gluten in the food.

Timetable:

Action	Date	FR Cite
NPRM	11/18/15	80 FR 71990
NPRM Comment Period Re-opened.	01/22/16	81 FR 3751
NPRM Comment Period End.	02/16/16	
NPRM Comment Period Re-opened.	02/22/16	81 FR 8869
NPRM Comment Period Re-opened End.	04/25/16	
Final Action	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carol D'Lima, Staff Fellow, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, Room 4D022, HFS 820, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–2371, *Fax:* 301 436–2636, *Email: carol.dlima@fda.hhs.gov.*

RIN: 0910–AH00

278. General and Plastic Surgery Devices: Sunlamp Products

Legal Authority: 21 U.S.C. 360j(e)

Abstract: This rule would apply device restrictions to sunlamp products. The incidence of skin cancer, including melanoma, has been increasing, and a large number of skin cancer cases are attributable to the use of sunlamp products. The devices may cause about 400,000 cases of skin cancer per year, and 6,000 of which are melanoma. Beginning sunlamp product use at young ages, as well as frequently using sunlamp products, both increase the risk of developing skin cancers and other illnesses, and sustaining other injuries. Even infrequent use, particularly at younger ages, can significantly increase these risks.

Sunlamp products incorporate ultraviolet (UV) lamps and include devices such as UV tanning beds and booths. People who use sunlamp products are at increased risk of developing skin cancer and other illnesses, and sustaining injuries.

Timetable:

Action	Date	FR Cite
NPRM	12/22/15	80 FR 79493
NPRM Comment Period End.	03/21/16	
Final Action	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ian Ostermiller, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Building 66, Room 5515, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–5678, *Email: ian.ostermiller@fda.hhs.gov.*

RIN: 0910–AH14

279. • Submission of Food and Drug Administration Import Data in the Automated Commercial Environment (Section 610 Review)

Legal Authority: Not Yet Determined

Abstract: The Food and Drug Administration (FDA, the Agency, or we) will establish requirements for the electronic filing of entries of FDA-regulated products in the Automated Commercial Environment (ACE) or any other electronic data interchange (EDI) system authorized by the U.S. Customs and Border Protection (CBP), in order for the filing to be processed by CBP and to help FDA in determining admissibility of that product.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/16	81 FR 43155
ANPRM Comment Period End.	08/30/16	
Final Rule	11/00/16	
Final Rule Effective.	12/00/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Ann Marie Metayer, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Building 32, Room 4338, Silver Spring, MD 20993, *Phone:* 301 796–3324, *Email: ann.metayer@fda.hhs.gov.*

RIN: 0910–AH41

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Long-Term Actions

Food and Drug Administration (FDA)

280. Laser Products; Amendment to Performance Standard

Legal Authority: 21 U.S.C. 360hh to 360ss; 21 U.S.C. 371; 21 U.S.C. 393

Abstract: FDA is proposing to amend the 2013 proposed rule for the performance standard for laser products, which will amend the performance standard for laser products to achieve closer harmonization between the current standard and the recently amended International Electrotechnical Commission (IEC) standard for laser products and medical laser products. The amendment is intended to update FDA's performance standard to reflect advancements in technology.

Timetable:

Action	Date	FR Cite
NPRM	06/24/13	78 FR 37723
NPRM Comment Period End.	09/23/13	
NPRM (Reproposal).	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Erica Blake-Payne, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Devices and Radiological Health, WO 66, Room 4426, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–6248, *Fax:* 301 847–8145, *Email: erica.payne@fda.hhs.gov.*

RIN: 0910–AF87

281. Requirements for the Testing and Reporting of Tobacco Product Constituents, Ingredients, and Additives

Legal Authority: 21 U.S.C. 301 *et seq.;* 21 U.S.C. 387; The Family Smoking Prevention and Tobacco Control Act

Abstract: The Federal Food, Drug, and Cosmetic Act, as amended by the Family Smoking Prevention and Tobacco Control Act, requires the Food and Drug Administration to promulgate regulations that require the testing and reporting of tobacco product constituents, ingredients, and additives, including smoke constituents, that the Agency determines should be tested to protect the public health.

Timetable:

Action	Date	FR Cite
NPRM	04/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Laura Rich, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Building 71, G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Email: ctpregulations@fda.hhs.gov.*

RIN: 0910–AG59

282. Regulations on Human Drug Compounding Under Sections 503A and 503B of the Federal Food, Drug, and Cosmetic Act

Legal Authority: 21 U.S.C. 353a; 21 U.S.C. 353b; 21 U.S.C. 371

Abstract: FDA will propose regulations to define and implement certain statutory conditions under which compounded products may qualify for exemptions from certain requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sara Rothman, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, Building 51, Room 5197, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3536, *Email: sara.rothman@fda.hhs.gov.*

RIN: 0910–AH10

283. • Topical Antimicrobial Drug Products for Over-the-Counter Human Use: Final Monograph for Consumer Antiseptic Wash Products

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360 to 361; 21 U.S.C. 371; 21 U.S.C. 374 to 375; 21 U.S.C. 379; 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 262

Abstract: This final rule amends the 1994 tentative final monograph (TFM) for over-the-counter (OTC) antiseptic drug products that published in the **Federal Register** of June 17, 1994 (the 1994 TFM).

The final rule is part of the ongoing review of OTC drug products conducted by FDA.

In this final rule, we address whether certain active ingredients used in OTC consumer antiseptic products intended for use with water (referred to as consumer antiseptic washes) are not generally recognized as safe and effective (GRAS/GRAE) and are misbranded.

Timetable:

Action	Date	FR Cite
NPRM	12/17/13	78 FR 76444
NPRM Comment Period End.	06/16/14	
Final Action	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Pranvera Ikonomi, Biologist, Department of Health and Human Services, Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 240 402–0272, *Email: pranvera.ikonomi@fda.hhs.gov.*

RIN: 0910–AH40

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Food and Drug Administration (FDA)

Completed Actions

284. Requirements for Foreign and Domestic Establishment Registration and Listing for Human Drugs, Including Drugs That Are Regulated Under a Biologics License Application, and Animal Drugs

Legal Authority: 21 U.S.C. 321 and 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355 to 356c; 21 U.S.C. 360 and 360b; 21 U.S.C. 360c to 360f; 21 U.S.C. 360h to 360j; 21 U.S.C. 371 and 374; 21 U.S.C. 379e and 381; 21 U.S.C. 393; 15 U.S.C. 1451 to 1561; 42 U.S.C. 262 and 264; 42 U.S.C. 271; and sec. 122; Pub. L. 105–115, 11 Stat. 2322 (21 U.S.C. 355 note)

Abstract: The rule will reorganize, consolidate, clarify, and modify current regulations concerning who must register establishments and list human drugs, including certain biological drugs, and animal drugs. These regulations contain information on when, how, and where to register drug establishments and list drugs, and what information must be submitted. They also address National Drug Codes.

Timetable:

Action	Date	FR Cite
NPRM	08/29/06	71 FR 51276
NPRM Comment Period End.	02/26/07	
Final Action	08/31/16	81 FR 60170
Final Action Effective.	11/29/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Joy, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, 10903 New Hampshire Avenue, Building 51, Room 6254, Silver Spring, MD 20993, *Phone:* 301 796–2242, *Email: david.joy@fda.hhs.gov.*

RIN: 0910–AA49

285. Food Labeling: Revision of the Nutrition and Supplement Facts Labels

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371

Abstract: FDA is amending the labeling regulations for conventional foods and dietary supplements to provide updated nutrition information on the label to assist consumers in maintaining healthy dietary practices. The rule will modernize the nutrition information found on the Nutrition Facts label, as well as the format and appearance of the label. On July 27, 2015, FDA issued a supplemental notice of proposed rulemaking accepting comments on limited additional provisions until October 13, 2015. Also on July 27, 2015, FDA reopened the comment period on the proposed rule as to specific documents until September 25, 2015. In addition, in response to requests for the raw data related to FDA's consumer studies on the nutrition label, FDA issued a notice on September 10, 2015 to make the raw data available for comment until October 13, 2015 and extended the comment period for the July 27, 2015 reopening as to specific documents to October 13, 2015. On October 20, 2015, FDA extended the comment period for the consumer studies and the supplemental proposal to October 23, 2015.

Timetable:

Action	Date	FR Cite
ANPRM	07/11/03	68 FR 41507
ANPRM Comment Period End.	10/09/03	
Second ANPRM ..	04/04/05	70 FR 17008
Second ANPRM Comment Period End.	06/20/05	
Third ANPRM	11/02/07	72 FR 62149
Third ANPRM Comment Period End.	01/31/08	
NPRM	03/03/14	79 FR 11879
NPRM Comment Period End.	06/02/14	
Reopening of Comment Period as to Specific Documents.	07/27/15	80 FR 44302
NPRM Comment Period End as to Specific Documents.	09/25/15	
Supplemental NPRM to Solicit Comment on Limited Additional Provisions.	07/27/15	80 FR 44303

Action	Date	FR Cite
Supplemental NPRM to Solicit Comment on Limited Additional Provisions Comment Period End.	10/13/15	
Administrative Docket Update; Extension of Comment Period.	09/10/15	80 FR 54446
Administrative Docket Update; Comment Period End.	10/13/15	
NPRM Reopening of Comment Period for Certain Documents.	10/20/15	80 FR 63477
NPRM Reopening of Comment Period for Certain Documents Comment Period End.	10/23/15	
Final Action	05/27/16	81 FR 33741

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Blakeley Fitzpatrick, Interdisciplinary Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–5429, *Email: nutritionprogramstaff@fda.hhs.gov.*

RIN: 0910–AF22

286. Food Labeling: Serving Sizes of Foods That Can Reasonably Be Consumed at One Eating Occasion; Dual-Column Labeling; Updating, Modifying, and Establishing Certain RACCS

Legal Authority: 21 U.S.C. 321; 21 U.S.C. 343; 21 U.S.C. 371; Pub. L. 101–535, sec. 2(b)(1)(A)

Abstract: FDA is amending its labeling regulations for foods to provide update, modify, and establish Reference Amounts Customarily Consumed (RACCs) for certain food categories. This rule would provide consumers with nutrition information based on the amount of food that is customarily consumed, which would assist consumers in maintaining healthy dietary practices. In addition to updating, modifying, and establishing certain RACCs, FDA is amending the definition of a single-serving containers; amending the label serving size for breath mints; and providing for dual-column labeling under certain circumstances, which would provide nutrition information per serving and per container or unit, as applicable; and making technical amendments to various aspects of the serving size regulations.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/05	70 FR 17010
ANPRM Comment Period End.	06/20/05	
NPRM/Comment Period Extended.	03/03/14	79 FR 11989
NPRM Comment Period End.	06/02/14	
NPRM Comment Period Extended.	05/27/14	79 FR 29699
NPRM Comment Period End.	08/01/14	
Final Action	05/27/16	81 FR 34000

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cherisa Henderson, Nutritionist, Department of Health and Human Services, Food and Drug Administration, HFS–830, 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–5429, *Fax:* 301 436–1191, *Email: nutritionprogramstaff@fda.hhs.gov.*

RIN: 0910–AF23

287. Safety and Effectiveness of Consumer Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use

Legal Authority: 21 U.S.C. 321p; 21 U.S.C. 331; 21 U.S.C. 351 to 353; 21 U.S.C. 355; 21 U.S.C. 360; 21 U.S.C. 371; 21 U.S.C. 361; 21 U.S.C. 374; 21 U.S.C. 375; 21 U.S.C. 379; 42 U.S.C. 216; 42 U.S.C. 241; 42 U.S.C. 242; 42 U.S.C. 262; . . .

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective, and not misbranded. After a final monograph (*i.e.,* final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. This action addresses antimicrobial agents in consumer antiseptic hand wash.

Timetable:

Action	Date	FR Cite
NPRM	06/17/94	59 FR 31402
Comment Period End.	12/15/95	
NPRM (Consumer Hand Wash Products).	12/17/13	78 FR 76443
NPRM (Consumer Hand Wash) Comment Period End.	06/16/14	
NPRM (Healthcare Antiseptic).	05/01/15	80 FR 25166
NPRM Comment Period End (Healthcare Antiseptic).	10/28/15	
NPRM (Consumer Hand Rub).	06/30/16	81 FR 42912
NPRM Comment Period End (Consumer Hand Rub).	12/27/16	
Final Rule	09/06/16	81 FR 61106
Final Rule Effective.	09/06/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janice Adams-King, Regulatory Health Project Manager, Department of Health and Human Services, Food and Drug Administration, Center for Drug Evaluation and Research, WO 22, Room 5416, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 301 796–3713, *Fax:* 301 796–9899, *Email: janice.adams-king@fda.hhs.gov.*

RIN: 0910–AF69

288. Abbreviated New Drug Applications and 505(B)(2) Applications

Legal Authority: Pub. L. 108–173, title XI; 21 U.S.C. 355; 21 U.S.C. 371

Abstract: This proposed rule would make changes to certain procedures for Abbreviated New Drug Applications and 505(b)(2) applications relating to patent certifications, notice to patent owners and application holders, the availability of a 30-month stay of approval, amendments and supplements, and the types of bioavailability and bioequivalence data that can be used to support these applications.

Timetable:

Action	Date	FR Cite
NPRM	02/06/15	80 FR 6802
NPRM Comment Period End.	05/07/15	
NPRM Comment Period Extended.	04/24/15	80 FR 22953
NPRM Comment Period Extended End.	06/08/15	
Final Action	10/16/16	81 FR 69580
Final Action Effective.	12/05/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janice L. Weiner, Senior Regulatory Counsel, Department of Health and Human Services, Food

and Drug Administration, Center for Drug Evaluation and Research, Building 51, Room 6268, 10903 New Hampshire Avenue, Silver Spring, MD 20993–0002, *Phone:* 301 796–3601, *Fax:* 301 847–8440, *Email: janice.weiner@fda.hhs.gov*.

RIN: 0910–AF97

289. ''Tobacco Products'' Subject to the Federal Food, Drug, and Cosmetic Act, as Amended by the Family Smoking Prevention and Tobacco Control Act

Legal Authority: 21 U.S.C. 301 *et seq.;* The Federal Food, Drug, and Cosmetic Act; Pub. L. 111–31; The Family Smoking Prevention and Tobacco Control Act

Abstract: The Family Smoking Prevention and Tobacco Control Act (Tobacco Control Act) provides the Food and Drug Administration (FDA) authority to regulate cigarettes, cigarette tobacco, roll-your-own tobacco, and smokeless tobacco. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Tobacco Control Act, permits FDA to issue regulations deeming other tobacco products to be subject to the FD&C Act. This rule would deem additional products meeting the statutory definition of ''tobacco product'' to be subject to the FD&C Act, and would specify additional restrictions.

Timetable:

Action	Date	FR Cite
NPRM	04/25/14	79 FR 23142
NPRM Comment Period End.	07/09/14	
NPRM Comment Period Extended.	06/24/14	79 FR 35711
NPRM Comment Period Extended End.	08/08/14	
Final Action	05/10/16	81 FR 28974

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gerie Voss, Senior Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Tobacco Products, Document Control Center, Building 71, Room G335, 10903 New Hampshire Avenue, Silver Spring, MD 20993, *Phone:* 877 287–1373, *Fax:* 301 595–1426, *Email: ctpregulations@fda.hhs.gov*.

RIN: 0910–AG38

290. Focused Mitigation Strategies To Protect Food Against Intentional Adulteration

Legal Authority: 21 U.S.C. 331; 21 U.S.C. 342; 21 U.S.C. 350g; 21 U.S.C. 350i; 21 U.S.C. 371; 21 U.S.C. 374; Pub. L. 111–353

Abstract: This rule would require domestic and foreign food facilities that are required to register under the Federal Food, Drug, and Cosmetic Act to address hazards that may be intentionally introduced by acts of terrorism. These food facilities would be required to identify and implement focused mitigation strategies to significantly minimize or prevent significant vulnerabilities identified at actionable process steps in a food operation.

Timetable:

Action	Date	FR Cite
NPRM	12/24/13	78 FR 78014
NPRM Comment Period Extended.	03/25/14	79 FR 16251
NPRM Comment Period End.	03/31/14	
NPRM Comment Period Extended End.	06/30/14	
Final Rule	05/27/16	81 FR 34166

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jody Menikheim, Supervisory General Health Scientist, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFS–005), 5100 Paint Branch Parkway, College Park, MD 20740, *Phone:* 240 402–1864,*Fax:* 301 436–2633, *Email: fooddefense@fda.hhs.gov*.

RIN: 0910–AG63

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Proposed Rule Stage

291. • Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2018 Rates (CMS–1677–P) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual proposed rule would revise the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This proposed rule would implement changes arising from our continuing experience with these systems.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donald Thompson, Deputy Director, Division of Acute Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6504, *Email: donald.thompson@cms.hhs.gov*.

RIN: 0938–AS98

292. • CY 2018 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1676–P) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual proposed rule would revise payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes would apply to services furnished beginning January 1, 2018.

Timetable:

Action	Date	FR Cite
NPRM	06/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ryan Howe, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3355, *Email: ryan.howe@cms.hhs.gov*.

RIN: 0938–AT02

293. • CY 2018 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1678–P) (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 46 in part II of this issue of the **Federal Register**.

RIN: 0938–AT03

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Final Rule Stage

294. Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APMS) in Medicare Fee-for-Service (CMS–5517–FC) (Section 610 Review)

Legal Authority: Pub. L. 114–10, sec. 101

Abstract: This rule implements provisions of the Medicare Access and CHIP Reauthorization Act (MACRA) related to MIPS and APMs. Section 101 of MACRA authorizes a new MIPS, which repeals the Medicare sustainable growth rate and improves Medicare payments for physician services. MACRA consolidates the current programs of the Physician Quality Reporting System, the Value-Based Modifier, and the Electronic Health Records Incentive Program into one program, MIPS, that streamlines and improves on the three distinct incentive programs. Additionally, MACRA authorizes incentive payments for providers who participate in eligible APMs.

Timetable:

Action	Date	FR Cite
NPRM	05/09/16	81 FR 28161
NPRM Comment Period End.	06/27/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: James Sharp, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare & Medicaid Innovation Center, MS: WB–06–05, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–7388, *Email: james.sharp@cms.hhs.gov*.

RIN: 0938–AS69.

295. CY 2017 Home Health Prospective Payment System Rate Update; Home Health Value-Based Purchasing Model; and Home Health Quality Reporting Requirements (CMS–1648–F) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual rule updates the 60-day national episode rate, the national per-visit rates used to calculate low utilization payment adjustments (LUPAs), and outlier payments under the Medicare prospective payment system for home health agencies. The rule also updates the provisions of the Home Health Value-Based Purchasing (HHVBP) program.

Timetable:

Action	Date	FR Cite
NPRM	07/05/16	81 FR 43714
NPRM Comment Period End.	08/26/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hillary Loeffler, Director, Division of Home Health and Hospice, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–07–22, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0456, *Email: hillary.loeffler@cms.hhs.gov*.

RIN: 0938–AS80

296. CY 2017 Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Medicare Part B (CMS–1654–F) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh; Pub. L. 114–10

Abstract: This annual rule revises payment polices under the Medicare physician fee schedule, and make other policy changes to payment under Medicare Part B. These changes apply to services furnished beginning January 1, 2017.

Timetable:

Action	Date	FR Cite
NPRM	07/15/16	81 FR 46162
NPRM Comment Period End.	09/06/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ryan Howe, Director, Division of Practitioner Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–15, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–3355, *Email: ryan.howe@cms.hhs.gov*.

RIN: 0938–AS81

297. CY 2017 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates (CMS–1656–FC) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual rule revises the Medicare hospital outpatient prospective payment system to implement statutory requirements and changes arising from our continuing experience with this system. The rule describes changes to the amounts and factors used to determine payment rates for services. In addition, the rule changes the ambulatory surgical center payment system list of services and rates.

Timetable:

Action	Date	FR Cite
NPRM	07/14/16	81 FR 45604
NPRM Comment Period End.	09/06/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marjorie Baldo, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–03–06, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4617, *Email: marjorie.baldo@cms.hhs.gov*.

RIN: 0938–AS82

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Long-Term Actions

298. Conditions of Participation for Home Health Agencies (CMS–3819–F) (Rulemaking Resulting From a Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395x; 42 U.S.C. 1395cc(a); 42 U.S.C. 1395hh; 42 U.S.C. 1395bb

Abstract: This final rule revises the conditions of participation (CoPs) that home health agencies (HHAs) must meet in order to participate in the Medicare and Medicaid programs. The requirements focus on the care delivered to patients by HHAs, reflect an interdisciplinary view of patient care, allow HHAs greater flexibility in meeting quality care standards, and eliminate unnecessary procedural requirements. These changes are an integral part of our overall effort to achieve broad-based, measurable improvements in the quality of care furnished through the Medicare and Medicaid programs, while at the same time eliminating unnecessary procedural burdens on providers.

Timetable:

Action	Date	FR Cite
NPRM	03/10/97	62 FR 11005

Action	Date	FR Cite
NPRM Comment Period End.	06/09/97	
Second NPRM	10/09/14	79 FR 61163
NPRM Comment Period Extended.	12/01/14	79 FR 71081
NPRM Comment Period End.	12/08/14	
NPRM Comment Period Extended End.	01/07/15	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Danielle Shearer, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards & Quality, 7500 Security Boulevard, MS: S3–02–01, Baltimore, MD 21244, *Phone:* 410 786–6617, *Email: danielle.shearer@cms.hhs.gov*.

RIN: 0938–AG81

299. Hospital and Critical Access Hospital (CAH) Changes To Promote Innovation, Flexibility, and Improvement in Patient Care (CMS–3295–F) (Rulemaking Resulting From a Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh and 1395rr

Abstract: These proposed changes would modernize hospital and critical access hospital (CAH) requirements, improve quality of care, and support HHS and CMS priorities. Specifically, we proposed to revise the conditions of participation (CoPs) for hospitals and CAHs to address: Discriminatory behavior by healthcare providers that may create real or perceived barriers to care; Use of the term ''Licensed Independent Practioners'' (LIPs) that may inadvertently exacerbate workforce shortage concerns; Requirements that do not fully conform to current standards for infection control; Requirements for antibiotic stewardship programs to help reduce inappropriate antibiotic use and antimicrobial resistance; and the use of quality reporting program data by hospital Quality Assessment and Performance Improvement (QAPI) programs.

Timetable:

Action	Date	FR Cite
NPRM	06/16/16	81 FR 39447
NPRM Comment Period End.	08/15/16	
Final Action	06/00/19	

Regulatory Flexibility Analysis Required: No.

Agency Contact: CDR Scott Cooper, Senior Technical Advisor, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, Mail Stop S3–01–02, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–9465, *Email: scott.cooper@cms.hhs.gov*.

RIN: 0938–AS21

300. Imaging Accreditation (CMS–3309–P) (Section 610 Review)

Legal Authority: 42 U.S.C. 1395hh; 42 U.S.C. 1102

Abstract: This proposed rule would establish standards for Imaging Accreditation. These proposed standards would address qualifications for clinical personnel, standards to ensure that suppliers have established policies and procedures governing the use of equipment in furnishing the technical component of advanced diagnostic imaging, and the establishment and maintenance of a quality assurance and quality control program to ensure reliability, clarity, and accuracy of the diagnostic images.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sonia Swancy, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–8445, *Email: sonia.swancy@cms.hhs.gov*.

RIN: 0938–AS62

301. Part B Drug Payment Model (CMS–1670–F) (Section 610 Review)

Legal Authority: 42 U.S.C. 1302, 1315(a), and 1395hh

Abstract: This final rule implements the Part B Drug Payment Model, which is a two-phase model that tests whether alternative drug payment designs will lead to a reduction in Medicare expenditures, while preserving or enhancing the quality of care provided to Medicare beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	03/11/16	81 FR 13229
NPRM Comment Period End.	05/09/16	
Final Action	03/00/19	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Robinson, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: WB–06–05, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–0812, *Email: william.robinson@cms.hhs.goc*.

RIN: 0938–AS85

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Centers for Medicare & Medicaid Services (CMS)

Completed Actions

302. Emergency Preparedness Requirements for Medicare and Medicaid Participating Providers and Suppliers (CMS–3178–F) (Section 610 Review)

Legal Authority: 42 U.S.C. 1821; 42 U.S.C. 1861ff (3)(B)(i)(ii); 42 U.S.C. 1913(c)(1) et al.

Abstract: This rule finalizes emergency preparedness requirements for Medicare and Medicaid participating providers and suppliers to ensure that they adequately plan for both natural and man-made disasters and coordinate with Federal, State, tribal, regional, and local emergency preparedness systems. This rule ensures providers and suppliers are adequately prepared to meet the needs of patients, residents, clients, and participants during disasters and emergency situations.

Timetable:

Action	Date	FR Cite
NPRM	12/27/13	78 FR 79082
NPRM Comment Period Extended.	02/21/14	79 FR 9872
NPRM Comment Period End.	02/25/14	
NPRM Comment Period Extended End.	03/31/14	
Final Action	09/16/16	81 FR 63859
Final Action Effective.	11/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ronisha Blackstone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6882, *Email: ronisha.blackstone@cms.hhs.gov*.

RIN: 0938–AO91

303. Reform of Requirements for Long-Term Care Facilities (CMS–3260–F) (Rulemaking Resulting From a Section 610 Review)

Legal Authority: Pub. L. 111–148, sec. 6102; 42 U.S.C. 263a; 42 U.S.C. 1302; 42 U.S.C. 1395hh; 42 U.S.C. 1395rr

Abstract: This final rule revises the requirements that long-term care facilities must meet to participate in the Medicare and Medicaid programs. These changes are necessary to reflect the substantial advances that have been made over the past several years in the theory and practice of service delivery and safety. The revisions are an integral part of our efforts to achieve broad-based improvements both in the quality of health care furnished through federal programs, and in patient safety, while at the same time reducing procedural burdens on providers.

Timetable:

Action	Date	FR Cite
NPRM	07/16/15	80 FR 42167
NPRM Comment Period Extension.	09/15/15	80 FR 55284
NPRM Comment Period End.	09/14/15	
NPRM Comment Period Extended End.	10/14/15	
Final Action	10/04/16	81 FR 68688
Final Action Effective.	11/28/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ronisha Blackstone, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Clinical Standards and Quality, MS: S3–02–01, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6882, *Email: ronisha.blackstone@cms.hhs.gov*.

RIN: 0938–AR61

304. Medicare Clinical Diagnostic Laboratory Test Payment System (CMS–1621–F) (Completion of a Section 610 Review)

Legal Authority: Pub. L. 113–93, sec. 216

Abstract: This final rule revises the Medicare payment system for clinical diagnostic laboratory tests and implements other changes required by section 216 of the Protecting Access to Medicare Act of 2014.

Timetable:

Action	Date	FR Cite
NPRM	10/01/15	80 FR 59385
NPRM Comment Period End.	11/25/15	
Final Action	06/23/16	81 FR 41036
Final Action Effective.	08/22/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Valerie Miller, Deputy Director, Division of Ambulatory Services, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, Mail Stop C4–01–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4535, *Email: valerie.miller@cms.hhs.gov*.

Sarah Harding, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–4535, *Email: sarah.harding@cms.hhs.gov*.

RIN: 0938–AS33

305. Medicare Shared Savings Program; Accountable Care Organizations (ACOS)—Revised Benchmark Rebasing Methodology (CMS–1644–F) (Completion of a Section 610 Review)

Legal Authority: Pub. L. 111–148 sec. 3022

Abstract: Under the Medicare Shared Savings Program, providers of services and suppliers that participate in an ACO continue to receive traditional Medicare fee-for-service (FFS) payments under parts A and B, but the ACO may be eligible to receive a shared savings payment if it meets specified quality and savings requirements. This rule addresses changes to the Shared Savings Program that modify the program's benchmark rebasing methodology to encourage ACOs' continued investment in care coordination and quality improvement, and identifies publicly available data to support modeling and analysis of these changes. In addition, it streamlines the methodology used to adjust an ACO's historical benchmark for changes in its ACO participant composition, offers an alternative participation option to encourage ACOs to enter performance-based risk arrangements earlier in their participation under the program, and establishes policies for reopening of payment determinations to make corrections after financial calculations have been performed and ACO shared savings and shared losses for a performance year have been determined.

Timetable:

Action	Date	FR Cite
NPRM	02/03/16	81 FR 5823
NPRM Comment Period End.	03/28/16	
Final Action	06/10/16	81 FR 37950
Final Action Effective.	08/09/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elizabeth November, Health Insurance Specialist, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C5–15–24, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–8084, *Email: elizabeth.november@cms.hhs.gov*.

RIN: 0938–AS67

306. Hospital Inpatient Prospective Payment System for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and FY 2017 Rates (CMS–1655–F) (Completion of a Section 610 Review)

Legal Authority: 42 U.S.C. 1302; 42 U.S.C. 1395hh

Abstract: This annual final rule revises the Medicare hospital inpatient and long-term care hospital prospective payment systems for operating and capital-related costs. This rule implements changes arising from our continuing experience with these systems.

Timetable:

Action	Date	FR Cite
NPRM	04/27/16	81 FR 24946
NPRM Comment Period End.	06/17/16	
Final Action	08/22/16	81 FR 56762
Final Action Effective.	10/01/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Donald Thompson, Deputy Director, Division of Acute Care, Department of Health and Human Services, Centers for Medicare & Medicaid Services, Center for Medicare, MS: C4–01–26, 7500 Security Boulevard, Baltimore, MD 21244, *Phone:* 410 786–6504, *Email: donald.thompson@cms.hhs.gov*.

RIN: 0938–AS77

[FR Doc. 2016–29863 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part IX

Department of Homeland Security

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF HOMELAND SECURITY

Office of the Secretary

6 CFR Chs. I and II

[DHS Docket No. OGC–RP–04–001]

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Office of the Secretary, DHS.

ACTION: Semiannual regulatory agenda.

SUMMARY: This regulatory agenda is a semiannual summary of current and projected rulemakings, existing regulations, and completed actions of the Department of Homeland Security (DHS) and its components. This agenda provides the public with information about DHS's regulatory activity. DHS expects that this information will enable the public to be more aware of, and effectively participate in, the Department's regulatory activity. DHS invites the public to submit comments on any aspect of this agenda.

FOR FURTHER INFORMATION CONTACT:

General

Please direct general comments and inquiries on the agenda to the Regulatory Affairs Law Division, Office of the General Counsel, U.S. Department of Homeland Security, 245 Murray Lane, Mail Stop 0485, Washington, DC 20528–0485.

Specific

Please direct specific comments and inquiries on individual regulatory actions identified in this agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: DHS provides this notice pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, Sept. 19, 1980) and Executive Order 12866 ''Regulatory Planning and Review'' (Sept. 30, 1993) as incorporated in Executive Order 13563 ''Improving Regulation and Regulatory Review'' (Jan. 18, 2011), which require the Department to publish a semiannual agenda of regulations. The regulatory agenda is a summary of current and projected rulemakings as well as actions completed since the publication of the last regulatory agenda for the Department. DHS last published its semiannual regulatory agenda on June 9, 2016 at 81 FR 37308.

Beginning in fall 2007, the Internet became the basic means for disseminating the Unified Agenda of Federal Regulatory and Deregulatory Actions (''Unified Agenda''). The complete Unified Agenda is available online at *www.reginfo.gov.* As required by law, however, DHS still prints various items in the **Federal Register**.

Executive Order 12866 requires Federal agencies to prepare a Regulatory Plan of the most important significant regulatory actions that the agency reasonably expects to issue in proposed or final form in that fiscal year or thereafter. As in past years, for fall editions of the semiannual regulatory agenda, Federal agencies print the entire Regulatory Plan in the **Federal Register**.

The Regulatory Flexibility Act (5 U.S.C. 602) requires Federal agencies to publish their regulatory flexibility agendas in the **Federal Register**. The law provides that a regulatory flexibility agenda shall contain, among other things, a brief description of the subject area of any rule that is likely to have a significant economic impact on a substantial number of small entities. In accordance with the publication requirements of the Regulatory Flexibility Act, DHS prints those regulatory actions that are part of DHS's regulatory flexibility agenda in the **Federal Register**.

DHS's semiannual agenda conforms to the Unified Agenda format developed by the Regulatory Information Service Center.

Dated: September 2, 2016.

Christina E. McDonald,

Associate General Counsel for Regulatory Affairs.

OFFICE OF THE SECRETARY—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
307	Chemical Facility Anti-Terrorism Standards (CFATS) **(Reg Plan Seq No. 53)**	1601–AA69
308	Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees.	1601–AA72

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OFFICE OF THE SECRETARY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
309	Ammonium Nitrate Security Program	1601–AA52

U.S. CITIZENSHIP AND IMMIGRATION SERVICES—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
310	Requirements for Filing Motions and Administrative Appeals **(Reg Plan Seq No. 55)**	1615–AB98

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Citizenship and Immigration Services—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
311	Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Nonimmigrant Workers **(Reg Plan Seq No. 60)**.	1615–AC05

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Citizenship and Immigration Services—Completed Actions

Sequence No.	Title	Regulation Identifier No.
312	U.S. Citizenship and Immigration Services Fee Schedule	1615–AC09

U.S. Coast Guard—Proposed Rule Stage

Sequence No.	Title	Regulation Identifier No.
313	Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation **(Reg Plan Seq No. 61)**	1625–AB85

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
314	Seafarers' Access to Maritime Facilities **(Reg Plan Seq No. 62)**	1625–AC15

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

U.S. Coast Guard—Long-Term Actions

Sequence No.	Title	Regulation Identifier No.
315	Numbering of Undocumented Barges	1625–AA14
316	Outer Continental Shelf Activities	1625–AA18
317	Transportation Worker Identification Credential (TWIC); Card Reader Requirements	1625–AB21
318	Updates to Maritime Security	1625–AB38

U.S. Coast Guard—Completed Actions

Sequence No.	Title	Regulation Identifier No.
319	Inspection of Towing Vessels	1625–AB06

U.S. Customs and Border Protection—Final Rule Stage

Sequence No.	Title	Regulation Identifier No.
320	Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)	1651–AA77
321	Waiver of Passport and Visa Requirements Due to an Unforeseen Emergency	1651–AA97

U.S. Customs and Border Protection—Long-Term Actions

Sequence No.	Title	Regulation Identifier No.
322	Importer Security Filing and Additional Carrier Requirements (Section 610 Review)	1651–AA70

TRANSPORTATION SECURITY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
323	Security Training for Surface Transportation Employees **(Reg Plan Seq No. 66)**	1652–AA55

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

TRANSPORTATION SECURITY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
324	General Aviation Security and Other Aircraft Operator Security	1652–AA53

TRANSPORTATION SECURITY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
325	Standardized Vetting, Adjudication, and Redress Services	1652–AA61

U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
326	Procedures and Standards for Declining Immigration Surety Bonds and Appeal Requirement for Breaches	1653–AA67

FEDERAL EMERGENCY MANAGEMENT AGENCY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
327	Updates to Floodplain Management and Protection of Wetlands Regulations to Implement Executive Order 13690 and the Federal Flood Risk Management Standard **(Reg Plan Seq No. 69)**.	1660–AA85
328	National Flood Insurance Program (NFIP) Financial Assistance/Subsidy Arrangement	1660–AA86

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Proposed Rule Stage

307. Chemical Facility Anti-Terrorism Standards (CFATS)

Regulatory Plan: This entry is Seq. No. 53 in part II of this issue of the **Federal Register**.

RIN: 1601–AA69

308. Homeland Security Acquisition Regulation, Enhancement of Whistleblower Protections for Contractor Employees

Legal Authority: Sec. 827 of the National Defense Authorization Act (NDAA) for Fiscal Year 2013, (Pub. L. 112–239, enacted January 2, 2013); 41 U.S.C. 1302(a)(2); 41 U.S.C. 1707

Abstract: The Department of Homeland Security (DHS) is proposing to amend its Homeland Security Acquisition Regulation (HSAR) parts 3003 and 3052 to implement section 827 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013) for the United States Coast Guard (USCG). Section 827 of the NDAA for FY 2013 established enhancements to the Whistleblower Protections for Contractor Employees for all agencies subject to section 2409 of title 10, United States Code, which includes the USCG.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Linda Stivaletti-Petty, Procurement Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Acquisition Policy and Legislation, 245 Murray Lane, Room 3114, Washington, DC 20528, *Phone:* 202 447–5639, *Email: linda.stivaletti@hq.dhs.gov*.

Nancy Harvey, Policy Analyst, Department of Homeland Security, Office of the Chief Procurement Officer, Room 3636–15, 301 7th Street SW., Washington, DC 20528, *Phone:* 202 447–0956, *Email: nancy.harvey@hq.dhs.gov*.

RIN: 1601–AA72

DEPARTMENT OF HOMELAND SECURITY (DHS)

Office of the Secretary (OS)

Long-Term Actions

309. Ammonium Nitrate Security Program

Legal Authority: Pub. L. 110–161, 2008 Consolidated Appropriations Act, section 563

Abstract: This rulemaking will implement the December 2007 amendment to the Homeland Security Act entitled ''Secure Handling of Ammonium Nitrate.'' The amendment requires the Department of Homeland Security to ''regulate the sale and transfer of ammonium nitrate by an ammonium nitrate facility . . . to prevent the misappropriation or use of ammonium nitrate in an act of terrorism.''

Timetable:

Action	Date	FR Cite
ANPRM	10/29/08	73 FR 64280
Correction	11/05/08	73 FR 65783
ANPRM Comment Period End.	12/29/08	
NPRM	08/03/11	76 FR 46908
Notice of Public Meetings.	10/07/11	76 FR 62311
Notice of Public Meetings.	11/14/11	76 FR 70366
NPRM Comment Period End.	12/01/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jon MacLaren, Chief, Rulemaking Section, Department of Homeland Security, National Protection and Programs Directorate, Infrastructure Security Compliance Division (NPPD/ISCD), 245 Murray Lane, Mail Stop 0610, Arlington, VA 20528–0610, *Phone:* 703 235–5263, *Fax:* 703 603–4935, *Email: jon.m.maclaren@hq.dhs.gov*.

RIN: 1601–AA52

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Proposed Rule Stage

310. Requirements for Filing Motions and Administrative Appeals

Regulatory Plan: This entry is Seq. No. 55 in part II of this issue of the **Federal Register**.

RIN: 1615–AB98

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Final Rule Stage

311. Retention of EB–1, EB–2, and EB–3 Immigrant Workers and Program Improvements Affecting Highly-Skilled H–1B Nonimmigrant Workers

Regulatory Plan: This entry is Seq. No. 60 in part II of this issue of the **Federal Register**.

RIN: 1615–AC05

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Citizenship and Immigration Services (USCIS)

Completed Actions

312. U.S. Citizenship and Immigration Services Fee Schedule

Legal Authority: 8 U.S.C. 1356(m)

Abstract: This rule will adjust the fee schedule for U.S. Citizenship and Immigration Services (USCIS) immigration and naturalization benefit applications and petitions, including nonimmigrant applications and visa petitions. These fees fund the cost of processing applications and petitions for immigration benefits and services, and USCIS' associated operating costs. USCIS is revising these fees because the current fee schedule does not adequately recover the full costs of services provided by USCIS. Without an adjustment of the fee schedule, USCIS cannot provide adequate capacity to process all applications and petitions in a timely and efficient manner. The fee review is undertaken pursuant to the requirements of the Chief Financial Officers Act of 1990 (CFO Act), 31 U.S.C. 901–03. The CFO Act requires each agency's chief financial officer (CFO) to ''review, on a biennial basis, the fees, royalties, rents, and other charges imposed by the agency for services and things of value it provides, and make recommendations on revising those charges to reflect costs incurred by it in providing those services and things of value.''

Timetable:

Action	Date	FR Cite
NPRM	05/04/16	81 FR 26904
NPRM Comment Period End.	07/05/16	
Final Rule	10/24/16	81 FR 73292
Final Rule Effective.	12/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joseph D. Moore, Chief Financial Officer, Department of Homeland Security, U.S. Citizenship and Immigration Services, Suite 4018, 20 Massachusetts Avenue NW., Washington, DC 20529, *Phone:* 202 272–1701, *Fax:* 202 272–1970, *Email: joseph.moore@uscis.dhs.gov*.

RIN: 1615–AC09

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Proposed Rule Stage

313. Commercial Fishing Vessels—Implementation of 2010 and 2012 Legislation

Regulatory Plan: This entry is Seq. No. 61 in part II of this issue of the **Federal Register**.

RIN: 1625–AB85

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Final Rule Stage

314. Seafarers' Access to Maritime Facilities

Regulatory Plan: This entry is Seq. No. 62 in part II of this issue of the **Federal Register**.

RIN: 1625–AC15

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Long-Term Actions

315. Numbering of Undocumented Barges

Legal Authority: 46 U.S.C. 12301

Abstract: Title 46 U.S.C. 12301, as amended by the Abandoned Barge Act of 1992, requires that all undocumented barges of more than 100 gross tons operating on the navigable waters of the United States be numbered. This rulemaking would establish a numbering system and user fees for an original or renewed Certificate of Number for these barges. The numbering of undocumented barges allows the Coast Guard to identify the owners of abandoned barges. This rulemaking supports the Coast Guard's broad role and responsibility of protecting natural resources.

Timetable:

Action	Date	FR Cite
Request for Comments.	10/18/94	59 FR 52646
Comment Period End.	01/17/95	
ANPRM	07/06/98	63 FR 36384
ANPRM Comment Period End.	11/03/98	
NPRM	01/11/01	66 FR 2385
NPRM Comment Period End.	04/11/01	

Action	Date	FR Cite
NPRM Reopening of Comment Period.	08/12/04	69 FR 49844
NPRM Reopening Comment Period End.	11/10/04	
Supplemental NPRM.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Andrea Heck, Project Manager, Department of Homeland Security, U.S. Coast Guard, National Vessel Documentation Center, 792 T.J. Jackson Drive, Falling Waters, WV 25419, *Phone:* 304 271–2400, *Email: andrea.m.heck@uscg.mil*.

RIN: 1625–AA14

316. Outer Continental Shelf Activities

Legal Authority: 43 U.S.C. 1333(d)(1); 43 U.S.C. 1348(c); 43 U.S.C. 1356; DHS Delegation No 0170.1

Abstract: The Coast Guard is the lead Federal agency for workplace safety and health on facilities and vessels engaged in the exploration for, or development, or production of, minerals on the Outer Continental Shelf (OCS), other than for matters generally related to drilling and production that are regulated by the Bureau of Safety and Environmental Enforcement (BSEE). This project would revise the regulations on OCS activities by: (1) Adding new requirements, for OCS units for lifesaving, fire protection, training, and helidecks; (2) providing for USCG acceptance and approval of specified classification society plan reviews, inspections, audits, and surveys; and (3) requiring foreign vessels engaged in OCS activities to comply with rules similar to those imposed on U.S. vessels similarly engaged. This project would affect the owners and operators of facilities and vessels engaged in offshore activities.

Timetable:

Action	Date	FR Cite
Request for Comments.	06/27/95	60 FR 33185
Comment Period End.	09/25/95	
NPRM	12/07/99	64 FR 68416
NPRM Correction	02/22/00	65 FR 8671
NPRM Comment Period Extended.	03/16/00	65 FR 14226
NPRM Comment Period Extended.	06/30/00	65 FR 40559
NPRM Comment Period End.	11/30/00	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Rawson, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant (CG–ENG–2), 2703 Martin Luther King, Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1390, *Email: charles.e.rawson@uscg.mil*.

RIN: 1625–AA18

317. Transportation Worker Identification Credential (TWIC); Card Reader Requirements

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. 701; 50 U.S.C. 191; 50 U.S.C. 192; E.O. 12656

Abstract: The Coast Guard is establishing electronic card reader requirements for maritime facilities and vessels to be used in combination with TSA's Transportation Worker Identification Credential (TWIC). Congress enacted several statutory requirements within the Security and Accountability for Every (SAFE) Port Act of 2006 to guide regulations pertaining to TWIC readers, including the need to evaluate TSA's final pilot program report as part of the TWIC reader rulemaking. During the rulemaking process, we took into account the final pilot data and the various conditions in which TWIC readers may be employed. For example, we considered the types of vessels and facilities that will use TWIC readers, locations of secure and restricted areas, operational constraints, and need for accessibility. Recordkeeping requirements, amendments to security plans, and the requirement for data exchanges (*i.e.,* Canceled Card List) between TSA and vessel or facility owners/operators were also addressed in this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/09	74 FR 13360
Notice of Public Meeting.	04/15/09	74 FR 17444
ANPRM Comment Period End.	05/26/09	
Notice of Public Meeting Comment Period End.	05/26/09	
NPRM	03/22/13	78 FR 20558
NPRM Comment Period Extended.	05/10/13	78 FR 27335
NPRM Comment Period Extended End.	06/20/13	
Final Rule	08/23/16	81 FR 57651
Final Rule Effective.	08/23/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR Kevin McDonald, Project Manager, Department of Homeland Security, U.S. Coast Guard, Commandant (CG–FAC–2), 2703 Martin Luther King, Jr. Avenue SE., STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1168, *Email: kevin.j.mcdonald@uscg.mil*.

RIN: 1625–AB21

318. Updates to Maritime Security

Legal Authority: 33 U.S.C. 1226; 33 U.S.C. 1231; 46 U.S.C. 701; 50 U.S.C. 191 and 192; E.O. 12656; 33 CFR 1.05–1; 33 CFR 6.04–11; 33 CFR 6.14; 33 CFR 6.16; 33 CFR 6.19; DHS Delegation No. 0170.1

Abstract: The Coast Guard proposes certain additions, changes, and amendments to 33 CFR subchapter H. Subchapter H is comprised of parts 101 through 106. Subchapter H implements the major provisions of the Maritime Transportation Security Act of 2002 (MTSA). This rulemaking is the first major revision to subchapter H. The proposed changes would further the goals of domestic compliance and international cooperation by incorporating requirements from legislation implemented since the original publication of these regulations, such as the Security and Accountability for Every (SAFE) Port Act of 2006, and including international standards such as Standards of Training, Certification & Watchkeeping security training. This rulemaking has international interest because of the close relationship between subchapter H and the International Ship and Port Security Code (ISPS).

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR Kevin McDonald, Project Manager, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King, Jr. Avenue SE., Commandant (CG–FAC–2), STOP 7501, Washington, DC 20593–7501, *Phone:* 202 372–1168, *Email: kevin.j.mcdonald@uscg.mil.*

RIN: 1625–AB38

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Coast Guard (USCG)

Completed Actions

319. Inspection of Towing Vessels

Legal Authority: 46 U.S.C. 3103; 46 U.S.C. 3301; 46 U.S.C. 3306; 46 U.S.C. 3308; 46 U.S.C. 3316; 46 U.S.C. 3703; 46 U.S.C. 8104; 46 U.S.C. 8904; DHS Delegation No 0170.1

Abstract: This rulemaking implements a program of inspection for certification of towing vessels, which were previously uninspected. It prescribes standards for safety management systems and third-party auditors and surveyors, along with standards for construction, operation, vessel systems, safety equipment, and recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	08/11/11	76 FR 49976
Notice of Public Meetings.	09/09/11	76 FR 55847
NPRM Comment Period End.	12/09/11	
Final Rule	06/20/16	81 FR 40003
Final Rule Effective.	07/20/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: LCDR William Nabach, Project Manager, Office of Operating & Environmental Standards, CG–OES–2, Department of Homeland Security, U.S. Coast Guard, 2703 Martin Luther King, Jr. Avenue SE., STOP 7509, Washington, DC 20593–7509, *Phone:* 202 372–1386, *Email: william.a.nabach@uscg.mil.*

RIN: 1625–AB06

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Final Rule Stage

320. Implementation of the Guam-CNMI Visa Waiver Program (Section 610 Review)

Legal Authority: Pub. L. 110–229, sec. 702

Abstract: The interim final rule (or the final rule planned for the coming year) amends Department of Homeland Security (DHS) regulations to implement section 702 of the Consolidated Natural Resources Act of 2008 (CNRA). This law extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a joint visa waiver program for travel to Guam and the CNMI. This rule implements section 702 of the CNRA by amending the regulations to replace the current Guam Visa Waiver Program with a new Guam-CNMI Visa Waiver Program. The amended regulations set forth the requirements for nonimmigrant visitors who seek admission for business or pleasure and solely for entry into and stay on Guam or the CNMI without a visa. This rule also establishes six ports of entry in the CNMI for purposes of administering and enforcing the Guam-CNMI Visa Waiver Program. Section 702 of the Consolidated Natural Resources Act of 2008 (CNRA), subject to a transition period, extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI) and provides for a visa waiver program for travel to Guam and/or the CNMI. On January 16, 2009, the Department of Homeland Security (DHS), Customs and Border Protection (CBP), issued an interim final rule in the **Federal Register** replacing the then-existing Guam Visa Waiver Program with the Guam-CNMI Visa Waiver Program and setting forth the requirements for nonimmigrant visitors seeking admission into Guam and/or the CNMI under the Guam-CNMI Visa Waiver Program. As of November 28, 2009, the Guam-CNMI Visa Waiver Program is operational. This program allows nonimmigrant visitors from eligible countries to seek admission for business or pleasure for entry into Guam and/or the CNMI without a visa for a period of authorized stay not to exceed 45 days. This rulemaking would finalize the January 2009 interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/16/09	74 FR 2824
Interim Final Rule Effective.	01/16/09	
Interim Final Rule Comment Period End.	03/17/09	
Technical Amendment; Change of Implementation Date.	05/28/09	74 FR 25387
Final Action	08/00/17	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Stephanie Watson, Supervisory Program Manager, Department of Homeland Security, U.S. Customs and Border Protection, Office of Field Operations, 1300 Pennsylvania Avenue NW., 2.5B–38, Washington, DC 20229, *Phone:* 202 325–4548, *Email: stephanie.e.watson@cbp.dhs.gov.*

RIN: 1651–AA77

321. Waiver of Passport and Visa Requirements Due to an Unforeseen Emergency

Legal Authority: 212(a)(7)(B) INA 8 U.S.C. 1182(a)(7)

Abstract: This rule proposes to reinstate a 1996 amendment to 8 CFR 212.1(g) regarding a waiver of documentary requirements for nonimmigrants seeking admission to the United States. The 1996 amendment allowed the former Immigration and Naturalization Service (INS) to waive passport and visa requirements due to an unforeseen emergency while preserving its ability to fine carriers for unlawfully transporting aliens to the United States who do not have a valid passport or visa. On November 20, 2009, the United States Court of Appeals for the Second Circuit invalidated the 1996 amendment based on procedural grounds.

Timetable:

Action	Date	FR Cite
NPRM	03/08/16	81 FR 12032
NPRM Comment Period End.	05/09/16	
Final Rule	12/00/16	
Final Rule Effective.	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joseph R. O'Donnell, Program Manager, Fines, Penalties and Forfeitures Division, Department of Homeland Security, U.S. Customs and Border Protection, Office of Field Operations, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–1691, *Email: joseph.r.odonnell@dhs.gov.*

RIN: 1651–AA97

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Customs and Border Protection (USCBP)

Long-Term Actions

322. Importer Security Filing and Additional Carrier Requirements (Section 610 Review)

Legal Authority: Pub. L. 109–347, sec. 203; 5 U.S.C. 301; 19 U.S.C. 66; 19 U.S.C. 1431; 19 U.S.C. 1433 to 1434; 19 U.S.C. 1624; 19 U.S.C. 2071 (note); 46 U.S.C. 60105

Abstract: This final rule implements the provisions of section 203 of the Security and Accountability for Every Port Act of 2006. On November 25, 2008, Customs and Border Protection (CBP) published an interim final rule

(CBP Dec. 08–46) in the **Federal Register** (73 FR 71730), that finalized most of the provisions proposed in the NPRM. It requires carrier and importers to provide to CBP, via a CBP approved electronic data interchange system, certain advance information pertaining to cargo brought into the United States by vessel to enable CBP to identify high-risk shipments to prevent smuggling and ensure cargo safety and security. The interim final rule did not finalize six data elements that were identified as areas of potential concern for industry during the rulemaking process and, for which, CBP provided some type of flexibility for compliance with those data elements. CBP solicited public comment on these six data elements, is conducting a structured review, and also invited comments on the revised Regulatory Assessment and Final Regulatory Flexibility Analysis. (See 73 FR 71782–85 for regulatory text and 73 CFR 71733–34 for general discussion.) The remaining requirements of the rule were adopted as final. CBP plans to issue a final rule after CBP completes a structured review of the flexibilities and analyzes the comments.

Timetable:

Action	Date	FR Cite
NPRM	01/02/08	73 FR 90
NPRM Comment Period End.	03/03/08	
NPRM Comment Period Extended.	02/01/08	73 FR 6061
NPRM Comment Period End.	03/18/08	
Interim Final Rule	11/25/08	73 FR 71730
Interim Final Rule Effective.	01/26/09	
Interim Final Rule Comment Period End.	06/01/09	
Correction	07/14/09	74 FR 33920
Correction	12/24/09	74 FR 68376
Final Action	11/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Craig Clark, Program Manager, Vessel Manifest & Importer Security Filing, Office of Cargo and Conveyance Security, Department of Homeland Security, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Washington, DC 20229, *Phone:* 202 344–3052, *Email: craig.clark@cbp.dhs.gov.*

RIN: 1651–AA70

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Proposed Rule Stage

323. Security Training for Surface Transportation Employees

Regulatory Plan: This entry is Seq. No. 66 in part II of this issue of the **Federal Register**.

RIN: 1652–AA55

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Long-Term Actions

324. General Aviation Security and Other Aircraft Operator Security

Legal Authority: 6 U.S.C. 469; 18 U.S.C. 842; 18 U.S.C. 845; 46 U.S.C. 70102 to 70106; 46 U.S.C. 70117; 49 U.S.C. 114; 49 U.S.C. 114(f)(3); 49 U.S.C. 5103; 49 U.S.C. 5103a; 49 U.S.C. 40113; 49 U.S.C. 44901 to 44907; 49 U.S.C. 44913 to 44914; 49 U.S.C. 44916 to 44918; 49 U.S.C. 44932; 49 U.S.C. 44935 to 44936; 49 U.S.C. 44942; 49 U.S.C. 46105

Abstract: On October 30, 2008, the Transportation Security Administration (TSA) issued a notice of proposed rulemaking (NPRM), proposing to amend current aviation transportation security regulations to enhance the security of general aviation by expanding the scope of current requirements, and by adding new requirements for certain large aircraft operators and airports serving those aircraft. TSA also proposed that all aircraft operations, including corporate and private charter operations, with aircraft having a maximum certificated takeoff weight (MTOW) above 12,500 pounds (large aircraft) be required to adopt a large aircraft security program. TSA also proposed to require certain airports that serve large aircraft to adopt security programs. TSA is considering publishing a supplemental NPRM (SNPRM) in response to comments received on the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	10/30/08	73 FR 64790
NPRM Comment Period End.	12/29/08	
Notice—NPRM Comment Period Extended.	11/25/08	73 FR 71590
NPRM Extended Comment Period End.	02/27/09	
Notice—Public Meetings; Requests for Comments.	12/18/08	73 FR 77045
Supplemental NPRM.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kevin Knott, Branch Manager, Industry Engagement Branch—Aviation Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 22304, *Phone:* 571 227–4370, *Email: kevin.knott@tsa.dhs.gov.*

Alex Moscoso, Lead Economist, Economic Analysis Branch—Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–5839, *Email: alex.moscoso@tsa.dhs.gov.*

Denise Daniels, Attorney-Advisor, Regulations and Security Standards, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–3443, *Fax:* 571 227–1381, *Email: denise.daniels@tsa.dhs.gov.*

RIN: 1652–AA53

DEPARTMENT OF HOMELAND SECURITY (DHS)

Transportation Security Administration (TSA)

Completed Actions

325. Standardized Vetting, Adjudication, and Redress Services

Legal Authority: 49 U.S.C. 114, 5103A, 44903 and 44936; 46 U.S.C. 70105; 6 U.S.C. 469; Pub. L. 110–53, secs 1411, 1414, 1520, 1522 and 1531

Abstract: Aspects of this rulemaking will be incorporated into other agency rulemaking. Accordingly, TSA is withdrawing this rulemaking.

The Transportation Security Administration (TSA) intends to propose new regulations to revise and standardize the procedures, adjudication criteria, and fees for most of the security threat assessments (STA)

of individuals for which TSA is responsible. The scope of the rulemaking will include transportation workers who are required to undergo an STA, including surface, maritime, and aviation workers. TSA will comply with certain vetting-related requirements of the Implementing Recommendations of the 9/11 Commission Act, Pub. L. 110–53 (Aug. 3, 2007). TSA will propose fees to cover the cost of all STAs. TSA plans to improve the processing of STAs and streamline existing regulations by simplifying language and removing redundancies. TSA will propose revisions to the Alien Flight Student Program (AFSP) regulations. TSA published an interim final rule for AFSP on September 20, 2004. TSA regulations require aliens seeking to train at Federal Aviation Administration-regulated flight schools to complete an application and undergo an STA prior to beginning flight training. There are four categories under which students currently fall; the nature of the STA depends on the student's category. TSA is considering changes to the AFSP that would improve the equity among fee payers and enable the implementation of new technologies to support vetting.

Timetable:

Action	Date	FR Cite
Withdrawn	08/16/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Chang Ellison, Branch Manager, Program Initiatives Branch, Department of Homeland Security, Transportation Security Administration, Office of Intelligence and Analysis, TSA–10, HQ E6, 601 South 12th Street, Arlington, VA 20598–6010, *Phone:* 571 227–3604, *Email: chang.ellison@tsa.dhs.gov*.

Michael J. Pickford, Lead Economist, Economic Analysis Branch—Cross Modal Division, Department of Homeland Security, Transportation Security Administration, Office of Security Policy and Industry Engagement, 601 South 12th Street, Arlington, VA 20598–6028, *Phone:* 571 227–2268, *Email: michael.pickford@tsa.dhs.gov*.

John Vergelli, Senior Counsel, Regulations and Security Standards Division, Department of Homeland Security, Transportation Security Administration, Office of the Chief Counsel, 601 South 12th Street, Arlington, VA 20598–6002, *Phone:* 571 227–4416, *Fax:* 571 227–1378, *Email: john.vergelli@tsa.dhs.gov*.

RIN: 1652–AA61

DEPARTMENT OF HOMELAND SECURITY (DHS)

U.S. Immigration and Customs Enforcement (USICE)

Proposed Rule Stage

326. Procedures and Standards for Declining Immigration Surety Bonds and Appeal Requirement for Breaches

Legal Authority: 8 U.S.C. 1103

Abstract: The U.S. Immigration and Customs Enforcement (ICE) proposes to set forth standards and procedures ICE will follow before making a determination to stop accepting immigration bonds posted by a surety company that has been certified to issue bonds by the Department of the Treasury. Treasury administers the Federal corporate surety program and, in its current regulations, allows agencies to prescribe ''for cause'' standards and procedures for declining to accept bonds from Treasury-certified sureties. ICE would also require surety companies seeking to overturn a breach determination to file an administrative appeal raising all legal and factual defenses in this appeal.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Beth Cook, Deputy Chief, Office of the Principal Legal Advisor, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Suite 200, 166 Sycamore Street, Williston, VT 05495, *Phone:* 802 288–7742, *Email: beth.e.cook@ice.dhs.gov*.

Molly Stubbs, ICE Regulatory Coordinator, Department of Homeland Security, U.S. Immigration and Customs Enforcement, Office of the Director, PTN—Potomac Center North, 500 12th Street SW., Washington, DC 20536, *Phone:* 202 732–6202, *Email: molly.stubbs@ice.dhs.gov*.

Brad Tuttle, Attorney Advisor, Department of Homeland Security, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Washington, DC 20536, *Phone:* 202 732–5000, *Email: bradley.c.tuttle@ice.dhs.gov*.

RIN: 1653–AA67

DEPARTMENT OF HOMELAND SECURITY (DHS)

Federal Emergency Management Agency (FEMA)

Final Rule Stage

327. Updates to Floodplain Management and Protection of Wetlands Regulations To Implement Executive Order 13690 and the Federal Flood Risk Management Standard

Regulatory Plan: This entry is Seq. No. 69 in part II of this issue of the **Federal Register**.

RIN: 1660–AA85

328. National Flood Insurance Program (NFIP) Financial Assistance/Subsidy Arrangement

Legal Authority: 42 U.S.C. 4001 *et seq.*

Abstract: The Federal Emergency Management Agency (FEMA) is proposing to remove the copy of the Financial Assistance/Subsidy Arrangement and the summary of the Financial Control Plan from the appendices of its National Flood Insurance Program regulations, as it is no longer necessary or appropriate to retain a contract, agreement, or any other arrangement between FEMA and private insurance companies in the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/23/16	81 FR 32261
NPRM Comment Period End.	07/22/16	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Claudia Murphy, Policyholder Services Division, Department of Homeland Security, Federal Emergency Management Agency, 400 C Street SW., Washington, DC 20472, *Phone:* 202 646–2775, *Email: claudia.murphy@fema.dhs.gov*.

RIN: 1660–AA86

[FR Doc. 2016–29864 Filed 12–22–16; 8:45 am]

BILLING CODE 9110–9B–P

FEDERAL REGISTER

Vol. 81 Friday,
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Part X

Department of Housing and Urban Development

Semiannual Regulatory Agenda

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. FR–5935–N–02]

Semiannual Regulatory Agenda

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual regulatory agenda.

SUMMARY: In accordance with section 4(b) of Executive Order 12866, ''Regulatory Planning and Review,'' as amended, HUD is publishing its agenda of regulations already issued or that are expected to be issued during the next several months. The agenda also includes rules currently in effect that are under review and describes those regulations that may affect small entities, as required by section 602 of the Regulatory Flexibility Act. The purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with advance information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Aaron Santa Anna, Assistant General Counsel for Regulations, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410–0500; telephone number 202–708–3055. (This is not a toll-free number.) A telecommunications device for hearing- and speech-impaired individuals (TTY) is available at 800–877–8339 (Federal Relay Service).

SUPPLEMENTARY INFORMATION: Executive Order 12866, ''Regulatory Planning and Review'' (58 FR 51735), as amended, requires each department or agency to prepare semiannually an agenda of: (1) Regulations that the department or agency has issued or expects to issue, and; (2) rules currently in effect that are under departmental or agency review. The Regulatory Flexibility Act (5 U.S.C. 601–612) requires each department or agency to publish semiannually a regulatory agenda of rules expected to be proposed or promulgated that are likely to have a significant economic impact on a substantial number of ''small entities,'' meaning small businesses, small organizations, or small governmental jurisdictions. Executive Order 12866 and the Regulatory Flexibility Act permit incorporation of the agenda required by these two authorities with any other prescribed agenda.

HUD's regulatory agenda combines the information required by Executive Order 12866 and the Regulatory Flexibility Act. As in the past, HUD's complete Unified Agenda will be available online at *www.reginfo.gov,* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

The Department is subject to certain rulemaking requirements set forth in the Department of Housing and Urban Development Act (42 U.S.C. 3531 *et seq.*). Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight of HUD (the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services), a semiannual agenda of all rules or regulations that are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days after transmittal of the agenda. Section 7(o) provides that if, within that period, either committee notifies the Secretary that it intends to review any rule or regulation that appears on the agenda, the Secretary must submit to both committees a copy of the rule or regulation, in the form that it is intended to be proposed, at least 15 calendar days before it is to be published for comment. The semiannual agenda posted on *www.reginfo.gov* is the agenda transmitted to the committees in compliance with the above requirements.

HUD has attempted to list in this agenda all regulations and regulatory reviews pending at the time of publication, except for minor and routine or repetitive actions, but some may have been inadvertently omitted, or may have arisen too late to be included in the published agenda. There is no legal significance to the omission of an item from this agenda. Also, where a date is provided for the next rulemaking action, the date is an estimate and is not a commitment to act on or by the date shown.

In some cases, HUD has withdrawn rules that were placed on previous agendas for which there has been no publication activity. Withdrawal of a rule does not necessarily mean that HUD will not proceed with the rulemaking. Withdrawal allows HUD to assess the subject matter further and determine whether rulemaking in that area is appropriate. Following such an assessment, the Department may determine that certain rules listed as withdrawn under this agenda are appropriate. If that determination is made, such rules will be included in a succeeding semiannual agenda.

In addition, for a few rules that have been published as proposed or interim rules and which, therefore, require further rulemaking, HUD has identified the timing of the next action stage as ''undetermined.'' These are rules that are still under review by HUD for which a determination and timing of the next action stage have not yet been made.

Since the purpose of publication of the agenda is to encourage more effective public participation in the regulatory process by providing the public with early information about the Department's future regulatory actions, HUD invites all interested members of the public to comment on the rules listed in the agenda.

Dated: August 31, 2016.

Tonya Robinson,

Principal Deputy General Counsel.

OFFICE OF HOUSING—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
329	24 CFR 3280 Manufactured Home Construction and Safety Standards (FR–5739)	2502–AJ34
330	24 CFR 3282 Manufactured Housing Program: Minimum Payments to the States (FR–5848)	2502–AJ37

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Proposed Rule Stage

329. Manufactured Home Construction and Safety Standards (FR–5739)

Legal Authority: 42 U.S.C. 5401 *et seq.;* 42 U.S.C. 3535(d)

Abstract: This proposed rule would amend the Federal Manufactured Home Construction and Safety Standards by adopting certain recommendations made to HUD by the Manufactured Housing Consensus Committee (MHCC). The National Manufactured Housing Construction and Safety Standards Act of 1974 (the Act) requires HUD to publish all proposed revised construction and safety standards submitted by the MHCC. This proposed rule is based on the third set of MHCC recommendations to update and improve various aspects of the Manufactured Housing Construction and Safety Standards. HUD has reviewed those proposals and has made several editorial revisions to the proposals which were reviewed and accepted by the MHCC. This rule proposes to add new standards that would establish requirements for carbon monoxide detection, stairways, fire safety considerations for attached garages, and for draftstops when there is a usable space above and below the concealed space of a floor/ceiling assembly and would establish requirements for venting systems to ensure that proper separation is maintained between the air intake and exhaust systems.

Timetable:

Action	Date	FR Cite
NPRM	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard Mendlen, Structural Engineer, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, Office of Housing, 451 Seventh Street SW., Washington, DC 20410, *Phone:* 202 708–6423.

RIN: 2502–AJ34

330. • Manufactured Housing Program: Minimum Payments to the States (FR–5848)

Legal Authority: 42 U.S.C. 4501; 42 U.S.C. 5401 *et seq.;* 42 U.S.C. 35359(d)

Abstract: This proposed rule would revise the minimum payments to States approved as State Administrative Agencies (SAAs) under the National Manufactured Housing Construction and Safety Standards Act of 1974 in order to provide for a more equitable guarantee of minimum funding from HUD's appropriation for this program and to avoid the differing per unit payments to the States that have occurred under the present rule. This rule would base the minimum payments to States upon their participation in production or siting of new manufactured homes, including for new manufactured homes both produced and sited in the same State.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard Mendlen, Structural Engineer, Office of Manufactured Housing Programs, Office of Housing, Department of Housing and Urban Development, Office of Housing, 457 Seventh Street SW., Washington, DC 20410, *Phone:* 202 708–6423.

RIN: 2502–AJ37

[FR Doc. 2016–29865 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XI

Department of the Interior

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

[167D0102DM; DS6CS00000; DLSN00000.00000; DX6CS25]

Semiannual Regulatory Agenda

AGENCY: Office of the Secretary, Interior.

ACTION: Semiannual regulatory agenda.

SUMMARY: This notice provides the unified agenda of rules scheduled for review or development between fall 2016 and fall 2017. The Regulatory Flexibility Act and Executive Order 12866 require publication of the agenda.

ADDRESSES: Unless otherwise indicated, all agency contacts are located at the Department of the Interior, 1849 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: You should direct all comments and inquiries to the about these rules to the appropriate agency contact. You should direct general comments relating to the agenda to the Office of Executive Secretariat and Regulatory Affairs, Department of the Interior, at the address above or at 202–208–3181.

SUPPLEMENTARY INFORMATION: With this publication, the Department satisfies the requirement of Executive Order 12866 that the Department publish an agenda of rules that we have issued or expect to issue and of currently effective rules that we have scheduled for review.

Simultaneously, the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) to publish an agenda in April and October of each year identifying rules that will have significant economic effects on a substantial number of small entities. We have specifically identified in the agenda rules that will have such effects.

This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department's Statement of Regulatory Priorities is included in the Plan.

Mark Lawyer,

Federal Register Liaison Officer.

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
331	Cost Recovery Adjustment	1014–AA31

BUREAU OF SAFETY AND ENVIRONMENTAL ENFORCEMENT—COMPLETED ACTION

Sequence No.	Title	Regulation Identifier No.
332	Production Safety Systems and Lifecycle Analysis	1014–AA10

ASSISTANT SECRETARY FOR LAND AND MINERALS MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
333	Arctic Regulations	1082–AA00

UNITED STATES FISH AND WILDLIFE SERVICE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
334	Migratory Bird Permits; Incidental Take of Migratory Birds	1018–BA69
335	Migratory Bird Hunting; 2018–2019 Migratory Game Bird Hunting Regulations	1018–BB73

UNITED STATES FISH AND WILDLIFE SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
336	National Wildlife Refuge System; Management of Non-Federal Oil and Gas Rights	1018–AX36

NATIONAL PARK SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
337	Non-Federal Oil and Gas Rights	1024–AD78

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
338	Stream Protection Rule	1029–AC63

BUREAU OF LAND MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
339	Waste Prevention, Production Subject to Royalties, and Resource Conservation	1004–AE14
340	Onshore Oil and Gas Order 4: Oil Measurement	1004–AE16

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Safety and Environmental Enforcement (BSEE)

Proposed Rule Stage

331. Cost Recovery Adjustment

Legal Authority: 31 U.S.C. 9701

Abstract: This rule would update 31 cost recovery fees to allow the Bureau of Safety and Environmental Enforcement to recover the full costs of the services it provides to the oil and gas industry. It complies with the Independent Office Appropriations Act of 1952 which established that government services should be self-sustaining to the extent possible. Rulemaking is the only method available to update these fees and comply with the intent of Congress to recover government costs when a special benefit is bestowed on an identifiable recipient. The practice of cost recovery is well-established and this rulemaking is not expected to be controversial.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	
Final Action	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kimberly Monaco, Department of the Interior, Bureau of Safety and Environmental Enforcement, 1849 C Street NW., Washington, DC 20240, *Phone:* 703 787–1658.

RIN: 1014–AA31

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Safety and Environmental Enforcement (BSEE)

Completed Actions

332. Production Safety Systems and Lifecycle Analysis

Legal Authority: 31 U.S.C. 9701; 43 U.S.C. 1334

Abstract: The Bureau of Safety and Environmental Enforcement (BSEE) will amend and update the regulations regarding offshore oil and natural gas production. It will address issues such as production safety systems, subsurface safety devices, and safety device testing. BSEE has expanded the rule to differentiate the requirements for operating dry tree and wet tree production systems on the Outer Continental Shelf (OCS). This rule will also expand use of life cycle analysis of critical equipment.

Completed:

Reason	Date	FR Cite
Final Action	09/07/16	81 FR 61834
Final Action Effective.	11/07/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lakeisha Harrison, *Phone:* 703 787–1552, *Fax:* 703 787–1555, *Email: lakeisha.harrison@bsee.gov.*

RIN: 1014–AA10

DEPARTMENT OF THE INTERIOR (DOI)

Assistant Secretary for Land and Minerals Management (ASLM)

Completed Actions

333. Arctic Regulations

Legal Authority: 34 U.S.C. 1331 *et seq.*

Abstract: The Department of the Interior, through the Bureau of Ocean Energy Management and Bureau of Safety and Environmental Enforcement, is developing joint proposed rules to promote safe, responsible, and effective drilling activities on the Arctic Continental Shelf, while also ensuring the protection of Alaska's coastal communities and the marine environment.

Completed:

Reason	Date	FR Cite
Final Action	07/15/16	81 FR 46478
Final Action Effective.	09/13/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Farber, *Phone:* 202 208–3976, *Email: michael.farber@bsee.com.*

RIN: 1082–AA00

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

334. Migratory Bird Permits; Incidental Take of Migratory Birds

Legal Authority: 16 U.S.C. 703 to 712; 42 U.S.C. 4321 *et seq.*

Abstract: We are preparing a programmatic environmental impact statement (PEIS) pursuant to the National Environmental Policy Act of 1969 (NEPA) to evaluate the potential environmental impacts of a proposal to authorize incidental take of migratory birds under the Migratory Bird Treaty Act (16 U.S.C. 703 to 711). In drafting the PEIS, we invited input from other Federal and State agencies, tribes, nongovernmental organizations, and members of the public on the scope of the proposed NEPA analysis, the pertinent issues we should address, and alternatives to our proposed approach for authorizing incidental take. Based on this PEIS, we propose to establish regulations to govern the incidental take of migratory birds from activities under

which migratory birds are killed incidental to otherwise lawful activities. These proposed regulations will establish rules for individual permits and programmatic agreements with Federal agencies and will establish the basis for future rulemaking for general authorizations for incidental take of migratory birds.

Timetable:

Action	Date	FR Cite
Notice	05/26/15	80 FR 30032
Comment Period End.	07/27/15	
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen Earsom, Biologist—Pilot, Regions 4 & 5 Aviation Manager, Department of the Interior, United States Fish and Wildlife Service, 11510 American Holly Drive, Laurel, MD 20708, *Phone:* 301 980–8711, *Email: stephen_earsom@fws.gov*.

RIN: 1018–BA69

335. • Migratory Bird Hunting; 2018–2019 Migratory Game Bird Hunting Regulations

Legal Authority: 16 U.S.C. 703 to 711; 16 U.S.C. 742a–j

Abstract: We propose to establish annual hunting regulations for certain migratory game birds for the 2018–2019 hunting season. We annually prescribe outside limits (frameworks), within which States may select hunting seasons. This proposed rule provides the regulatory schedule, describes the proposed regulatory alternatives for the 2018–2019 duck hunting seasons, requests proposals from Indian tribes that wish to establish special migratory game bird hunting regulations on Federal Indian reservations and ceded lands, and requests proposals for the 2018 spring and summer migratory bird subsistence season in Alaska. Migratory game bird hunting seasons provide opportunities for recreation and sustenance; aid Federal, State, and tribal governments in the management of migratory game birds; and permit harvests at levels compatible with migratory game bird population status and habitat conditions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/17	
Final Action	03/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ronald Kokel, Wildlife Biologist, Division of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: MB, Falls Church, VA 22041–3808, *Phone:* 703 358–1714, *Email: ronald_kokel@fws.gov*.

RIN: 1018–BB73

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Final Rule Stage

336. National Wildlife Refuge System; Management of Non-Federal Oil and Gas Rights

Legal Authority: 16 U.S.C. 668dd to ee; 42 U.S.C. 7401 *et seq.;* 16 U.S.C. 1131 to 1136; 40 CFR 51.300 to 51.309

Abstract: We anticipate publishing regulations that ensure that all operators conducting oil or gas operations within a National Wildlife Refuge System unit do so in a manner that prevents or minimizes damage to National Wildlife Refuge System resources, visitor values, and management objectives. These regulations will not result in a taking of a property interest, but rather to impose reasonable controls on operations that affect federally owned or controlled lands, and/or waters.

Timetable:

Action	Date	FR Cite
ANPRM	02/24/14	79 FR 10080
ANPRM Comment Period End.	04/25/14	
ANPRM Comment Period Re-opened.	06/09/14	79 FR 32903
ANPRM Comment Period Reopening End.	07/09/14	
NPRM	12/11/15	80 FR 77200
NPRM Comment Period End.	02/09/16	
NPRM; Final Environmental Impact Statement.	08/22/16	81 FR 56575
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jillian Cohen, Conservation Policy Analyst, Department of the Interior, United States Fish and Wildlife Service, 5275 Leesburg Pike, MS: NWRS, Falls Church, VA 22041, *Phone:* 703 358–1764, *Email: jillian_cohen@fws.gov*.

RIN: 1018–AX36

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Final Rule Stage

337. Non-Federal Oil and Gas Rights

Legal Authority: 54 U.S.C. 100101; 54 U.S.C. 100301; 54 U.S.C. 100302; 54 U.S.C. 100731; 54 U.S.C. 100732

Abstract: This rule would update National Park Service (NPS) regulations governing the exercise of non-Federal oil and gas rights within NPS unit boundaries outside of Alaska. It would accommodate new technology and industry practices, eliminate regulatory exemptions, update requirements, remove caps on bond amounts, and allow NPS to recover administrative costs. The changes make the regulations more effective and efficient and maintain the highest level of protection compatible with park resources and values.

Timetable:

Action	Date	FR Cite
ANPRM	11/25/09	74 FR 61596
ANPRM Comment Period End.	01/25/10	
NPRM	10/26/15	80 FR 65571
NPRM Comment Period End.	12/28/15	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Edward O. Kassman Jr., Geologic Resources Division, Department of the Interior, National Park Service, P.O. Box 25287, Denver, CO 80225, *Phone:* 303 969–2146, *Email: edward_kassman@nps.gov*.

RIN: 1024–AD78

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSMRE)

Final Rule Stage

338. Stream Protection Rule

Legal Authority: 30 U.S.C. 1201 *et seq.*

Abstract: This rule revises our regulations to improve the balance between environmental protection and the Nation's need for coal as a source of energy. This final rule will better protect streams, fish, wildlife, and related environmental values from the adverse impacts of surface coal mining operations and provide mine operators with a regulatory framework to avoid water pollution and the long-term costs associated with water treatment.

Timetable:

Action	Date	FR Cite
ANPRM	11/30/09	74 FR 62664
ANPRM Comment Period End.	12/30/09	
NPRM	07/27/15	80 FR 44436
NPRM Comment Period Extended.	09/10/15	80 FR 54590
NPRM Comment Period End.	09/25/15	
NPRM Comment Period Extended End.	10/26/15	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dennis Rice, Regulatory Analyst, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue NW., Washington, DC 20240, *Phone:* 202 208–2829, *Email: drice@osmre.gov*.

RIN: 1029–AC63

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Land Management (BLM)

Final Rule Stage

339. Waste Prevention, Production Subject to Royalties, and Resource Conservation

Legal Authority: 25 U.S.C. 396d; 25 U.S.C. 2107; 30 U.S.C. 189; 30 U.S.C. 306; 30 U.S.C. 359; 30 U.S.C. 1751; 43 U.S.C. 1732(b); 43 U.S.C. 1733; 43 U.S.C. 1740

Abstract: The rule would update decades-old standards to reduce wasteful venting, flaring, and leaks of natural gas from onshore wells located on Federal and Indian oil and gas leases. The proposed standards would establish requirements and incentives to reduce waste of gas and clarify when royalties apply to lost gas. This action will enhance our energy security and economy by boosting America's natural gas supplies, ensuring that taxpayers receive the royalties due to them from development of public resources, and reducing emissions.

Timetable:

Action	Date	FR Cite
NPRM	02/08/16	81 FR 6616
NPRM Comment Period Extended.	04/04/16	81 FR 19110
NPRM Comment Period End.	04/08/16	
NPRM Comment Period Extended End.	04/22/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven Wells, Division Chief, Fluid Minerals Division, Department of the Interior, Bureau of Land Management, Room 2134 LM, 20 M Street SE., Washington, DC 20003, *Phone:* 202 912–7143, *Fax:* 202 912–7194, *Email: s1wells@blm.gov*.

RIN: 1004–AE14

340. Onshore Oil and Gas Order 4: Oil Measurement

Legal Authority: 25 U.S.C. 396(d); 25 U.S.C. 2107; 30 U.S.C. 189; 30 U.S.C. 306; 30 U.S.C. 359; 30 U.S.C. 1751; 43 U.S.C. 1732(b); 43 U.S.C. 1733; 43 U.S.C. 1740

Abstract: Onshore Order 4 establishes minimum standards to ensure liquid hydrocarbons are accurately measured and reported. This Order was last updated in 1989, and since then changes in technology have allowed for more accurate fluid measurement. This order will incorporate current industry standards and allow for the use of new technology.

Timetable:

Action	Date	FR Cite
NPRM	09/30/15	80 FR 58952
NPRM Comment Period Extended.	11/23/15	80 FR 72943
NPRM Comment Period End.	11/30/15	
NPRM Comment Period Extended End.	12/14/15	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven Wells, Division Chief, Fluid Minerals Division, Department of the Interior, Bureau of Land Management, Room 2134 LM, 20 M Street SE., Washington, DC 20003, *Phone:* 202 912–7143, *Fax:* 202 912–7194, *Email: s1wells@blm.gov*.

RIN: 1004–AE16

[FR Doc. 2016–29868 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XII

Department of Justice

Semiannual Regulatory Agenda

DEPARTMENT OF JUSTICE

8 CFR Ch. V

21 CFR Ch. I

27 CFR Ch. II

28 CFR Ch. I, V

Regulatory Agenda

AGENCY: Department of Justice.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Department of Justice is publishing its fall 2016 regulatory agenda pursuant to Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735, and the Regulatory Flexibility Act, 5 U.S.C. 601 to 612 (1988).

FOR FURTHER INFORMATION CONTACT: Robert Hinchman, Senior Counsel, Office of Legal Policy, Department of Justice, Room 4252, 950 Pennsylvania Avenue NW., Washington, DC 20530, (202) 514–8059.

SUPPLEMENTARY INFORMATION: This edition of the Unified Agenda of Federal Regulatory and Deregulatory Actions includes The Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** that includes the Unified Agenda. The Department of Justice's Statement of Regulatory Priorities is included in the Plan.

Beginning with the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Department of Justice's printed agenda entries include only:

Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including the Department of Justice's regulatory plan.

Dated: September 6, 2016.

Jonathan J. Wroblewski,

Principal Deputy Assistant Attorney General, Office of Legal Policy.

CIVIL RIGHTS DIVISION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
341	Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments **(Reg Plan Seq. No. 72)**.	1190–AA65

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

CIVIL RIGHTS DIVISION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
342	Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description **(Reg Plan Seq. No. 73)**.	1190–AA63

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

DEPARTMENT OF JUSTICE (DOJ)

Civil Rights Division (CRT)

Proposed Rule Stage

341. Nondiscrimination on the Basis of Disability: Accessibility of Web Information and Services of State and Local Governments

Regulatory Plan: This entry is Seq. No. 72 in part II of this issue of the **Federal Register**.

RIN: 1190–AA65

DEPARTMENT OF JUSTICE (DOJ)

Civil Rights Division (CRT)

Final Rule Stage

342. Nondiscrimination on the Basis of Disability; Movie Captioning and Audio Description

Regulatory Plan: This entry is Seq. No. 73 in part II of this issue of the **Federal Register**.

RIN: 1190–AA63

[FR Doc. 2016–29869 Filed 12–22–16; 8:45 am]

BILLING CODE 4410–BP–P

FEDERAL REGISTER

Vol. 81 Friday,
No. 247 December 23, 2016

Part XIII

Department of Labor

Office of the Secretary

Semiannual Regulatory Agenda

DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, VII, and IX

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual Regulatory Agenda.

SUMMARY: The Internet has become the means for disseminating the entirety of the Department of Labor's semiannual regulatory agenda. However, the Regulatory Flexibility Act requires publication of a regulatory flexibility agenda in the **Federal Register**. This **Federal Register** Notice contains the regulatory flexibility agenda.

FOR FURTHER INFORMATION CONTACT: Stephanie Swirsky, Deputy Assistant Secretary, Office of Regulatory Policy, Office of the Assistant Secretary for Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–2312, Washington, DC 20210; (202) 693–5959.

Note: Information pertaining to a specific regulation can be obtained from the agency contact listed for that particular regulation.

SUPPLEMENTARY INFORMATION: Executive Order 12866 requires the semiannual publication of an agenda of regulations that contains a listing of all the regulations the Department of Labor expects to have under active consideration for promulgation, proposal, or review during the coming one-year period. The entirety of the Department's semiannual agenda is available online at *www.reginfo.gov.*

The Regulatory Flexibility Act (5 U.S.C. 602) requires DOL to publish in the **Federal Register** a regulatory flexibility agenda. The Department's Regulatory Flexibility Agenda published with this notice, includes only those rules on its semiannual agenda that are likely to have a significant economic impact on a substantial number of small entities; and those rules identified for periodic review in keeping with the requirements of section 610 of the Regulatory Flexibility Act. Thus, the regulatory flexibility agenda is a subset of the Department's semiannual regulatory agenda. There is only one section 610 item on the Department of Labor's Regulatory Flexibility Agenda:

Occupational Safety and Health Administration

Bloodborne Pathogens (RIN 1218–AC34)

In addition, the Department's Regulatory Plan, also a subset of the Department's regulatory agenda, is being published in the **Federal Register**. The Regulatory Plan contains a statement of the Department's regulatory priorities and the regulatory actions the Department wants to highlight as its most important and significant.

All interested members of the public are invited and encouraged to let departmental officials know how our regulatory efforts can be improved, and are invited to participate in and comment on the review or development of the regulations listed on the Department's agenda.

Thomas E. Perez,

Secretary of Labor.

OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
343	Discrimination on the Basis of Sex	1250–AA05

WAGE AND HOUR DIVISION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
344	Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees.	1235–AA11
345	Establishing Paid Sick Leave for Contractors, Executive Order 13706	1235–AA13

EMPLOYMENT AND TRAINING ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
346	Modernizing the Permanent Labor Certification Program (PERM)	1205–AB75

EMPLOYMENT AND TRAINING ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
347	Workforce Innovation and Opportunity Act	1205–AB73
348	Workforce Innovation and Opportunity Act; Joint Rule With U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions.	1205–AB74

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
349	Bloodborne Pathogens (Section 610 Review)	1218–AC34
350	Combustible Dust	1218–AC41
351	Preventing Backover Injuries and Fatalities	1218–AC51

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
352	Infectious Diseases **(Reg Plan Seq No. 85)**	1218–AC46

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
353	Occupational Exposure to Beryllium **(Reg Plan Seq No. 87)**	1218–AB76

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
354	Injury and Illness Prevention Program	1218–AC48

DEPARTMENT OF LABOR (DOL)

Office of Federal Contract Compliance Programs (OFCCP)

Completed Actions

343. Discrimination on the Basis of Sex

Legal Authority: Sec. 201, E.O. 11246, 30 FR 12319 and E.O. 11375, 32 FR 14303, as amended by E.O. 12086

Abstract: The Office of Federal Contract Compliance Programs (OFCCP) is charged with enforcing Executive Order 11246, as amended, which prohibits Federal Government contractors and subcontractors from discriminating against individuals in employment on the basis of race, color, sex, sexual orientation, gender identity, religion, or national origin, and requires them to take affirmative action. This order also prohibits discrimination based on an employee discussing his or her pay or the pay of a coworker. OFCCP regulations at 41 CFR part 60–20 set forth the interpretations and guidelines for implementing Executive Order 11246, as amended, in regard to promoting and ensuring equal opportunities for all persons employed or seeking employment with Government contractors and subcontractors without regard to sex. This nondiscrimination requirement also applies to contractors and subcontractors performing under federally assisted construction contracts. The guidance in part 60–20 is more than 30 years old, and warranted changes that align OFCCP's requirements with current law and better address the realities of today's workplaces. OFCCP published a Notice of Proposed Rulemaking on January 30, 2015 (80 FR 5245), to create sex discrimination regulations that reflect the current state of the law in this area. OFCCP published the Discrimination on the Basis of Sex Final Rule on June 14, 2016 (81 FR 39107). The Final Rule becomes effective August 15, 2016.

Timetable:

Action	Date	FR Cite
NPRM	01/30/15	80 FR 5245
NPRM Comment Period End.	03/31/15	
NPRM Comment Period Extended.	04/01/15	80 FR 17373
NPRM Comment Period Extended End.	04/14/15	
Final Rule	06/15/16	81 FR 39108
Final Rule Effective.	08/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Debra A. Carr, Director, Division of Policy and Program Development, Department of Labor, Office of Federal Contract Compliance Programs, 200 Constitution Avenue NW., FP Building, Room C–3325, Washington, DC 20210, *Phone:* 202 693–0103, *TDD Phone:* 202 693–1337, *Fax:* 202 693–1304, *Email: ofccp-public@dol.gov*.

RIN: 1250–AA05

DEPARTMENT OF LABOR (DOL)

Wage and Hour Division (WHD)

Completed Actions

344. Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Outside Sales, and Computer Employees

Legal Authority: 29 U.S.C. 213(a)(1) (Fair Labor Standards Act)

Abstract: The Department proposes to update the regulations governing which executive, administrative, and professional employees (white collar workers) are entitled to the Fair Labor Standards Act's minimum wage and overtime pay protections. Key provisions of the proposed rule include: (1) Setting the standard salary level required for exemption for full-time salaried workers; (2) increasing the total annual compensation requirement needed to exempt highly compensated employees; and (3) establishing a

mechanism for automatically updating the salary and compensation levels going forward to ensure that they will continue to provide a useful and effective test for exemption. The Department last updated these regulations in 2004, which, among other items, set the standard salary level at not less than $455 per week.

Timetable:

Action	Date	FR Cite
NPRM	07/06/15	80 FR 38516
NPRM Comment Period End.	09/04/15	
Final Rule	05/23/16	81 FR 32391
Final Rule Effective.	12/01/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, *Phone:* 202 693–0406, *Fax:* 202 693–1387.

RIN: 1235–AA11

345. Establishing Paid Sick Leave for Contractors, Executive Order 13706

Legal Authority: E.O. 13706

Abstract: Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors (80 FR 54697) establishes paid sick leave for Federal contractors and subcontractors. The Executive order indicates that Executive Departments and agencies shall, to the extent permitted by law, ensure that new contracts, contract-like instruments, and solicitations as described in section 6 of the order, include a clause, which the contractor and any subcontractors shall incorporate into lower-tier subcontracts, specifying that all employees, in the performance of the contract or any subcontract thereunder, shall earn not less than one hour of paid sick leave for every 30 hours worked. Consistent with the Executive order, the Department of Labor will issue implementing regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/25/16	81 FR 9592
NPRM Comment Period End.	03/28/16	
NPRM Comment Period Extended.	03/14/16	81 FR 13306
NPRM Comment Period Extended End.	04/12/16	
Final Rule	09/30/16	81 FR 67598
Final Rule Effective.	11/29/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Smith, Director, Regulations, Legislation and Interpretations, Department of Labor, Wage and Hour Division, 200 Constitution Avenue NW., Room S3502, Washington, DC 20210, *Phone:* 202 693–0406, *Fax:* 202 693–1387.

RIN: 1235–AA13

DEPARTMENT OF HOMELAND SECURITY (DHS)

Employment and Training Administration (ETA)

Proposed Rule Stage

346. Modernizing the Permanent Labor Certification Program (PERM)

Legal Authority: 8 U.S.C. 1182(a)(5)(A)

Abstract: The PERM regulations govern the labor certification process for employers seeking to employ foreign workers permanently in the United States. The Department of Labor (Department) has not comprehensively examined and modified the permanent labor certification requirements and process since 2004. Over the last ten years, much has changed in our country's economy, affecting employers' demand for workers and the availability of a qualified domestic labor force. Advances in technology and information dissemination have dramatically altered common industry recruitment practices, and the Department has received ongoing feedback that the existing regulatory requirements governing the PERM process frequently do not align with worker or industry needs and practices. Therefore, the Department is engaging in rulemaking that will consider options to modernize the PERM program to be more responsive to changes in the national workforce, to further align the program design with the objectives of the U.S. immigration system and needs of workers and employers, and to enhance the integrity of the labor certification process.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William W. Thompson II, Acting Administrator, Office of Foreign Labor Certification, Department of Labor, Employment and Training Administration, 375 E Street SW., Patriot Plaza II, Room 12–200, Washington, DC 20024, *Phone:* 202 513–7350.

RIN: 1205–AB75

DEPARTMENT OF HOMELAND SECURITY (DHS)

Employment and Training Administration (ETA)

Completed Actions

347. Workforce Innovation and Opportunity Act

Legal Authority: Sec. 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113–128)

Abstract: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128). WIOA repeals the Workforce Investment Act of 1998 (WIA) and amends the Wagner-Peyser Act. (29 U.S.C. 2801 *et seq.*) The Department of Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015, that proposed to implement the changes WIOA makes to the public workforce system in regulations. Through the NPRM, the Department proposed ways to carry out the purposes of WIOA to provide workforce investment activities, through State and local workforce development systems, that increase employment, retention, and earnings of participants, meet the skill requirements of employers, and enhance the productivity and competitiveness of the Nation. The Department analyzed the comments received and developed a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20690
NPRM Comment Period End.	06/15/15	
Final Rule	08/19/16	81 FR 56072
Final Rule Effective.	10/18/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639–2700.

RIN: 1205–AB73

348. Workforce Innovation and Opportunity Act; Joint Rule With U.S. Department of Education for Combined and Unified State Plans, Performance Accountability, and the One-Stop System Joint Provisions

Legal Authority: Sec. 503(f) of the Workforce Innovation and Opportunity Act (Pub. L. 113–128)

Abstract: On July 22, 2014, the President signed the Workforce Innovation and Opportunity Act (WIOA) (Pub. L. 113–128) which repeals the Workforce Investment Act of 1998 (WIA). (29 U.S.C. 2801 *et seq.*) As directed by WIOA, the Departments of Education and Labor issued a Notice of Proposed Rulemaking (NPRM) on April 16, 2015, to implement the changes in regulations that WIOA makes to the public workforce system regarding Combined and Unified State Plans, performance accountability for WIOA title I, title II, title III, and title IV programs, and the one-stop delivery system.

All of the other regulations implementing WIOA were published by the Departments of Labor and Education in separate NPRMs. The Departments analyzed the comments received and developed a final rule.

Timetable:

Action	Date	FR Cite
NPRM	04/16/15	80 FR 20574
NPRM Comment Period End.	06/15/15	
Final Rule	08/19/16	81 FR 55792
Final Rule Effective.	10/18/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Portia Wu, Assistant Secretary for Employment and Training, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., FP Building, Washington, DC 20210, *Phone:* 202 639–2700.

RIN: 1205–AB74

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Prerule Stage

349. Bloodborne Pathogens (Section 610 Review)

Legal Authority: 5 U.S.C. 533; 5 U.S.C. 610; 29 U.S.C. 655(b)

Abstract: OSHA will undertake a review of the Bloodborne Pathogen Standard (29 CFR 1910.1030) in accordance with the requirements of the Regulatory Flexibility Act and section 5 of Executive Order 12866. The review will consider the continued need for the rule; whether the rule overlaps, duplicates, or conflicts with other Federal, State or local regulations; and the degree to which technology, economic conditions, or other factors may have changed since the rule was evaluated.

Timetable:

Action	Date	FR Cite
Begin Review	10/22/09	
Notice of Request for Comment.	05/14/10	75 FR 27237
Notice of Request for Comment Period End.	08/12/10	
End Review and Issue Findings.	11/00/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Amanda Edens, Director, Directorate of Technical Support and Emergency Management, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3653, Washington, DC 20210, *Phone:* 202 693–2300, *Fax:* 202 693–1644, *Email: edens.mandy@dol.gov.*

RIN: 1218–AC34

350. Combustible Dust

Legal Authority: 29 U.S.C. 655(b); 29 U.S.C. 657

Abstract: Occupational Safety and Health Administration (OSHA) has initiated rulemaking to develop a combustible dust standard for general industry. OSHA will use information gathered, including from an upcoming SBREFA panel, to develop a comprehensive standard that addresses combustible dust hazards.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/09	74 FR 54333
Notice of Stakeholder Meetings.	12/14/09	
ANPRM Comment Period End.	01/19/10	
Notice of Stakeholder Meetings.	03/09/10	75 FR 10739
Initiate SBREFA	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov.*

RIN: 1218–AC41

351. Preventing Backover Injuries and Fatalities

Legal Authority: 29 U.S.C. 655(b)

Abstract: Backing vehicles and equipment are common causes of struck-by injuries and can also cause caught-between injuries when backing vehicles and equipment pin a worker against an object. Struck-by injuries and caught-between injuries are two of the four leading causes of workplace fatalities. The Bureau of Labor Statistics reports that in 2013, 67 workers were fatally backed over while working. While many backing incidents can prove to be fatal, workers can suffer severe, non-fatal injuries as well. A review of OSHA's Integrated Management Information System (IMIS) database found that backing incidents can result in serious injury to the back and pelvis, fractured bones, concussions, amputations, and other injuries. Emerging technologies in the field of backing operations may prevent incidents. The technologies include cameras and proximity detection systems. The use of spotters and internal traffic control plans can also make backing operations safer. The Agency has held stakeholder meetings on backovers, and is conducting site visits to employers, and is developing a standard to address these hazards.

Timetable:

Action	Date	FR Cite
Request for Information (RFI).	03/29/12	77 FR 18973
RFI Comment Period End.	07/27/12	
Initiate SBREFA	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dean McKenzie, Director, Directorate of Construction, Department of Labor, Occupational Safety and Health Administration, Room N–3468, FP Building, 200 Constitution Avenue NW., Washington, DC 20210, *Phone:* 202 693–2020, *Fax:* 202 693–1689, *Email: mckenzie.dean@dol.gov.*

RIN: 1218–AC51

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Proposed Rule Stage

352. Infectious Diseases

Regulatory Plan: This entry is Seq. No. 85 in part II of this issue of the **Federal Register**.

RIN: 1218–AC46

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

353. Occupational Exposure to Beryllium

Regulatory Plan: This entry is Seq. No. 87 in part II of this issue of the **Federal Register**.

RIN: 1218–AB76

DEPARTMENT OF HOMELAND SECURITY (DHS)

Occupational Safety and Health Administration (OSHA)

Long-Term Actions

354. Injury and Illness Prevention Program

Legal Authority: 29 U.S.C. 653; 29 U.S.C. 655(b); 29 U.S.C. 657

Abstract: OSHA is developing a rule requiring employers to implement an Injury and Illness Prevention Program. It involves planning, implementing, evaluating, and improving processes and activities that protect employee safety and health. OSHA has substantial data on reductions in injuries and illnesses from employers who have implemented similar effective processes. The Agency currently has voluntary Safety and Health Program Management Guidelines (54 FR 3904 to 3916), published in 1989. An injury and illness prevention program rule would build on these guidelines as well as lessons learned from successful approaches and best practices under OSHA's Voluntary Protection Program, Safety and Health Achievement Recognition Program, and similar industry and international initiatives such as American National Standards Institute/American Industrial Hygiene Association Z10, and Occupational Health and Safety Assessment Series 18001.

Timetable:

Action	Date	FR Cite
Notice of Stakeholder Meetings.	05/04/10	75 FR 23637
Notice of Additional Stakeholder Meetings.	06/22/10	75 FR 35360
SBREFA	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: William Perry, Director, Directorate of Standards and Guidance, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue NW., FP Building, Room N–3718, Washington, DC 20210, *Phone:* 202 693–1950, *Fax:* 202 693–1678, *Email: perry.bill@dol.gov.*

RIN: 1218–AC48

[FR Doc. 2016–29870 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I–III

23 CFR Chs. I–III

33 CFR Chs. I and IV

46 CFR Chs. I–III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I–VI, and Chs. X–XII

[DOT–OST–1999–5129]

Department Regulatory Agenda; Semiannual Summary

AGENCY: Office of the Secretary, DOT.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Regulatory Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. The intent of the Agenda is to provide the public with information about the Department of Transportation's regulatory activity planned for the next 12 months. It is expected that this information will enable the public to more effectively participate in the Department's regulatory process. The public is also invited to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General

You should direct all comments and inquiries on the Agenda in general to Jonathan Moss, Assistant General Counsel for Regulation, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; (202) 366–4723.

Specific

You should direct all comments and inquiries on particular items in the Agenda to the individual listed for the regulation or the general rulemaking contact person for the operating administration in appendix B.

Table of Contents

SUPPLEMENTARY INFORMATION:

Background

Improvement of our regulations is a prime goal of the Department of Transportation (Department or DOT). Our regulations should be clear, simple, timely, fair, reasonable, and necessary. They should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to ensure that they continue to meet the needs for which they originally were designed. To view additional information about the Department's regulatory activities online, go to *http://www.dot.gov/regulations.* Among other things, this Web site provides a report updated monthly on the status of the DOT significant rulemakings listed in the semiannual regulatory agenda.

To help the Department achieve its goals and in accordance with Executive Order (E.O.) 12866, ''Regulatory Planning and Review,'' (58 FR 51735; Oct. 4, 1993) and the Department's Regulatory Policies and Procedures (44 FR 11034; Feb. 26, 1979), the Department prepares a semiannual regulatory agenda. It summarizes all current and projected rulemakings, reviews of existing regulations, and completed actions of the Department. These are matters on which action has begun or is projected during the next 12 months or for which action has been completed since the last Agenda.

The Agendas are based on reports submitted by the offices initiating the rulemaking and are reviewed by OST.

The Internet is the basic means for disseminating the Unified Agenda. The complete Unified Agenda is available online at *www.reginfo.gov* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), DOT's printed Agenda entries include only:

1. The agency's Agenda preamble;

2. Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

3. Any rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. These elements are: Sequence Number; Title; Section 610 Review, if applicable; Legal Authority; Abstract; Timetable; Regulatory Flexibility Analysis Required; Agency Contact; and Regulation Identifier Number (RIN). Additional information (for detailed list, see section heading ''Explanation of Information on the Agenda'') on these entries is available in the Unified Agenda published on the Internet.

Significant Rulemakings

The Agenda covers all rules and regulations of the Department. We have classified rules as significant in the Agenda if they are, essentially, very beneficial, controversial, or of substantial public interest under our Regulatory Policies and Procedures. All DOT significant rulemaking documents are subject to review by the Secretary of Transportation. If the Office of Management and Budget (OMB) decided a rule is subject to its review under Executive Order 12866, we have also classified it as significant in the Agenda.

Explanation of Information on the Agenda

An Office of Management and Budget memorandum, dated July 27, 2016, requires the format for this Agenda.

First, the Agenda is divided by initiating offices. Then the Agenda is divided into five categories: (1) Prerule stage, (2) proposed rule stage, (3) final rule stage, (4) long-term actions, and (5) completed actions. For each entry, the Agenda provides the following information: (1) Its ''significance''; (2) a short, descriptive title; (3) its legal basis; (4) the related regulatory citation in the Code of Federal Regulations; (5) any legal deadline and, if so, for what action (*e.g.,* NPRM, final rule); (6) an abstract; (7) a timetable, including the earliest expected date for when a rulemaking document may publish; (8) whether the rulemaking will affect small entities and/or levels of Government and, if so, which categories; (9) whether a Regulatory Flexibility Act (RFA) analysis is required (for rules that would have a significant economic impact on a substantial number of small entities); (10) a listing of any analyses an office will prepare or has prepared for the action (with minor exceptions, DOT requires an economic analysis for all its rulemakings); (11) an agency contact office or official who can provide further information; (12) a Regulation

Identifier Number (RIN) assigned to identify an individual rulemaking in the Agenda and facilitate tracing further action on the issue; (13) whether the action is subject to the Unfunded Mandates Reform Act; (14) whether the action is subject to the Energy Act; and (15) whether the action is major under the congressional review provisions of the Small Business Regulatory Enforcement Fairness Act. If there is information that does not fit in the other categories, it will be included under a separate heading entitled ''Additional Information.'' One such example of this is the letters ''SB,'' ''IC,'' and ''SLT.'' These refer to information used as part of our required reports on Retrospective Review of DOT rulemakings. A ''Y'' or an ''N,'' for yes and no, respectively, follow the letters to indicate whether or not a particular rulemaking would have effects on: Small businesses (SB); information collections (IC); or State, local, or tribal (SLT) governments.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules), to keep those requirements operationally current, we only include the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations; we do not list individual regulations.

In the ''Timetable'' column, we use abbreviations to indicate the particular documents being considered. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, and NPRM for Notice of Proposed Rulemaking. Listing a future date in this column does not mean we have made a decision to issue a document; it is the earliest date on which a rulemaking document may publish. In addition, these dates are based on current schedules. Information received after the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

Request for Comments

General

Our agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information, as well as making the Agenda easier to use. We would like you, the public, to make suggestions or comments on how the Agenda could be further improved.

Reviews

We also seek your suggestions on which of our existing regulations you believe need to be reviewed to determine whether they should be revised or revoked. We particularly draw your attention to the Department's review plan in appendix D. In response to Executive Order 13563 ''Retrospective Review and Analysis of Existing Rules,'' in 2011 we prepared a retrospective review plan providing more detail on the process we use to conduct reviews of existing rules, including changes in response to Executive Order 13563. Any updates related to our retrospective plan and review results can be found at *http://www.dot.gov/regulations.*

Regulatory Flexibility Act

The Department is especially interested in obtaining information on requirements that have a ''significant economic impact on a substantial number of small entities'' and, therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please submit them to us, along with your explanation of why they should be reviewed.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that we have targeted for review under section 610 of the Act. The phrase (sec. 610 Review) appears at the end of the title for these reviews. Please see appendix D for the Department's section 610 review plans.

Consultation With State, Local, and Tribal Governments

Executive Orders 13132 and 13175 require us to develop an accountable process to ensure ''meaningful and timely input'' by State, local, and tribal officials in the development of regulatory policies that have federalism or tribal implications. These policies are defined in the Executive orders to include regulations that have ''substantial direct effects'' on States or Indian tribes, on the relationship between the Federal Government and them, or on the distribution of power and responsibilities between the Federal Government and various levels of Government or Indian tribes. Therefore, we encourage State and local Governments or Indian tribes to provide us with information about how the Department's rulemakings impact them.

Purpose

The Department is publishing this regulatory Agenda in the **Federal Register** to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity and should result in more effective public participation. This publication in the **Federal Register** does not impose any binding obligation on the Department or any of the offices within the Department with regard to any specific item on the Agenda. Regulatory action, in addition to the items listed, is not precluded.

Dated: October 19, 2016.

Anthony R. Foxx,

Secretary of Transportation.

Appendix A—Instructions for Obtaining Copies of Regulatory Documents

To obtain a copy of a specific regulatory document in the Agenda, you should communicate directly with the contact person listed with the regulation at the address below. We note that most, if not all, such documents, including the Semiannual Regulatory Agenda, are available through the Internet at *http://www.regulations.gov.* See appendix C for more information.

(Name of contact person), (Name of the DOT agency), 1200 New Jersey Avenue SE., Washington, DC 20590. (For the Federal Aviation Administration, substitute the following address: Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591).

Appendix B—General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

FAA—Lirio Liu, Director, Office of Rulemaking, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7833.

FHWA—Jennifer Outhouse, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–0761.

FMCSA—Steven J. LaFreniere, Regulatory Ombudsman, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–0596.

NHTSA—Steve Wood, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–2992.

FRA—Kathryn Gresham, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 493–6063.
FTA—Chaya Koffman, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–3101.
SLSDC—Carrie Mann Lavigne, Chief Counsel, 180 Andrews Street, Massena, NY 13662; telephone (315) 764–3200.
PHMSA—Stephen Gordon, Office of Chief Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–1101.
MARAD—Mitch Hudson, Office of Chief Counsel, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9373.
OST—Jonathan Moss, Assistant General Counsel for Regulation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–4723.

Appendix C—Public Rulemaking Dockets

All comments via the Internet are submitted through the Federal Docket Management System (FDMS) at the following address: *http://www.regulations.gov.* The FDMS allows the public to search, view, download, and comment on all Federal agency rulemaking documents in one central online system. The above referenced Internet address also allows the public to sign up to receive notification when certain documents are placed in the dockets.

The public also may review regulatory dockets at or deliver comments on proposed rulemakings to the Dockets Office at 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, 1–800–647–5527. Working Hours: 9:00 a.m. to 5:00 p.m.

Appendix D—Review Plans for Section 610 and Other Requirements

Part I—The Plan

General

The Department of Transportation has long recognized the importance of regularly reviewing its existing regulations to determine whether they need to be revised or revoked. Our Regulatory Policies and Procedures require such reviews. We also have responsibilities under Executive Order 12866, ''Regulatory Planning and Review,'' and section 610 of the Regulatory Flexibility Act to conduct such reviews. This includes the use of plain language techniques in new rules and considering its use in existing rules when we have the opportunity and resources to permit its use. We are committed to continuing our reviews of existing rules and, if it is needed, will initiate rulemaking actions based on these reviews.

In accordance with Executive Order 13563, ''Improving Regulation and Regulatory Review,'' issued by the President on January 18, 2011, the Department has added other elements to its review plan. The Department has decided to improve its plan by adding special oversight processes within the Department, encouraging effective and timely reviews, including providing additional guidance on particular problems that warrant review, and expanding opportunities for public participation. These new actions are in addition to the other steps described in this appendix.

Section 610 Review Plan

Section 610 requires that we conduct reviews of rules that: (1) Have been published within the last 10 years, and (2) have a ''significant economic impact on a substantial number of small entities'' (SEIOSNOSE). It also requires that we publish in the **Federal Register** each year a list of any such rules that we will review during the next year. The Office of the Secretary and each of the Department's Operating Administrations have a 10-year review plan. These reviews comply with section 610 of the Regulatory Flexibility Act.

Changes to the Review Plan

Some reviews may be conducted earlier than scheduled. For example, to the extent resources permit, the plain language reviews will be conducted more quickly. Other events, such as accidents, may result in the need to conduct earlier reviews of some rules. Other factors may also result in the need to make changes; for example, we may make changes in response to public comment on this plan or in response to a presidentially mandated review. If there is any change to the review plan, we will note the change in the following Agenda. For any section 610 review, we will provide the required notice prior to the review.

Part II—The Review Process

The Analysis

Generally, the agencies have divided their rules into 10 different groups and plan to analyze one group each year. For purposes of these reviews, a year will coincide with the fall-to-fall schedule for publication of the Agenda. Thus, Year 1 (2008) begins in the fall of 2008 and ends in the fall of 2009; Year 2 (2009) begins in the fall of 2009 and ends in the fall of 2010, and so on. We request public comment on the timing of the reviews. For example, is there a reason for scheduling an analysis and review for a particular rule earlier than we have? Any comments concerning the plan or particular analyses should be submitted to the regulatory contacts listed in appendix B, General Rulemaking Contact Persons.

Section 610 Review

The agency will analyze each of the rules in a given year's group to determine whether any rule has a SEIOSNOSE and, thus, requires review in accordance with section 610 of the Regulatory Flexibility Act. The level of analysis will, of course, depend on the nature of the rule and its applicability. Publication of agencies' section 610 analyses listed each fall in this Agenda provides the public with notice and an opportunity to comment consistent with the requirements of the Regulatory Flexibility Act. We request that public comments be submitted to us early in the analysis year concerning the small entity impact of the rules to help us in making our determinations.

In each fall Agenda, the agency will publish the results of the analyses it has completed during the previous year. For rules that had a negative finding on SEIOSNOSE, we will give a short explanation (*e.g.,* ''these rules only establish petition processes that have no cost impact'' or ''these rules do not apply to any small entities''). For parts, subparts, or other discrete sections of rules that do have a SEIOSNOSE, we will announce that we will be conducting a formal section 610 review during the following 12 months. At this stage, we will add an entry to the Agenda in the prerulemaking section describing the review in more detail. We also will seek public comment on how best to lessen the impact of these rules and provide a name or docket to which public comments can be submitted. In some cases, the section 610 review may be part of another unrelated review of the rule. In such a case, we plan to clearly indicate which parts of the review are being conducted under section 610.

Other Reviews

The agency will also examine the specified rules to determine whether any other reasons exist for revising or revoking the rule or for rewriting the rule in plain language. In each fall Agenda, the agency will also publish information on the results of the examinations completed during the previous year.

Part III—List of Pending Section 610 Reviews

The Agenda identifies the pending DOT section 610 Reviews by inserting ''(Section 610 Review)'' after the title for the specific entry. For further information on the pending reviews, see the Agenda entries at *www.reginfo.gov.* For example, to obtain a list of all entries that are in section 610 Reviews under the Regulatory Flexibility Act, a user would select the desired responses on the search screen (by selecting ''advanced search'') and, in effect, generate the desired ''index'' of reviews.

Office of the Secretary

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 91 through 99 and 14 CFR parts 200 through 212	2008	2009
2	48 CFR parts 1201 through 1253 and new parts and subparts	2009	2010
3	14 CFR parts 213 through 232	2010	2011
4	14 CFR parts 234 through 254	2011	2012
5	14 CFR parts 255 through 298 and 49 CFR part 40	2012	2013
6	14 CFR parts 300 through 373	2013	2014
7	14 CFR parts 374 through 398	2014	2015
8	14 CFR part 399 and 49 CFR parts 1 through 11	2015	2016
9	49 CFR parts 17 through 28	2016	2017
10	49 CFR parts 29 through 39 and parts 41 through 89	2017	2018

Year 9 (2016) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 17—Intergovernmental review of Department of Transportation programs and activities
49 CFR part 20—New restrictions on lobbying
49 CFR part 21—Nondiscrimination In Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act Of 1964
49 CFR part 22—Short-Term Lending Program (STLP)
49 CFR part 23—Participation of Disadvantaged Business Enterprise in Airport Concessions
49 CFR part 24—Uniform Relocation Assistance And Real Property Acquisition For Federal And Federally-Assisted Programs
49 CFR part 25—Nondiscrimination On The Basis Of Sex in Education Programs or Activities Receiving Federal Financial Assistance
49 CFR part 26—Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs
49 CFR part 27—Nondiscrimination On The Basis Of Disability in Programs or Activities Receiving Federal Financial Assistance
49 CFR part 28—Enforcement of Nondiscrimination On The Basis Of Handicap in Programs or Activities Conducted by the Department of Transportation

Year 8 (2015) List of Rules With Ongoing Analysis

14 CFR part 399—Fees and Charges for Special Services
49 CFR part 1—Organization and Delegation of Power and Duties
49 CFR part 3—Official Seal
49 CFR part 5—Rulemaking Procedures
49 CFR part 6—Implementation of Equal Access to Justice Act in Agency Proceedings
49 CFR part—Public Availability of Information
49 CFR part 8—Classified Information: Classification/Declassification/Access
49 CFR part 9—Testimony of Employees of the Department and Production of Records in Legal Proceedings
49 CFR part 10—Maintenance of and Access to Records Pertaining to Individuals
49 CFR part 11—Protection of Human Subjects

Year 7 (2014) List of Rules With Ongoing Analysis

14 CFR part 374—Implementation of the Consumer Credit Protection Act with Respect to Air Carriers and Foreign Air Carriers
14 CFR part 374a—Extension of Credit by Airlines to Federal Political Candidates
14 CFR part 375—Navigation of Foreign Civil Aircraft within the United States
14 CFR part 377—Continuance of Expired Authorizations by Operation of Law Pending Final Determination of Applications for Renewal Thereof
14 CFR part 380—Public Charters
14 CFR part 381—Special Event Tours
14 CFR part 382—Nondiscrimination On The Basis Of Disability in Air Travel
14 CFR part 383—Civil Penalties
14 CFR part 385—Staff Assignments and Review of Action under Assignments
14 CFR part 389—Fees and Charges for Special Services
14 CFR part 398—Guidelines for Individual Determinations of Basic Essential Air Service

Year 6 (2013) List of Rules With Ongoing Analysis

14 CFR part 300—Rules of Conduct in DOT Proceedings Under This Chapter
14 CFR part 302—Rules of Practice in Proceedings
14 CFR part 303—Review of Air Carrier Agreements
14 CFR part 305—Rules of Practice in Informal Nonpublic Investigations
14 CFR part 313—Implementation of the Energy Policy and Conservation Act
14 CFR part 323—Terminations, Suspensions, and Reductions of Service
14 CFR part 325—Essential Air Service Procedures
14 CFR part 330—Procedures For Compensation of Air Carriers
14 CFR part 372—Overseas Military Personnel Charters

Year 5 (Fall 2012) List of Rules With Ongoing Analysis

14 CFR part 255—Airline Computer Reservations Systems
14 CFR part 256—[Reserved]
14 CFR part 271—Guidelines for Subsidizing Air Carriers Providing Essential Air Transportation
14 CFR part 272—Essential Air Service to the Freely Associated States
14 CFR part 291—Cargo Operations in Interstate Air Transportation
14 CFR part 292—International Cargo Transportation
14 CFR part 293—International Passenger Transportation
14 CFR part 294—Canadian Charter Air Taxi Operators
14 CFR part 296—Indirect Air Transportation of Property
14 CFR part 297—Foreign Air Freight Forwarders and Foreign Cooperative Shippers Associations
14 CFR part 298—Exemptions for Air Taxi and Commuter Air Carrier Operations

Year 4 (Fall 2011) List of Rules With Ongoing Analysis

14 CFR part 240—Inspection of Accounts and Property

14 CFR part 241—Uniform System of Accounts and Reports for Large Certificated Air Carriers
14 CFR part 243—Passenger Manifest Information
14 CFR part 247—Direct Airport-to-Airport Mileage Records
14 CFR part 248—Submission of Audit Reports
14 CFR part 249—Preservation of Air Carrier Records

Year 3 (Fall 2010) List of Rules With Ongoing Analysis

14 CFR part 213—Terms, Conditions, and Limitations of Foreign Air Carrier Permits
14 CFR part 214—Terms, Conditions, and Limitations of Foreign Air Carrier Permits Authorizing Charter Transportation Only
14 CFR part 215—Use and Change of Names of Air Carriers, Foreign Air Carriers, and Commuter Air Carriers
14 CFR part 216—Commingling of Blind Sector Traffic by Foreign Air Carriers
14 CFR part 217—Reporting Traffic Statistics by Foreign Air Carriers in Civilian Scheduled, Charter, and Nonscheduled Services
14 CFR part 218—Lease by Foreign Air Carrier or Other Foreign Person of Aircraft With Crew
14 CFR part 221—Tariffs
14 CFR part 222—Intermodal Cargo Services by Foreign Air Carriers
14 CFR part 223—Free and Reduced-Rate Transportation
14 CFR part 232—Transportation of Mail, Review of Orders of Postmaster General
14 CFR part 234—Airline Service Quality Performance Reports

Year 1 (Fall 2008) List of Rules With Ongoing Analysis

49 CFR part 91—International Air Transportation Fair Competitive Practices
49 CFR part 92—Recovering Debts to the United States by Salary Offset
49 CFR part 98—Enforcement of Restrictions on Post-Employment Activities
49 CFR part 99—Employee Responsibilities and Conduct
14 CFR part 200—Definitions and Instructions
14 CFR part 201—Air Carrier Authority Under Subtitle VII of Title 49 of the United States Code [Amended]
14 CFR part 203—Waiver of Warsaw Convention Liability Limits and Defenses
14 CFR part 204—Data To Support Fitness Determinations
14 CFR part 205—Aircraft Accident Liability Insurance
14 CFR part 206—Certificates of Public Convenience and Necessity: Special Authorizations and Exemptions
14 CFR part 207—Charter Trips by U.S. Scheduled Air Carriers
14 CFR part 208—Charter Trips by U.S. Charter Air Carriers
14 CFR part 211—Applications for Permits to Foreign Air Carriers
14 CFR part 212—Charter Rules for U.S. and Foreign Direct Air Carriers

Federal Aviation Administration

Section 610 Review Plan

The Federal Aviation Administration (FAA) has elected to use the two-step, two-year process used by most Department of Transportation (DOT) modes in past plans. As such, the FAA has divided its rules into 10 groups as displayed in the table below. During the first year (the ''analysis year''), all rules published during the previous 10 years within a 10% block of the regulations will be analyzed to identify those with a significant economic impact on a substantial number of small entities (SEISNOSE). During the second year (the ''review year''), each rule identified in the analysis year as having a SEISNOSE will be reviewed in accordance with Section 610 (b) to determine if it should be continued without change or changed to minimize impact on small entities. Results of those reviews will be published in the DOT Semiannual Regulatory Agenda.

Year	Regulations to be reviewed	Analysis year	Review year
1	14 CFR parts 119 through 129 and parts 150 through 156	2008	2009
2	14 CFR parts 133 through 139 and parts 157 through 169	2009	2010
3	14 CFR parts 141 through 147 and parts 170 through 187	2010	2011
4	14 CFR parts 189 through 198 and parts 1 through 16	2011	2012
5	14 CFR parts 17 through 33	2012	2013
6	14 CFR parts 34 through 39 and parts 400 through 405	2013	2014
7	14 CFR parts 43 through 49 and parts 406 through 415	2014	2015
8	14 CFR parts 60 through 77	2015	2016
9	14 CFR parts 91 through 105	2016	2017
10	14 CFR parts 417 through 460	2017	2018

Background on the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 as amended (RFA), (§§ 601 through 612 of Title 5, United States Code (5 U.S.C.)) requires Federal regulatory agencies to analyze all proposed and final rules to determine their economic impact on small entities, which includes small businesses, small organizations, and small governmental jurisdictions. The primary purpose of the RFA is to establish as a principle of regulatory issuance that Federal agencies endeavor, consistent with the objectives of the rule and applicable statutes, to fit regulatory and informational requirements to the scale of entities subject to the regulation. The FAA performed the required RFA analyses of each final rulemaking action and amendment it has initiated since enactment of the RFA in 1980.

Section 610 of 5 U.S.C. requires government agencies to periodically review all regulations that will have a SEISNOSE. The FAA must analyze each rule within 10 years of its publication date.

Defining SEISNOSE

The RFA does not define ''significant economic impact.'' Therefore, there is no clear rule or number to determine when a significant economic impact occurs. However, the Small Business Administration (SBA) states that significance should be determined by considering the size of the business, the size of the competitor's business, and the impact the same regulation has on larger competitors.

Likewise, the RFA does not define ''substantial number.'' However, the legislative history of the RFA suggests that a substantial number must be at least one but does not need to be an overwhelming percentage such as more than half. The SBA states that the substantiality of the number of small businesses affected should be determined on an industry-specific basis.

This analysis consisted of the following three steps:

• Review of the number of small entities affected by the amendments to parts 91 through 105.
• Identification and analysis of all amendments to parts 91 through 105 since 2006 to determine whether any still have or now have a SEISNOSE.
• Review of the FAA Office of Aviation Policy, and Plans regulatory flexibility assessment of each amendment performed as required by the RFA.

Year 10 (2017) List of Rules To Be Analyzed During the Next Year

14 CFR Part 417—Launch Safety
14 CFR Part 420—License to Operate a Launch Site
14 CFR Part 431—Launch and Reentry of a Reusable Launch Vehicle (RLV)
14 CFR Part 433—License to Operate a Reentry Site
14 CFR Part 43—Reentry of a Reentry Vehicle Other Than a Reusable Launch Vehicle (RLV)
14 CFR Part 437—Experimental Permits
14 CFR Part 440—Financial Responsibility
14 CFR Part 460—Human Space Flight Requirements

Year 9 (2016) List of Rules Analyzed and Summary of Results

14 CFR Part 9—General Operating and Flight Rules

• Section 610: The agency conducted a Section 610 review of this part and found Amendment 91–314, 75 FR 30193, May 28, 2010; Amendment 91–314, 75 FR 30193, May 28, 2010; and Amendment 91–330, 79 FR 9972, Feb. 21, 2014 trigger SEISNOSE within the meaning of the RFA.
• General: No changes are needed. The FAA has considered a number of alternatives in attempts to lower compliance costs for small entities, but could not go forward with the lower cost alternatives without compromising the safety for the industry.

14 CFR Part 93—Special Air Traffic Rules

• Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
• General: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 95—IFR Altitudes

• Section 610: The agency conducted a Section 610 review of this part and found there were no amendments since 2016. Therefore, part 99 does not trigger SEISNOSE.
• General: No changes are needed.

14 CFR Part 97—Standard Instrument Procedures

• Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
• General: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 99—Security Control of Air Traffic

• Section 610: The agency conducted a Section 610 review of this part and found there were no amendments since 2016. Therefore, part 99 does not trigger SEISNOSE.
• General: No changes are needed.

14 CFR Part 101—Moored Balloons, Kites, Amateur Rockets and Unmanned Free Balloons

• Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
• General: No changes are needed. These regulations are cost effective and impose the least burden.

14 CFR Part 103—Ultralight Vehicles

• Section 610: Section 610: The agency conducted a Section 610 review of this part and found there were no amendments since 2016. Therefore, part 99 does not trigger SEISNOSE.
• General: No changes are needed.

14 CFR Part 105—Parachute Operations

• Section 610: The agency conducted a Section 610 review of this part and found no SEISNOSE.
• General: No changes are needed. These regulations are cost effective and impose the least burden.

Federal Highway Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	None	2008	2009
2	23 CFR Parts 1 to 260	2009	2010
3	23 CFR Parts 420 to 470	2010	2011
4	23 CFR Part 500	2011	2012
5	23 CFR Parts 620 to 637	2012	2013
6	23 CFR Parts 645 to 669	2013	2014
7	23 CFR Parts 710 to 924	2014	2015
8	23 CFR Parts 940 to 973	2015	2016
9	23 CFR Parts 1200 to 1252	2016	2017
10	New parts and subparts	2017	2018

Federal-Aid Highway Program

The Federal Highway Administration (FHWA) has adopted regulations in title 23 of the CFR, chapter I, related to the Federal-Aid Highway Program. These regulations implement and carry out the provisions of Federal law relating to the administration of Federal aid for highways. The primary law authorizing Federal aid for highway is chapter I of title 23 of the U.S.C. 145 of title 23, expressly provides for a federally assisted State program. For this reason, the regulations adopted by the FHWA in title 23 of the CFR primarily relate to the requirements that States must meet to receive Federal funds for the construction and other work related to highways. Because the regulations in title 23 primarily relate to States, which are not defined as small entities under the Regulatory Flexibility Act, the FHWA believes that its regulations in title 23 do not have a significant economic impact on a substantial number of small entities. The FHWA solicits public comment on this preliminary conclusion.

Year 8 (Fall 2015) List of Rules Analyzed and a Summary of Results

23 CFR Part 940—Intelligent Transportation System Architecture and Standards

• Section 610: No SEIOSNOSE. No small entities are affected
• General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR Part 950—Electronic Toll Collection

- Section 610: No SEIOSNOSE. No small entities are affected
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 FR Part 970—National Park Service Management Systems

- Section 610: No SEIOSNOSE. No small entities are affected
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR Part 971—Forest Service Management Systems

- Section 610: No SEIOSNOSE. No small entities are affected
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR Part 972—Fish and Wildlife Service Management Systems

- Section 610: No SEIOSNOSE. No small entities are affected
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

23 CFR Part 973—Management Systems Pertaining to the Bureau of Indian Affairs and the Indian Reservation Roads Program

- Section 610: No SEIOSNOSE. No small entities are affected
- General: No changes are needed. These regulations are cost effective and impose the least burden. FHWA's plain language review of these rules indicates no need for substantial revision.

Year 9 (Fall 2016) List of Rules That Will Be Analyzed During the Next Year

23 CFR Part 1200—Uniform Procedures for State Highway Safety Grant Programs

23 CFR Part 1208—National Minimum Drinking Age

23 CFR Part 1210—Operation of Motor Vehicles by Intoxicated Minors

23 CFR Part 1215—Use of Safety Belts—Compliance and Transfer-of-funds Procedures

23 CFR Part 1225—Operation of Motor Vehicles by Intoxicated Persons

23 CFR Part 1235—Uniform System for Parking for Persons with Disabilities

23 CFR Part 1240—Safety Incentive Grants for Use of Seat Belts—Allocations Based on Seat Belt Use Rates

Federal Motor Carrier Safety Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR part 372, subpart A	2008	2009
2	49 CFR part 386	2009	2010
3	49 CFR parts 325 and 390 (General)	2010	2011
4	49 CFR parts 390 (Small Passenger-Carrying Vehicles), 391 to 393 and 396 to 399	2011	2012
5	49 CFR part 387	2012	2013
6	49 CFR parts 360, 365, 366, 368, 374, 377, and 378	2013	2014
7	49 CFR parts 356, 367, 369, 370, 371, 372 (subparts B and C)	2014	2015
8	49 CFR parts 373, 376, and 379	2015	2016
9	49 CFR part 375	2016	2017
10	49 CFR part 395	2017	2018

Year 7 (Fall 2014) List of Rules With Ongoing Analysis

49 CFR Part 356—Motor Carrier Routing Regulations

- Section 610: There is no SEIOSNOSE. FMCSA requires for-hire interstate carriers to pay a single $300 registration fee (49 CFR part 365); making the process of paying by the route obsolete.
- General: These regulations are cost effective and impose the least burden. The commercial routes discussed in this rule have been eclipsed by the advent of the Unified Carrier Registration (UCR) and the International Registration Plan (IRP). It is our opinion that 49 CFR part 356 is obsolete and should be removed in its entirety.

49 CFR Part 367—Standards for Registration With States

- Section 610: There is no SEIOSNOSE. This action is not economically significant. All costs associated with this rule are required pursuant to an explicit Congressional mandate in Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). Also, a majority of the fees under the current rule replace fees that were paid under the Single State Registration System (SSRS). Much of the revenue collected by the new fees would have been collected under SSRS from the same entities.
- General: These regulations are cost effective and impose the least burden. FMCSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 369—Reports of Motor Carriers

- Section 610: There is no SEIOSNOSE. This rule requires the reporting of principally financial data and it impacts only a small percentage of larger motor carriers (class I and class II carriers).
- General: These regulations are cost effective and impose the least burden to carriers. It is our opinion that the rule is obsolete and should be removed in its entirety. However, Congressional action to modify the statute is required and has not been granted to eliminate this regulation.

49 CFR Part 370—Principles and Practices for the Investigation and Voluntary Disposition of Loss and Damage Claims and Processing Salvage

- Section 610: There is no SEIOSNOSE, largely due to the fact that compliance with the rule is required by contract law and prudent commercial business practices.
- General: These regulations are cost effective and impose the least burden. This rule offers guidance on the business approach to deal with claims made against carriers for loss or damage of property. It is our opinion that the 49 CFR part 370 is obsolete in that it serves no discernible safety function. The requirement to follow and comply with the terms of Bills of Lading contracts are already captured by other laws.

49 CFR Part 371—Brokers of Property

- Section 610: There is no SEIOSNOSE. The potential costs identified in the Agency's worst case analysis are minimal, and represent

costs that the vast majority of Brokers should already be incurring.

• General: This rule prescribes rules for brokers of property. Comments received during the rulemaking process indicate that some level of regulation is appropriate and should be retained.

49 CFR Part 372 (Subparts B and C)—Exemptions, Commercial Zones and Terminal Areas

• Section 610: There is no SEIOSNOSE. FMCSA requires for-hire interstate carriers to pay a single $300 registration fee (49 CFR part 365). The process addressed under 49 CFR part 372 identifies exemptions and commercial zones for which registration fees may not be required.

• General: These regulations are cost effective and impose the least burden. FMCSA's plain language review of these rules indicates no need for substantial revision.

Year 8 (2015) List of Rules Will Ongoing Analysis

49 CFR part 373—Receipts and Bills
49 CFR part 376—Lease and Interchange of Vehicles
49 CFR part 379—Preservation of Records

Year 9 (2016) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 375—Transportation of household goods in interstate commerce; consumer protection regulations

National Highway Traffic Safety Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 571.223 through 571.500, and parts 575 and 579	2008	2009
2	23 CFR parts 1200 through 1300	2009	2010
3	49 CFR parts 501 through 526 and 571.213	2010	2011
4	49 CFR parts 571.131, 571.217, 571.220, 571.221, and 571.222	2011	2012
5	49 CFR parts 571.101 through 571.110, and 571.135, 571.138, and 571.139	2012	2013
6	49 CFR parts 529 through 578, except parts 571 and 575	2013	2014
7	49 CFR parts 571.111 through 571.129 and parts 580 through 588	2014	2015
8	49 CFR parts 571.201 through 571.212	2015	2016
9	49 CFR parts 571.214 through 571.219, except 571.217	2016	2017
10	49 CFR parts 591 through 595 and new parts and subparts	2017	2018

Year 8 (Fall 2015) List of Rules Analyzed and a Summary of the Results

49 CFR Part 571.201—Occupant Protection in Interior Impact

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.202—Head Restraints; Applicable at the Manufacturers Option Until September 1, 2009

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.202a—Head Restraints; Mandatory Applicability Begins on September 1, 2009

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.203—Impact Protection for the Driver From the Steering Control System

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.204—Steering Control Rearward Displacement

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.205—Glazing Materials

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.205a—Glazing Equipment Manufactured Before September 1, 2006 and Glazing Materials Used in Vehicles Manufactured Before November 1, 2006

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.206—Door Locks and Door Retention Components

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.207—Seating Systems

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.208—Occupant Crash Protection

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.209—Seat Belt Assemblies

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.210—Seat Belt Assembly Anchorages

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

49 CFR Part 571.211—[Reserved]

49 CFR Part 571.212—Windshield Mounting

• Section 610: There is no SEIOSNOSE.

• General: No changes are needed. These regulations are cost effective and impose the least burden. NHTSA's plain language review of these rules indicates no need for substantial revision.

Year 9 (Fall 2016) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 571.214—Side Impact Protection

49 CFR part 571.215—[Reserved]

49 CFR part 571.216—Roof Crush Resistance; Applicable Unless a Vehicle Is Certified to 571.216a

49 CFR part 571.216a—Roof Crush Resistance; Upgraded Standard

49 CFR part 571.218—Motorcycle Helmets

49 CFR part 571.219—Windshield Zone Intrusion

Federal Railroad Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 200 and 201	2008	2009
2	49 CFR parts 207, 209, 211, 215, 238, and 256	2009	2010
3	49 CFR parts 210, 212, 214, 217, and 268	2010	2011
4	49 CFR part 219	2011	2012
5	49 CFR parts 218, 221, 241, and 244	2012	2013
6	49 CFR parts 216, 228, and 229	2013	2014
7	49 CFR parts 223 and 233	2014	2015
8	49 CFR parts 224, 225, 231, and 234	2015	2016
9	49 CFR parts 222, 227, 235, 236, 250, 260, and 266	2016	2017
10	49 CFR parts 213, 220, 230, 232, 239, 240, and 265	2017	2018

Year 8 (Fall 2015) List of Rules Analyzed and a Summary of Results

49 CFR Part 22—Reflectorization of Rail Freight Rolling Stock

• Section 610: There is no SEIOSNOSE.

• General: The regulation requires freight rolling stock owners and railroads to have all freight rolling properly equipped with retroreflective material within 10 years of the effective date of the final rule for the purpose of enhancing its detectability at highway-rail crossings. Freight rolling stock owners and railroads are also required to periodically inspect and maintain that material. The rule also established a 10-year implementation schedule to help facilitate the initial application of retoreflective material to non-reflectorized freight rolling stock. Further, the regulation prescribes standards for the application, inspection, and maintenance of retroreflective material on rail freight rolling. FRA's plain language review of this rule indicates no need for revision.

49 CFR Part 225—Railroad Accidents/Incidents: Reports Classification and Investigations

• Section 610: There is no SEIOSNOSE. Section 225.3 specifically states that certain Internal Control Plan and recordkeeping requirements are not applicable to railroads below a certain size. FRA makes available a free software package to all railroads that would allow for FRA recordkeeping and reporting. FRA also makes available the FRA Guide for Preparing Accident/Incident Reports, and model Internal Control Plans for small railroads.

• General: Since the FRA needs accurate information on the hazards and risks that exist on the nation's railroads to effectively carry out its regulatory responsibilities, to determine comparative trends of railroad safety, and to develop hazard elimination and risk reduction programs that focus on preventing railroad injuries and accidents, the requirements set forth in part 225 will improve railroad safety for industry employees and general public. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 231—Railroad Safety Appliances Standards

• Section 610: There is no SEIOSNOSE. Small railroads generally purchase rail equipment that has already been used in transportation by Class I and Class II railroads. As a result, rail equipment used by small railroads is often in compliance with Part 231 standards at the time of acquisition. In addition, small railroads are not substantially affected by rail equipment maintenance costs that are associated with Part 231 requirements because most rail equipment repairs are performed by Class I and Class II railroads and/or billed to the car owner. Although Part 231 may have some impact on small railroads, FRA has deemed any such impact to be necessary to ensure uniform and consistent equipment design requirements, which contribute to the safety of railroad employees who work on or about the rail equipment.

• General: The rule provides for railroad safety standards which are necessary to ensure the protection and safety of railroad employees and general public, and to minimize the number of casualties. FRA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 234—Grade Crossing Safety

• Section 610: There is no SEIOSNOSE. This rule does not apply to railroads that exclusively operate freight trains only on track which is not part of the general railroad system of transportation, rapid transit operations within an urban area that are not connected to the general railroad system of transportation or railroads that operates passenger trains only on track inside insular installations. Since small railroads have proportionately smaller number of grade crossing warning systems to inspect, test and maintain, therefore, smaller railroads would have a smaller burden of cost per crossing. So far as the State Highway-Rail Grade Crossing Action Plans are concerned, the requirements would apply to States—none of which is small.

• General: Since the rule prescribes maintenance, inspection and testing

standards for highway-rail grade crossing warning systems, standards for the reporting of failures of such systems and minimum actions railroads must take when such warning systems malfunction. These regulations are necessary to ensure the protection and safety of railroad employees and general public, and to minimize the number of casualties. FRA's plain language review of this rule indicates no need for substantial revision.

Year 8 (Fall 2015) List of Rule(s) That Will Be Analyzed During Next Year

49 CFR part 222—Use of Locomotive Horns at Public Highway-Rail Grade Crossings
49 CFR part 227—Occupational Noise Exposure
49 CFR part 235—Instructions Governing Applications for Approval of a Discontinuance or Material Modification of a Signal System or Relief From the Requirements of Part 236
49 CFR part 236—Rules, Standards, and Instructions Governing the Installation, Inspection, Maintenance, and Repair of Signal and Train Control Systems, Devices, and Appliances
49 CFR part 250—Guarantee of Certificates of Trustees of Railroads in Reorganization
49 CFR part 260—Regulations Governing Loans and Loan Guarantees Under the Railroad Rehabilitation and Improvement Financing Program
49 CFR part 266—Assistance to States for Local Rail Service Under Section 5 of the Department of Transportation Act

Federal Transit Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR parts 604, 605, and 633	2008	2009
2	49 CFR parts 661 and 665	2009	2010
3	49 CFR part 633	2010	2011
4	49 CFR parts 609 and 611	2011	2012
5	49 CFR parts 613 and 614	2012	2013
6	49 CFR part 622	2013	2014
7	49 CFR part 630	2014	2015
8	49 CFR part 639	2015	2016
9	49 CFR parts 659 and 663	2016	2017
10	49 CFR part 665	2017	2018

Year 8 (Fall 2015) List of Rules Analyzed and Summary of Results

49 CFR Part 639—Capital Leases

• Section 610: The agency has determined that the rule continues to not have a significant effect on a substantial number of small entities. Provisions of the recently enacted Fixing America's Surface Transportation (FAST) Act removed the requirement for a recipient to conduct a cost-effectiveness analysis before entering any lease agreement using Federal capital assistance and removed the applicability of part 639 to rolling stock procurements through capital leases. However, other provisions of part 639 continue to apply. FTA is currently revising the Grant Management Requirements Circular 5010, to provide guidance to recipients for the capital lease program. FTA has evaluated the likely effects of the proposed rule on small entities and requested public comment on proposed revisions to Circular 5010. FTA has determined that the proposed revisions and the current regulation do not have a significant economic impact on a substantial number of small entities.

• General: The rule was promulgated to prescribe requirements and procedures to procure capital assets through lease agreements with the use of Federal capital assistance. Recently, Congress enacted the Fixing America's Surface Transportation Act (FAST), Public Law 114–357, (2015). The statue revised the definition of capital project so that a recipient is no longer required to conduct a cost-effectiveness analysis before leasing public transportation equipment or facilities with Federal funds. In addition, the statue exempts certain rolling stock procurements from the requirements of 49 CFR part 639. FTA has proposed revisions to Circular 5010 and requested public comment on its proposal to conform its capital lease requirements to the FAST Act provisions. Although, the FAST Act has revised some requirements of this part, other provisions of the rule continue to apply.

Year 9 (Fall 2016)—List of Rule(s) That Will Be Analyzed This Year

49 CFR Part 659—State Safety Oversight and 49 CFR Part 663—Pre-Award and Post-Deliver Audits of Rolling Stock Purchases

Maritime Administration

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	46 CFR parts 201 through 205	2008	2009
2	46 CFR parts 221 through 232	2009	2010
3	46 CFR parts 249 through 296	2010	2011
4	46 CFR parts 221, 298, 308, and 309	2011	2012
5	46 CFR parts 307 through 309	2012	2013
6	46 CFR part 310	2013	2014
7	46 CFR parts 315 through 340	2014	2015
8	46 CFR parts 345 through 381	2015	2016
9	46 CFR parts 382 through 389	2016	2017
10	46 CFR parts 390 through 393	2017	2018

Year 6 (2013) List of Rules Analyzed and a Summary of Results

46 CFR Part 310—Merchant Marine Training

- Section 610: There is no SEIONOSE.
- General: Changes that are being considered require coordination between multiple offices and Maritime educational institutions. Our ongoing review has confirmed that the proposed rule will not apply to small entities.

Year 7 (2014) List of Rules Analyzed and a Summary of Results

46 CFR Parts 315 through 340—Subchapter 1–A—National Shipping Authority

- Section 610 review: There is no SEIOSNOSE.
- General: The agency is preparing a technical final update which will delete obsolete references, including entire parts, and will provide new office and contact information. Our ongoing review has confirmed that this rule will not apply to small entities.

Year 8 (2015) List of Rules Analyzed and a Summary of Results

46 CFR Part 356—Requirements for Vessels Over 100 Feet or Greater in Registered Length To Obtain a Fishery Endorsement to the Vessel's Documentation

- Section 610 review: There is no SEIOSNOSE.
- General: The agency is preparing a final rule which will implement statutorily required updates. Our ongoing review has confirmed that this rule will not apply to small entities.

Year 7 (2014) List of Rules With Ongoing Analysis

46 CFR part 315—Agency Agreements and Appointment of Agents
46 CFR part 317—Bonding of Ship's Personnel
46 CFR part 324—Procedural Rules for Financial Transactions Under Agency Agreements
46 CFR part 325—Procedure to be Followed by General Agents in Preparation of Invoices and Payment of Compensation Pursuant to Provisions of NSA Order No. 47
46 CFR part 326—Marine Protection and Indemnity Insurance Under Agreements with Agents
46 CFR part 327—Seamen's Claims; Administrative Action and Litigation
46 CFR part 328—Slop Chests
46 CFR part 329—Voyage Data
46 CFR part 330—Launch Services
46 CFR part 332—Repatriation of Seaman
46 CFR part 335—Authority and Responsibility of General Agents to Undertake Emergency Repairs in Foreign Ports
46 CFR part 336—Authority and Responsibility of General Agents to Undertake in Continental United States Ports Voyage Repairs and Service Equipment of Vessels Operated for the Account of the National Shipping Authority Under General Agency Agreement
46 CFR part 337—General Agent's responsibility in Connection with Foreign Repair Custom's Entries
46 CFR part 338—Procedure for Accomplishment of Vessel Repairs Under National Shipping Authority Master Lump Sum Repair Contract—NSA—Lumpsumrep
46 CFR part 339—Procedure for Accomplishment of Ship Repairs Under National Shipping Authority Individual Contract for Minor Repairs—NSA—Worksmalrep
46 CFR part 340—Priority Use and Allocation of Shipping Services, Container and Chassis and Port Facilities and Services for National Security and National Defense Related Operations

Year 8 (2015) List of Rules With Ongoing Analysis

46 CFR part 345—Restrictions Upon the Transfer or Change in Use or in Terms Governing Utilization of Port Facilities
46 CFR part 346—Federal Port Controllers
46 CFR part 370—Claims
46 CFR part 381—Cargo Preference—U.S.-Flag Vessels

Year 9 (2016) List of Rules That Will Be Analyzed During the Next Year

46 CFR part 382—Determination of Fair and Reasonable Rates for the Carriage of Bulk and Packaged Preference Cargoes on U.S.-Flag Commercial Vessels
46 CFR part 385—Research and Development Grant and Cooperative Agreements Regulations
46 CFR part 386—Regulations Governing Public Buildings and Grounds at the United States Merchant Marine Academy
46 CFR part 387—Utilization and Disposal of Surplus Federal Real Property for Development or Operation of a Port Facility
46 CFR part 388—Administrative Waivers of the Coastwise Trade Laws
46 CFR part 389—Determination of Availability of Coast-Wise-Qualified Vessels for Transportation of Platform Jackets

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	49 CFR part 178	2008	2009
2	49 CFR parts 178 through 180	2009	2010
3	49 CFR parts 172 and 175	2010	2011
4	49 CFR part 171, sections 171.15 and 171.16	2011	2012
5	49 CFR parts 106, 107, 171, 190, and 195	2012	2013
6	49 CFR parts 174, 177, 191, and 192	2013	2014
7	49 CFR parts 176 and 199	2014	2015
8	49 CFR parts 172 and 178	2015	2016
9	49 CFR parts 172, 173, 174, 176, 177, and 193	2016	2017
10	49 CFR parts 173 and 194	2017	2018

Year 8 (Fall 2016) List of Rules Analyzed and a Summary of Results

49 CFR Part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

• Section 610: There is no SEIOSNOSE. A substantial number of small entities may be affected by this rule, but the economic impact on those entities is not significant. Plain Language: PHMSA's plain language review of this rule indicates no need for substantial revision. Where confusing or wordy language has been identified, revisions have been and will be made to simplify.

• General: This rule prescribes minimum requirements for the communication of risks associated with materials classed as hazardous in accordance with the Hazardous Materials Regulations (HMR; 49 CFR parts 171–180). On June 2, 2016 PHMSA published a final rule entitled ''Hazardous Materials: Miscellaneous Amendments (RRR)'' 81 FR 35483. As this final rule clarifies provisions based on PHMSA's initiatives and correspondence with the regulated community, the impact that it will have on small entities is not expected to be significant. The changes are generally intended to provide relief and, as a result, marginal positive economic benefits to shippers, carriers, and packaging manufactures and testers, including small entities. These benefits are not at a level that can be considered economically significant. Consequently, this final rule will not have a significant economic impact on a substantial number of small entities. PHMSA's plain language review of this rule indicates no need for substantial revision.

49 CFR Part 178—Specifications for Packagings

• Section 610: There is no SEIOSNOSE. A substantial number of small entities, particularly those that use performance oriented packagings, may be affected by this rule, but the economic impact on those entities is not significant.

• General: This rule prescribes minimum Federal safety standards for the construction of DOT specification packagings, these requirements are necessary to protect transportation workers and the public and to ensure the survivability of DOT specification packagings during transportation incidents. PHMSA's plain language review of this rule indicates no need for substantial revision.

Year 9 (Fall 2017) List of Rules That Will Be Analyzed During the Next Year

49 CFR part 172—Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, Training Requirements, and Security Plans

49 CFR part 173—Shippers—General Requirements for Shipments and Packagings

49 CFR part 174—Carriage by Rail

49 CFR part 176—Carriage by Vessel

49 CFR part 177—Carriage by Public Highway

49 CFR part 193—Liquefied Natural Gas Faculties: Federal Safety Standards

Saint Lawrence Seaway Development Corporation

Section 610 and Other Reviews

Year	Regulations to be reviewed	Analysis year	Review year
1	33 CFR parts 401 through 403	2008	2009

Year 1 (Fall 2008) List of Rules With Ongoing Analysis

33 CFR part 401—Seaway Regulations and Rules

33 CFR part 402—Tariff of Tolls

33 CFR part 403—Rules of Procedure of the Joint Tolls Review Board

OFFICE OF THE SECRETARY—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
355	+ Enhancing Airline Passenger Protections III	2105–AE11

+ DOT-designated significant regulation

FEDERAL AVIATION ADMINISTRATION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
356	+ Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization.	2120–AK26

+ DOT-designated significant regulation

FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
357	+ Airport Safety Management System (Reg Plan Seq No. 88)	2120–AJ38
358	+ Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States.	2120–AK09
359	+ Applying the Flight, Duty, and Rest Requirements to Ferry Flights That Follow Domestic, Flag, or Supplemental All-Cargo Operations (Reauthorization).	2120–AK22
360	+ Pilot Records Database (HR 5900)	2120–AK31

FEDERAL AVIATION ADMINISTRATION—PROPOSED RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
361	+ Aircraft Registration and Airmen Certification Fees	2120–AK37
362	Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers—Related Aircraft Amendment ..	2120–AK95

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL AVIATION ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
363	+ Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (RRR) **(Reg Plan Seq No. 90)**.	2120–AK65

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL AVIATION ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
364	+ Operation and Certification of Small Unmanned Aircraft Systems	2120–AJ60
365	Changing the Collective Risk Limits for Launches and Reentries and Clarifying the Risk Limit Used to Establish Hazard Areas for Ships and Aircraft.	2120–AK06
366	Reciprocal Waivers of Claims for Licensed or Permitted Launch and Reentry Activities (RRR)	2120–AK44
367	+ Prohibition Against Certain Flights in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) Flight Information Regions (FIRs) (Section 610 Review).	2120–AK92

+ DOT-designated significant regulation

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
368	+ Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)	2126–AB18
369	+ Entry-Level Driver Training (Section 610 Review) (Reg Plan Seq No. 93)	2126–AB66

+ DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
370	+ Carrier Safety Fitness Determination	2126–AB11

+ DOT-designated significant regulation

FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
371	Parts and Accessories Necessary for Safe Operation; Windshield-Mounted Technologies, Final Rule (Section 610 Review).	2126–AB94

FEDERAL RAILROAD ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
372	+ Passenger Equipment Safety Standards Amendments (RRR)	2130–AC46

+ DOT-designated significant regulation

FEDERAL RAILROAD ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
373	+Train Crew Staffing and Location	2130–AC48

+DOT-designated significant regulation

FEDERAL TRANSIT ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
374	+Transit Asset Management	2132–AB07

+DOT-designated significant regulation

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
375	+Pipeline Safety: Amendments to Parts 192 and 195 to Require Valve Installation and Minimum Rupture Detection Standards.	2137–AF06
376	+Hazardous Materials: Sampling and Testing Requirements for Unrefined Petroleum Products	2137–AF28

+DOT-designated significant regulation

PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
377	+Pipeline Safety: Safety of Hazardous Liquid Pipelines **(Reg Plan Seq No. 99)**	2137–AE66
378	Pipeline Safety: Issues Related to the Use of Plastic Pipe in Gas Pipeline Industry (RRR)	2137–AE93
379	Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes (RRR).	2137–AE94
380	+Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains **(Reg Plan Seq No. 100)**.	2137–AF08

+DOT-designated significant regulation
References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

MARITIME ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
381	+Cargo Preference	2133–AB74

+DOT-designated significant regulation

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Final Rule Stage

355. +Enhancing Airline Passenger Protections III

Legal Authority: 49 U.S.C. 41712; 49 U.S.C. 40101; 49 U.S.C. 41702

Abstract: The rulemaking previously titled ''Airline Pricing Transparency and Other Consumer Protection Issues'' has been separated into three proceedings. This final rule would address the following topics from the notice of proposed rulemaking issued on May 23, 2014: The scope of carriers required to report service quality data, reporting of mainline carriers' domestic code-share partner operations; the statutory requirement that carriers and ticket agents disclose any code-share arrangements on their Web sites; undisclosed biasing by carriers and ticket agents in electronic displays of flight search results; and disclosure by ticket agents of the carriers whose tickets they sell in order to avoid having consumers mistakenly believe they are searching all possible flight options for a particular city-pair market when in fact there may be other options available. Additionally, the rulemaking would correct drafting errors and make a few clarifying changes to the Department's second Enhancing Airline Passenger Protections rule. Two other proceedings will address other provisions identified in the 2014 NPRM. See RIN 2105–AE56, Transparency of Airline Ancillary Service Fees; and RIN 2105–AE57, Enhancing Airline Passenger Protections IV. These rulemakings address unrelated matters and were separated into three proceedings to avoid the risk of any delay in finalizing one issue resulting in a delay in finalizing other issues.

Timetable:

Action	Date	FR Cite
NPRM	05/23/14	79 FR 29970
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Blane A. Workie, Principal Deputy Assistant General Counsel, Department of Transportation, Office of the Secretary, 1200 New Jersey

Avenue SE., Washington, DC 20590, *Phone:* 202 366–9342, *TDD Phone:* 202 755–7687, *Fax:* 202 366–7152, *Email: blane.workie@dot.gov*.

RIN: 2105–AE11

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Prerule Stage

356. +Applying the Flight, Duty, and Rest Rules of 14 CFR Part 135 to Tail-End Ferry Operations (FAA Reauthorization)

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 1153; 49 U.S.C. 40101 to 40103; 49 U.S.C. 40113; 49 U.S.C. 41706; 49 U.S.C. 44105 to 44106; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44717; 49 U.S.C. 44722; 49 U.S.C. 44901; 49 U.S.C. 44903 to 44904; 49 U.S.C. 44906; 49 U.S.C. 44912; 49 U.S.C. 44914; 49 U.S.C. 44936; 49 U.S.C. 44938; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46103

Abstract: This rulemaking would require a flightcrew member who is employed by an air carrier conducting operations under part 135, and who accepts an additional assignment for flying under part 91 from the air carrier or from any other air carrier conducting operations under part 121 or 135, to apply the period of the additional assignment toward any limitation applicable to the flightcrew member relating to duty periods or flight times under part 135.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dale Roberts, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–5749, *Email: dale.roberts@faa.gov*.

RIN: 2120–AK26

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Proposed Rule Stage

357. +Airport Safety Management System

Regulatory Plan: This entry is Seq. No. 88 in part II of this issue of the **Federal Register**.

RIN: 2120–AJ38

358. +Drug and Alcohol Testing of Certain Maintenance Provider Employees Located Outside of the United States

Legal Authority: 14 CFR; 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 44701 to 44702; 49 U.S.C. 44707; 49 U.S.C. 44709; 49 U.S.C. 44717

Abstract: This rulemaking is required by the FAA Modernization and Reform 2012. It would require controlled substance testing of some employees working in repair stations located outside the United States. The intended effect is to increase participation by companies outside of the United States in testing of employees who perform safety critical functions and testing standards similar to those used in the repair stations located in the United States. This action is necessary to increase the level of safety of the flying public. This rulemaking is required by the FAA Modernization and Reform Act of 2012.

Timetable:

Action	Date	FR Cite
ANPRM	03/17/14	79 FR 14621
Comment Period Extended.	05/01/14	79 FR 24631
ANPRM Comment Period End.	05/16/14	
Comment Period End.	07/17/14	
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Vicky Dunne, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–8522, *Email: vicky.dunne@faa.gov*.

RIN: 2120–AK09

359. +Applying the Flight, Duty, and Rest Requirements to Ferry Flights That Follow Domestic, Flag, or Supplemental All-Cargo Operations (Reauthorization)

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44701 to 44702; 49 U.S.C. 44705; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 44716 to 44717

Abstract: This rulemaking would require a flightcrew member who accepts an additional assignment for flying under part 91 from the air carrier or from any other air carrier conducting operations under part 121 or 135 of such title, to apply the period of the additional assignment toward any limitation applicable to the flightcrew member relating to duty periods or flight times. This rule is necessary as it will make part 121 flight, duty, and rest limits applicable to tail-end ferries that follow an all-cargo flight.

Timetable:

Action	Date	FR Cite
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dale Roberts, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–5749, *Email: dale.roberts@faa.gov*.

RIN: 2120–AK22

360. +Pilot Records Database (HR 5900)

Legal Authority: 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119 to 40120; 49 U.S.C. 41706; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701 to 44705; 49 U.S.C. 44709 to 44713; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 45101 to 45105; 49 U.S.C. 46105; 49 U.S.C. 46306; 49 U.S.C. 46315 to 46316; 49 U.S.C. 46504; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531

Abstract: This rulemaking would implement a Pilot Records Database as required by Public Law 111–216 (Aug. 1, 2010). Section 203 amends the Pilot Records Improvement Act by requiring the FAA to create a pilot records database that contains various types of pilot records. These records would be provided by the FAA, air carriers, and other persons who employ pilots. The FAA must maintain these records until it receives notice that a pilot is deceased. Air carriers would use this database to perform a record check on a pilot prior to making a hiring decision.

Timetable:

Action	Date	FR Cite
NPRM	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Bradley Palmer, Department of Transportation, Federal

Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–7739, *Email: bradley.palmer@faa.gov*.

RIN: 2120–AK31

361. +Aircraft Registration and Airmen Certification Fees

Legal Authority: 31 U.S.C. 9701; 4 U.S.T. 1830; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 106(l)(6); 49 U.S.C. 40104 to 40105; 49 U.S.C. 40109; 49 U.S.C. 40113 to 40114; 49 U.S.C. 44101 to 44108; 49 U.S.C. 44110 to 44113; 49 U.S.C. 44701 to 44704; 49 U.S.C. 44707; 49 U.S.C. 44709 to 44711; 49 U.S.C. 44713; 49 U.S.C. 45102 to 45103; 49 U.S.C. 45301 to 45302; 49 U.S.C. 45305; 49 U.S.C. 46104; 49 U.S.C. 46301; Pub. L. 108–297, 118 Stat. 1095

Abstract: This rulemaking would establish fees for airman certificates, medical certificates, and provision of legal opinions pertaining to aircraft registration or recordation. This rulemaking also would revise existing fees for aircraft registration, recording of security interests in aircraft or aircraft parts, and replacement of an airman certificate. This rulemaking addresses provisions of the FAA Modernization and Reform Act of 2012. This rulemaking is intended to recover the estimated costs of the various services and activities for which fees would be established or revised.

Timetable:

Action	Date	FR Cite
NPRM	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mary Lu, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–7965, *Email: mary.lu@faa.gov*.

RIN: 2120–AK37

362. • Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers—Related Aircraft Amendment

Legal Authority: 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 40103; 49 U.S.C. 40113; 49 U.S.C. 40119; 49 U.S.C. 41706; 49 U.S.C. 42301

Abstract: This rulemaking would allow air carriers to seek a deviation from the flight simulation training device (FSTD) requirements for related aircraft proficiency checks. In doing so, it corrects an inadvertent omission from the Qualification, Service, and Use of Crewmembers and Aircraft Dispatchers final rule that allowed air carriers to modify training program requirements for flightcrew members operating multiple aircraft types with similar design and flight handling characteristics.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sheri Pippin, Department of Transportation, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, CA 90261, *Phone:* 310 725–7342, *Email: sheri.pippin@faa.gov*.

RIN: 2120–AK95

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Final Rule Stage

363. +Revision of Airworthiness Standards for Normal, Utility, Acrobatic, and Commuter Category Airplanes (RRR)

Regulatory Plan: This entry is Seq. No. 90 in part II of this issue of the **Federal Register**.

RIN: 2120–AK65

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Completed Actions

364. +Operation and Certification of Small Unmanned Aircraft Systems

Legal Authority: 49 U.S.C. 44701; Pub. L. 112–95

Abstract: This rulemaking would allow the commercial operation of small unmanned aircraft systems (small UAS) in the National Airspace System (NAS). These changes would address the operation of small unmanned aircraft systems, certification of their operators, registration of the small unmanned aircraft, and display of registration markings. This action would also find airworthiness certification is not required for small unmanned aircraft system operations subject to this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	02/23/15	80 FR 9544
NPRM Comment Period End.	04/24/15	
Final Rule	06/28/16	81 FR 42063
Final Rule Effective.	08/29/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lance Nuckolls, Unmanned Aircraft Systems Integration Office, Department of Transportation, Federal Aviation Administration, 490 L'Enfant Plaza SW., Washington, DC 20024, *Phone:* 202–267–8447, *Email: UAS-rule@faa.gov*.

RIN: 2120–AJ60

365. Changing the Collective Risk Limits for Launches and Reentries and Clarifying the Risk Limit Used To Establish Hazard Areas for Ships and Aircraft

Legal Authority: 51 U.S.C. 50901 to 50923

Abstract: This rulemaking would revise the requirements that: (1) Establish quantitative public risk acceptability criteria that treat launch and reentry separately; (2) define the scope of launch and reentry mission for the purposes of quantitative risk analyses (QRA); and (3) apply QRA requirements, including uncertainty analysis, equally to all types of launch and reentry vehicles. These revisions update the current regulations and are consistent with current practices at the Federal ranges.

Timetable:

Action	Date	FR Cite
NPRM	07/21/14	79 FR 42241
NPRM Comment Period End.	10/20/14	
Final Rule	07/20/16	81 FR 47017
Final Rule Effective.	09/19/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rene Rey, Licensing and Safety Division, Office of Commercial Space, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20590, *Phone:* 202 267–7538, *Email: rene.rey@faa.gov*.

RIN: 2120–AK06

366. Reciprocal Waivers of Claims for Licensed or Permitted Launch and Reentry Activities (RRR)

Legal Authority: 49 U.S.C. 322; 51 U.S.C. 50910 to 50923

Abstract: This rulemaking would ensure customers are waiving claims against all other customers involved in a launch or reentry; reduce the need for

operators to request a partial waiver of the reciprocal waiver of claims requirements and for the FAA to process those requests; and provide a reciprocal waiver template for permittees with no customers, reducing the need for the FAA to assist such a permittee in drafting its cross waivers.

Timetable:

Action	Date	FR Cite
NPRM	01/13/15	80 FR 2015
NPRM Comment Period End.	03/16/15	
NPRM Comment Period Re-opened.	06/15/15	80 FR 34110
Comment Period End.	07/15/15	
Final Rule	08/18/16	81 FR 55115
Final Rule Effective.	10/17/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shirley McBride, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, *Phone:* 202 267–7470, *Email: shirley.mcbride@faa.gov*.

RIN: 2120–AK44

367. • +Prohibition Against Certain Flights in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) Flight Information Regions (FIRS) (Section 610 Review)

Legal Authority: 126 Stat. 11; 49 U.S.C. 106(f); 49 U.S.C. 106(g); 49 U.S.C. 1155; 49 U.S.C. 40101; 49 U.S.C. 40103; 49 U.S.C. 40120; 49 U.S.C. 44101; 49 U.S.C. 44101; 49 U.S.C. 44111; 49 U.S.C. 44701; 49 U.S.C. 44704; 49 U.S.C. 44709; 49 U.S.C. 44711; 49 U.S.C. 44712; 49 U.S.C. 44715 to 44717; 49 U.S.C. 44722; 49 U.S.C. 46306; 49 U.S.C. 46315; 49 U.S.C. 46316; 49 U.S.C. 46504; 49 U.S.C. 46506; 49 U.S.C. 46507; 49 U.S.C. 47122; 49 U.S.C. 47508; 49 U.S.C. 47528 to 47531; 49 U.S.C. 47534; 61 Stat. 1180

Abstract: This action extends the expiration date of the Prohibition Against Certain Flights in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) Flight Information Regions (FIRs). This action is necessary to continue the prohibition on flight operations in the Simferopol (UKFV) and Dnipropetrovsk (UKDV) FIRs by all U.S. air carriers, U.S. commercial operators, persons exercising the privileges of a U.S. airman certificate, except when such persons are operating a U.S.-registered aircraft for a foreign air carrier, and operators of U.S.-registered civil aircraft, except when such operators are foreign air carriers. The FAA finds this action also necessary to address a continuing hazard to persons and aircraft engaged in such flight operations.

Timetable:

Action	Date	FR Cite
Final Rule Effective.	10/17/16	
Final Rule	10/27/16	81 FR 74671

Regulatory Flexibility Analysis Required: No.

Agency Contact: Michelle Ferritto, Department of Transportation, Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591, *Phone:* 202–267–8673, *Email: michelle.ferritto@faa.gov*.

RIN: 2120–AK92

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Final Rule Stage

368. +Commercial Driver's License Drug and Alcohol Clearinghouse (MAP–21)

Legal Authority: 49 U.S.C. 31306

Abstract: This rulemaking would create a central database for verified positive controlled substances and alcohol test results for commercial driver´s license (CDL) holders and refusals by such drivers to submit to testing. This rulemaking would require employers of CDL holders and service agents to report positive test results and refusals to test into the Clearinghouse. Prospective employers, acting on an application for a CDL driver position with the applicant´s written consent to access the Clearinghouse, would query the Clearinghouse to determine if any specific information about the driver applicant is in the Clearinghouse before allowing the applicant to be hired and to drive CMVs. This rulemaking is intended to increase highway safety by ensuring CDL holders, who have tested positive or have refused to submit to testing, have completed the U.S. DOT's return-to-duty process before driving CMVs in interstate or intrastate commerce. It is also intended to ensure that employers are meeting their drug and alcohol testing responsibilities. Additionally, provisions in this rulemaking would also be responsive to requirements of the Moving Ahead for Progress in the 21st Century (MAP–21) Act. MAP–21 required creation of the Clearinghouse by 10/1/14.

Timetable:

Action	Date	FR Cite
NPRM	02/20/14	79 FR 9703
Comment Period End.	04/21/14	
Comment Period End.	04/22/14	79 FR 22467
Comment Period Extended.	04/22/14	79 FR 22467
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Juan Moya, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4844, *Email: juan.moya@dot.gov*.

RIN: 2126–AB18

369. +Entry-Level Driver Training (Section 610 Review)

Regulatory Plan: This entry is Seq. No. 93 in part II of this issue of the **Federal Register**.

RIN: 2126–AB66

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Long-Term Actions

370. +Carrier Safety Fitness Determination

Legal Authority: 49 U.S.C. 31144; Section 4009 of TEA–21

Abstract: FMCSA proposes to amend the Federal Motor Carrier Safety Regulations (FMCSRs) to adopt revised methodologies that would result in a safety fitness determination (SFD). The proposed methodologies would determine when a motor carrier is not fit to operate commercial motor vehicles (CMVs) in or affecting interstate commerce based on: (1) The carrier's on-road safety performance in relation to five of the Agency's seven Behavioral Analysis and Safety Improvement Categories (BASICs); (2) an investigation; or (3) a combination of on-road safety data and investigation information. The intended effect of this action is to more effectively use FMCSA data and resources to identify unfit motor carriers and to remove them from the Nation's roadways.

Timetable:

Action	Date	FR Cite
NPRM	01/21/16	81 FR 3561

Action	Date	FR Cite
NPRM Comment Period Extended.	03/08/16	81 FR 12062
NPRM Comment Period End.	03/21/16	
NPRM Extended Comment Period End.	05/23/16	
Next Action Undetermined.	.....	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David Miller, Regulatory Development Division, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–5370, *Email: fmcsaregs@dot.gov*.

RIN: 2126–AB11

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Motor Carrier Safety Administration (FMCSA)

Completed Actions

371. • Parts and Accessories Necessary for Safe Operation; Windshield-Mounted Technologies, Final Rule (Section 610 Review)

Legal Authority: Pub. L. 114–94

Abstract: FMCSA amends the Federal Motor Carrier Safety Regulations (FMCSRs) to allow the voluntary mounting of certain devices on the interior of the windshields of commercial motor vehicles (CMVs), including placement within the area that is swept by the windshield wipers. The Fixing America's Surface Transportation (FAST) Act directs FMCSA to amend the FMCSRs to allow, on a permanent basis, devices/technologies the Agency previously determined are likely to achieve a level of safety equivalent to or greater than the level of safety that would be achieved without the devices—FMCSA previously granted limited two-year exemptions for these devices. And the statute provides a definition of ''vehicle safety technology'' which encompasses several technologies the Agency must allow to be installed in the windshield.

Timetable:

Action	Date	FR Cite
Final Rule	09/23/16	81 FR 65568
Final Rule Effective.	10/24/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Luke Loy, Office of Bus and Truck Standards and Operations, Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0676, *Fax:* 202 366–8842, *Email: luke.loy@dot.gov*.

RIN: 2126–AB94

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Proposed Rule Stage

372. +Passenger Equipment Safety Standards Amendments (RRR)

Legal Authority: 49 U.S.C. 20103

Abstract: This rulemaking would amend 49 CFR part 238 to update existing safety standards for passenger rail equipment. Specifically, the proposed rulemaking would add standards for alternative compliance with requirements for Tier I passenger equipment, increase the maximum authorized speed for Tier II passenger equipment, and add requirements for a new Tier III category of passenger equipment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email: kathryn.shelton@fra.dot.gov*.

RIN: 2130–AC46

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Final Rule Stage

373. +Train Crew Staffing and Location

Legal Authority: 28 U.S.C. 2461, note; 49 CFR 1.89; 49 U.S.C. 20103; 49 U.S.C. 20107; 49 U.S.C. 21301 to 21302; 49 U.S.C. 21304

Abstract: This rulemaking would add minimum requirements for the size of different train crew staffs depending on the type of operation. The minimum crew staffing requirements would reflect the safety risks posed to railroad employees, the general public, and the environment. This rulemaking would also establish minimum requirements for the roles and responsibilities of the second train crew member on a moving train, and promote safe and effective teamwork. Additionally, this rulemaking would permit a railroad to submit information to FRA and seek approval if it wants to continue an existing operation with a one-person train crew or start up an operation with less than two crew members.

Timetable:

Action	Date	FR Cite
NPRM	03/15/16	81 FR 13918
NPRM Comment Period End.	05/16/16	
Final Rule	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathryn Shelton, Trial Attorney, Department of Transportation, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 493–6063, *Email: kathryn.shelton@fra.dot.gov*.

RIN: 2130–AC48

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Transit Administration (FTA)

Completed Actions

374. +Transit Asset Management

Legal Authority: 49 U.S.C. 5326(d)

Abstract: This rule will establish a system for Transit Asset Management (TAM) for all operators of public transportation, for all modes of transportation throughout the United States. This national system will be based on the term ''State of Good Repair,'' to be developed through rulemaking, which will generate accurate data about the condition of the transit agencies' assets, and performance measures for improving the conditions of those assets.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/13	78 FR 61251
ANPRM Comment Period End.	01/02/14	
NPRM	09/30/15	80 FR 58912
Final Rule	07/26/16	81 FR 48890
Final Rule Effective.	10/01/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Bonnie Graves, Attorney Advisor, Department of Transportation, Federal Transit Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0644, *Email: bonnie.graves@fta.dot.gov*.

RIN: 2132–AB07

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Proposed Rule Stage

375. +Pipeline Safety: Amendments to Parts 192 and 195 To Require Valve Installation and Minimum Rupture Detection Standards

Legal Authority: 49 U.S.C. 60101 *et seq.*

Abstract: This rule would propose installation of automatic shutoff valves, remote controlled valves, or equivalent technology and establish performance based meaningful metrics for rupture detection for gas and liquid transmission pipelines. The overall intent is that rupture detection metrics will be integrated with ASV and RCV placement with the objective of improving overall incident response. Rupture response metrics would focus on mitigating large, unsafe, uncontrolled release events that have a greater potential consequence. The areas proposed to be covered include High Consequence Areas (HCA) for hazardous liquids and HCA, Class 3 and 4 for natural gas (including could affect areas).

Timetable:

Action	Date	FR Cite
NPRM	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert Jagger, Technical Writer, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4595, *Email: robert.jagger@dot.gov*.

RIN: 2137–AF06

376. • +Hazardous Materials: Sampling and Testing Requirements for Unrefined Petroleum Products

Legal Authority: 49 U.S.C. 5101 *et seq.*

Abstract: This rulemaking proposes to revise the Hazardous Materials Regulations (HMR) to apply particular methods for conducting vapor pressure testing and sampling of unrefined petroleum-based products, such as petroleum crude oil. Specifically, this rulemaking proposes that persons who offer unrefined petroleum-based products for transportation, regardless of mode of transportation, apply particular methods for conducting vapor pressure testing when vapor pressure testing is a component of their written testing program. PHMSA encourages persons to participate in this rulemaking by submitting comments containing relevant information, data, or views.

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ben Supko, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8553, *Email: ben.supko@dot.gov*.

RIN: 2137–AF28

DEPARTMENT OF TRANSPORTATION (DOT)

Pipeline and Hazardous Materials Safety Administration (PHMSA)

Final Rule Stage

377. +Pipeline Safety: Safety of Hazardous Liquid Pipelines

Regulatory Plan: This entry is Seq. No. 99 in part II of this issue of the **Federal Register**.

RIN: 2137–AE66

378. Pipeline Safety: Issues Related to the Use of Plastic Pipe in Gas Pipeline Industry (RRR)

Legal Authority: 49 U.S.C. 60101 *et seq.*

Abstract: In this rule, PHMSA is amending the natural and other gas pipeline safety regulations (49 CFR part 192) to address regulatory requirements involving plastic piping systems used in gas services. These amendments are intended to correct errors, address inconsistencies, and respond to petitions for rulemaking. The requirements in several subject matter areas are affected, including incorporation of tracking and traceability provisions; design factor for polyethylene (PE) pipe; more stringent mechanical fitting requirements; updated and additional regulations for risers; expanded use of Polyamide-11 (PA-11) thermoplastic pipe; incorporation of newer Polyamide-12 (PA-12) thermoplastic pipe; and incorporation of updated and additional standards for fittings.

Timetable:

Action	Date	FR Cite
NPRM	05/21/15	80 FR 29263
NPRM Comment Period End.	07/31/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cameron H. Satterthwaite, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202–366–8553, *Email: cameron.satterthwaite@dot.gov*.

RIN: 2137–AE93

379. Pipeline Safety: Operator Qualification, Cost Recovery, Accident and Incident Notification, and Other Changes (RRR)

Legal Authority: 49 U.S.C. 60101 *et seq.*

Abstract: PHMSA is amending the pipeline safety regulations to address requirements of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (2011 Act), and to update and clarify certain regulatory requirements. Under the 2011 Act, PHMSA is adding a specific time frame for telephonic or electronic notifications of accidents and incidents and adding provisions for cost recovery for design reviews of certain new projects. Among other provisions, PHMSA is adding a procedure for renewal of expiring special permits, and for submitters of information requesting PHMSA to keep some information confidential. In addition, PHMSA is amending the operator qualification (OQ) requirements, drug and alcohol testing requirements, and incorporating consensus standards by reference for in-line inspection (ILI) and Stress Corrosion Cracking Direct Assessment (SCCDA).

Timetable:

Action	Date	FR Cite
NPRM	07/10/15	80 FR 39916
NPRM Comment Period End.	09/08/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John A. Gale, Transportation Regulations Specialist, Department of Transportation, Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–0434, *Email: john.gale@dot.gov*.

RIN: 2137–AE94

380. +Hazardous Materials: Oil Spill Response Plans and Information Sharing for High-Hazard Flammable Trains

Regulatory Plan: This entry is Seq. No. 100 in part II of this issue of the **Federal Register**.

RIN: 2137–AF08

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MARAD)

Long-Term Actions

381. +Cargo Preference

Legal Authority: 49 CFR 1.66; 46 App U.S.C. 1101; 46 App U.S.C. 1241; 46 U.S.C. 2302 (e)(1); Pub. L. 91–469

Abstract: This rulemaking would revise and clarify the cargo preference regulations that have not been revised substantially since 1971. The rulemaking would also implement statutory changes, including section 3511, Public Law 110–417, of The National Defense Authorization Act for FY 2009, which provides enforcement authority.

Timetable: Next Action Undetermined.

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mitch Hudson, Attorney, Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Phone:* 202 366–4000, *Email: mitch.hudson@dot.gov*.

RIN: 2133–AB74

[FR Doc. 2016–29872 Filed 12–22–16; 8:45 am]

BILLING CODE 4910–81–P

FEDERAL REGISTER

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Part XV

Department of the Treasury

Semiannual Regulatory Agenda

DEPARTMENT OF THE TREASURY

31 CFR Subtitles A and B

Semiannual Agenda and Fiscal Year 2016 Regulatory Plan

AGENCY: Department of the Treasury.

ACTION: Semiannual regulatory agenda and annual regulatory plan.

SUMMARY: This notice is given pursuant to the requirements of the Regulatory Flexibility Act and Executive Order (E.O.) 12866 (''Regulatory Planning and Review''), which require the publication by the Department of a semiannual agenda of regulations. E.O. 12866 also requires the publication by the Department of a regulatory plan for the upcoming fiscal year.

FOR FURTHER INFORMATION CONTACT: The Agency Contact identified in the item relating to that regulation.

SUPPLEMENTARY INFORMATION: The semiannual regulatory agenda includes regulations that the Department has issued or expects to issue and rules currently in effect that are under departmental or bureau review. For this edition of the regulatory agenda, the most important significant regulatory actions and a Statement of Regulatory Priorities are included in the Regulatory Plan, which appears in both the online Unified Agenda and in part II of the **Federal Register** publication that includes the Unified Agenda.

Beginning with the fall 2007 edition, the Internet has been the primary medium for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov* and *www.regulations.gov,* in a format that offers users an enhanced ability to obtain information from the Agenda database. Because publication in the **Federal Register** is mandated for the regulatory flexibility agenda required by the Regulatory Flexibility Act (5 U.S.C. 602), Treasury's printed agenda entries include only:

(1) Rules that are in the regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that have been identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years.

Brian J. Sonfield,

Deputy Assistant General Counsel for General Law and Regulation.

INTERNAL REVENUE SERVICE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
382	Issue Price Definition for Tax-Exempt Bonds	1545–BM46
383	Deemed Distributions Under Section 305(c) of Stock and Rights to Acquire Stock	1545–BN07

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

382. Issue Price Definition for Tax-Exempt Bonds

Legal Authority: 26 U.S.C. 148(i); 26 U.S.C. 7805

Abstract: The final regulations define issue price for purposes of the arbitrage restrictions under section 148 of the Internal Revenue Code applicable to tax-exempt bonds and other tax-advantaged bonds.

Timetable:

Action	Date	FR Cite
NPRM	06/24/15	80 FR 36301
NPRM Comment Period End.	09/22/15	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lewis Bell, Tax Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, *Phone:* 202 317–4565, *Fax:* 855 574–9028, *Email: lewis.bell@irscounsel.treas.gov.*

RIN: 1545–BM46

383. Deemed Distributions Under Section 305(c) of Stock and Rights To Acquire Stock

Legal Authority: 26 U.S.C. 7805

Abstract: Provide guidance on the amount and timing of distributions under section 305(c) and 305(b), and to clarify that deemed distributions caused by changes in conversion ratios are considered a distribution of additional rights to acquire the underlying stock, and not a distribution of the underlying stock itself. Guidance is also provided to withholding agents regarding their withholding obligations, and on information reporting for such distributions under sections 860G, 861, 1441, 1461, 1471, 1473, and 6045(B).

Timetable:

Action	Date	FR Cite
NPRM	04/13/16	81 FR 21795
NPRM Comment Period End.	07/12/16	
Final Action	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Maurice LaBrie, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, *Phone:* 202 317–5024.

RIN: 1545–BN07

[FR Doc. 2016–29911 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

Vol. 81 Friday,
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Part XVI

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Ch. XI

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next 12 months. This regulatory agenda may be revised by the agency during the coming months as a result of action taken by the Board.

ADDRESSES: Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Gretchen Jacobs, General Counsel, (202) 272–0040 (voice) or (202) 272–0062 (TTY).

David M. Capozzi,

Executive Director.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
384	Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels	3014–AA11
385	Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way	3014–AA26

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

384. Americans With Disabilities Act (ADA) Accessibility Guidelines for Passenger Vessels

Legal Authority: 42 U.S.C. 12204, Americans with Disabilities Act of 1990

Abstract: This rulemaking would establish accessibility guidelines to ensure that newly constructed and altered passenger vessels covered by the Americans with Disabilities Act (ADA) are accessible to and usable by individuals with disabilities. The U.S. Department of Transportation and U.S. Department of Justice are expected to adopt the guidelines as enforceable standards in separate rulemakings for the construction and alteration of passenger vessels covered by the ADA.

Timetable:

Action	Date	FR Cite
Notice of Intent to Establish Advisory Committee.	03/30/98	63 FR 15175
Establishment of Advisory Committee.	08/12/98	63 FR 43136
Availability of Draft Guidelines.	11/26/04	69 FR 69244
ANPRM	11/26/04	69 FR 69246
ANPRM Comment Period Extended.	03/22/05	70 FR 14435
ANPRM Comment Period Extended End.	07/28/05	
Availability of Draft Guidelines.	07/07/06	71 FR 38563
Notice of Intent to Establish Advisory Committee.	06/25/07	72 FR 34653
Establishment of Advisory Committee.	08/13/07	72 FR 45200
NPRM	06/25/13	78 FR 38102
NPRM Comment Period Extended.	08/13/13	78 FR 49248
NPRM Comment Period Extended End.	01/24/14	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gretchen Jacobs, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: jacobs@access-board.gov*.

RIN: 3014–AA11.

385. Accessibility Guidelines for Pedestrian Facilities in the Public Right-of-Way

Legal Authority: 42 U.S.C. 12204, Americans With Disabilities Act; 29 U.S.C. 792, Rehabilitation Act

Abstract: This rulemaking would establish accessibility guidelines to ensure that sidewalks and pedestrian facilities in the public right-of-way are accessible to and usable by individuals with disabilities. A Supplemental Notice of Proposed Rulemaking consolidated this rulemaking with RIN 3014–AA41; accessibility guidelines for shared use paths (which are multi-use paths designed primarily for use by bicyclists and pedestrians—including persons with disabilities—for transportation and recreation purposes). The U.S. Department of Justice, U.S. Department of Transportation, and other Federal agencies are expected to adopt the accessibility guidelines for pedestrian facilities in the public right-of-way and for shared use paths, as enforceable standards in separate rulemakings for the construction and alteration of facilities covered by the Americans With Disabilities Act, section 504 of the Rehabilitation Act, and the Architectural Barriers Act.

Timetable:

Action	Date	FR Cite
Notice of Intent to Form Advisory Committee.	08/12/99	64 FR 43980
Notice of Appointment of Advisory Committee Members.	10/20/99	64 FR 56482
Availability of Draft Guidelines.	06/17/02	67 FR 41206
Availability of Draft Guidelines.	11/23/05	70 FR 70734
NPRM	07/26/11	76 FR 44664
NPRM Comment Period End.	11/23/11	
Notice Reopening Comment Period.	12/05/11	76 FR 75844
Reopening NPRM Comment Period End.	02/02/12	
Second NPRM	02/13/13	78 FR 10110
Second NPRM Comment Period End.	05/14/13	
Final Action	07/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gretchen Jacobs, General Counsel, Architectural and Transportation Barriers Compliance Board, 1331 F Street NW., Suite 1000, Washington, DC 20004–1111, *Phone:* 202 272–0040, *TDD Phone:* 202 272–0062, *Fax:* 202 272–0081, *Email: jacobs@access-board.gov*.

RIN: 3014–AA26

[FR Doc. 2016–29912 Filed 12–22–16; 8:45 am]

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Part XVII

Environmental Protection Agency

Semiannual Regulatory Agenda

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[Docket Number EPA–HQ–OA–2016–0203; FRL–9952–35–OP]

Fall 2016 Regulatory Agenda

AGENCY: Environmental Protection Agency.

ACTION: Semiannual regulatory flexibility agenda and semiannual regulatory agenda.

SUMMARY: The Environmental Protection Agency (EPA) publishes the semiannual regulatory agenda online (the e-Agenda) at *http://www.reginfo.gov* and at *www.regulations.gov* to update the public. This document contains information about:

- Regulations in the semiannual regulatory agenda that are under development, completed, or canceled since the last agenda;
- Retrospective reviews of existing regulations; and
- Reviews of regulations with small business impacts under Section 610 of the Regulatory Flexibility Act.

FOR FURTHER INFORMATION CONTACT: If you have questions or comments about a particular action, please get in touch with the agency contact listed in each agenda entry. If you have general questions about the semiannual regulatory agenda, please contact: Caryn Muellerleile (*muellerleile.caryn@epa.gov;* 202–564–2855).

Table of Contents

SUPPLEMENTARY INFORMATION:

I. Introduction

EPA is committed to a regulatory strategy that effectively achieves the Agency's mission of protecting the environment and the health, welfare, and safety of Americans while also supporting economic growth, job creation, competitiveness, and innovation. EPA publishes the Semiannual Regulatory Agenda to update the public about regulatory activity undertaken in support of this mission. Within the Semiannual Regulatory Agenda, EPA provides notice of our plans to review, propose, and issue regulations.

EPA's Semiannual Regulatory Agenda also includes information about rules that may have a significant economic impact on a substantial number of small entities, and review of those regulations under the Regulatory Flexibility Act, as amended.

Within this document, EPA explains in greater detail the types of actions and information available in the Semiannual Regulatory Agenda, the opportunity to suggest regulations that may be appropriate for retrospective review, and actions that are currently undergoing review specifically for impacts on small entities.

A. EPA's Regulatory Information

''E-Agenda,'' ''online regulatory agenda,'' and ''semiannual regulatory agenda'' all refer to the same comprehensive collection of information that, until 2007, was published in the **Federal Register** but now is only available through an online database, at both *www.reginfo.gov/* and *www.regulations.gov.*

''Regulatory Flexibility Agenda'' refers to a document that contains information about regulations that may have a significant impact on a substantial number of small entities. We continue to publish it in the **Federal Register** pursuant to the Regulatory Flexibility Act of 1980. This document is available at *http://www.gpo.gov/fdsys/search/home.action.*

''Unified Regulatory Agenda'' refers to the collection of all agencies' agendas with an introduction prepared by the Regulatory Information Service Center facilitated by the General Service Administration.

''Regulatory Agenda Preamble'' refers to the document you are reading now. It appears as part of the Regulatory Flexibility Agenda and introduces both the Regulatory Flexibility Agenda and the e-Agenda.

''Regulatory Development and Retrospective Review Tracker'' refers to an online portal to EPA's priority rules and retrospective reviews of existing regulations. This portal is available at *www.epa.gov/regdarrt/.*

''Retrospective Review Plan'' is EPA's plan under Executive Orders 13563 and 13610 to periodically review existing regulations to determine whether any may be modified, streamlined, expanded, or repealed in order to make the agency's regulatory program more effective or less burdensome in achieving the regulatory objectives. This Plan and subsequent progress updates are available at *https://www.epa.gov/laws-regulations/retrospective-review-history.*

''610 Review'' is an action EPA is committed to reviewing within ten years of promulgating a final rule that has or may have a significant economic impact on a substantial number of small entities. EPA maintains a list of these actions at *https://www.epa.gov/reg-flex/section-610-reviews.*

B. What key statutes and Executive Orders guide EPA's rule and policymaking process?

A number of environmental laws authorize EPA's actions, including but not limited to:

- Clean Air Act (CAA),
- Clean Water Act (CWA),
- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, or Superfund),
- Emergency Planning and Community Right-to-Know Act (EPCRA),
- Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA),
- Resource Conservation and Recovery Act (RCRA),
- Safe Drinking Water Act (SDWA), and
- Toxic Substances Control Act (TSCA).

Not only must EPA comply with environmental laws, but also administrative legal requirements that apply to the issuance of regulations, such as: The Administrative Procedure Act (APA), the Regulatory Flexibility Act (RFA) as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA), the Unfunded Mandates Reform Act (UMRA), the Paperwork Reduction Act (PRA), the National Technology Transfer and Advancement Act (NTTAA), and the Congressional Review Act (CRA).

EPA also meets a number of requirements contained in numerous Executive Orders: 12866, ''Regulatory Planning and Review'' (58 FR 51735, Oct. 4, 1993), as supplemented by Executive Order 13563, ''Improving Regulation and Regulatory Review'' (76

FR 3821, Jan. 21, 2011); 12898, ''Environmental Justice'' (59 FR 7629, Feb. 16, 1994); 13045, ''Children's Health Protection'' (62 FR 19885, Apr. 23, 1997); 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999); 13175, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, Nov. 9, 2000); 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001).

In addition to meeting its mission goals and priorities, EPA reviews its existing regulations under Executive Order 13563, ''Improving Regulation and Regulatory Review'' and Executive Order 13610, ''Identifying and Reducing Regulatory Burdens.'' These Executive orders provide for periodic retrospective review of existing regulations and are intended to determine whether any such regulations should be modified, streamlined, expanded, or repealed, so as to make the Agency's regulatory program more effective or less burdensome in achieving its regulatory objectives.

C. How can you be involved in EPA's rule and policymaking process?

You can make your voice heard by getting in touch with the contact person provided in each agenda entry. EPA encourages you to participate as early in the process as possible. You may also participate by commenting on proposed rules published in the **Federal Register** (FR).

Instructions on how to submit your comments are provided in each Notice of Proposed Rulemaking (NPRM). To be most effective, comments should contain information and data that support your position and you also should explain why EPA should incorporate your suggestion in the rule or other type of action. You can be particularly helpful and persuasive if you provide examples to illustrate your concerns and offer specific alternatives.

EPA believes its actions will be more cost effective and protective if the development process includes stakeholders working with us to help identify the most practical and effective solutions to problems. EPA encourages you to become involved in its rule and policymaking process. For more information about public involvement in EPA activities, please visit *www.epa.gov/open.*

II. Semiannual Regulatory Agenda

A. What actions are included in the e-Agenda and the Regulatory Flexibility Agenda?

EPA includes regulations in the e-Agenda. However, there is no legal significance to the omission of an item from the agenda, and EPA generally does not include the following categories of actions:

- Administrative actions such as delegations of authority, changes of address, or phone numbers;
- Under the CAA: Revisions to state implementation plans; equivalent methods for ambient air quality monitoring; deletions from the new source performance standards source categories list; delegations of authority to states; area designations for air quality planning purposes;
- Under FIFRA: Registration-related decisions, actions affecting the status of currently registered pesticides, and data call-ins;
- Under the Federal Food, Drug, and Cosmetic Act: Actions regarding pesticide tolerances and food additive regulations;
- Under RCRA: Authorization of State solid waste management plans; hazardous waste delisting petitions;
- Under the CWA: State Water Quality Standards; deletions from the section 307(a) list of toxic pollutants; suspensions of toxic testing requirements under the National Pollutant Discharge Elimination System (NPDES); delegations of NPDES authority to States;
- Under SDWA: Actions on State underground injection control programs.

Meanwhile, the Regulatory Flexibility Agenda includes:

- Actions likely to have a significant economic impact on a substantial number of small entities.
- Rules the Agency has identified for periodic review under section 610 of the RFA.

EPA has one ongoing 610 review and is completing one 610 review at this time.

B. How is the e-Agenda organized?

You can choose how to organize the agenda entries online by specifying the characteristics of the entries of interest in the desired individual data fields for both the *www.reginfo.gov* and *www.regulations.gov* versions of the e-Agenda. You can sort based on the following characteristics: EPA subagency; stage of rulemaking, which is explained below; alphabetically by title; and by the Regulation Identifier Number (RIN), which is assigned sequentially when an action is added to the agenda.

Each entry in the Agenda is associated with one of five rulemaking stages. The rulemaking stages are:

1. Prerule Stage—This section includes EPA actions generally intended to determine whether the agency should initiate rulemaking. Prerulemakings may include anything that influences or leads to rulemaking, such as Advance Notices of Proposed Rulemaking (ANPRMs), studies or analyses of the possible need for regulatory action.
2. Proposed Rule Stage—This section includes EPA rulemaking actions that are within a year of proposal (publication of Notices of Proposed Rulemakings [NPRMs]).
3. Final Rule Stage—This section includes rules that will be issued as a final rule within a year.
4. Long-Term Actions—This section includes rulemakings for which the next scheduled regulatory action is after November 2017. We urge you to explore becoming involved even if an action is listed in the Long-Term category.
5. Completed Actions—This section contains actions that have been promulgated and published in the **Federal Register** since publication of the spring 2016 Agenda. It also includes actions that EPA is no longer considering and has elected to ''withdraw.'' EPA also announces the results of any RFA section 610 review in this section of the agenda.

C. What information is in the Regulatory Flexibility Agenda and the e-Agenda?

The Regulatory Flexibility Agenda entries include only the nine categories of information that are required by the Regulatory Flexibility Act of 1980 and by **Federal Register** Agenda printing requirements: Sequence Number, RIN, Title, Description, Statutory Authority, Section 610 Review, if applicable, Regulatory Flexibility Analysis Required, Schedule and Contact Person. Note that the electronic version of the Agenda (E-Agenda) has more extensive information on each of these actions.

E-Agenda entries include:

Title: A brief description of the subject of the regulation. The notation ''Section 610 Review'' follows the title if we are reviewing the rule as part of our periodic review of existing rules under section 610 of the RFA (5 U.S.C. 610).

Priority: Entries are placed into one of five categories described below.

a. Economically Significant: Under Executive Order 12866, a rulemaking that may have an annual effect on the economy of $100 million or more, or adversely affect in a material way the

economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

b. Other Significant: A rulemaking that is not economically significant but is considered significant for other reasons. This category includes rules that may:

1. Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

2. Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients; or

3. Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles in Executive Order 12866.

c. Substantive, Nonsignificant: A rulemaking that has substantive impacts but is not Significant, Routine and Frequent, or Informational/Administrative/Other.

d. Routine and Frequent: A rulemaking that is a specific case of a recurring application of a regulatory program in the Code of Federal Regulations (*e.g.,* certain State Implementation Plans, National Priority List updates, Significant New Use Rules, State Hazardous Waste Management Program actions, and Tolerance Exemptions). If an action that would normally be classified Routine and Frequent is reviewed by the Office of Management and Budget under EO 12866, then we would classify the action as either ''Economically Significant'' or ''Other Significant.''

e. Informational/Administrative/Other: An action that is primarily informational or pertains to an action outside the scope of Executive Order 12866.

Major: A rule is ''major'' under 5 U.S.C. 801 (Pub. L. 104–121) if it has resulted or is likely to result in an annual effect on the economy of $100 million or more or meets other criteria specified in that Act.

Unfunded Mandates: Whether the rule is covered by section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Act requires that, before issuing an NPRM likely to result in a mandate that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector of more than $100 million in 1 year.

Legal Authority: The sections of the United States Code (U.S.C.), Public Law (Pub. L.), Executive Order (E.O.), or common name of the law that authorizes the regulatory action.

CFR Citation: The sections of the Code of Federal Regulations that would be affected by the action.

Legal Deadline: An indication of whether the rule is subject to a statutory or judicial deadline, the date of that deadline, and whether the deadline pertains to a Notice of Proposed Rulemaking, a Final Action, or some other action.

Abstract: A brief description of the problem the action will address.

Timetable: The dates and citations (if available) for all past steps and a projected date for at least the next step for the regulatory action. A date displayed in the form 10/00/16 means the agency is predicting the month and year the action will take place but not the day it will occur. For some entries, the timetable indicates that the date of the next action is ''to be determined.''

Regulatory Flexibility Analysis Required: Indicates whether EPA has prepared or anticipates that it will be preparing a regulatory flexibility analysis under section 603 or 604 of the RFA. Generally, such an analysis is required for proposed or final rules subject to the RFA that EPA believes may have a significant economic impact on a substantial number of small entities.

Small Entities Affected: Indicates whether the rule is anticipated to have any effect on small businesses, small governments or small nonprofit organizations.

Government Levels Affected: Indicates whether the rule may have any effect on levels of government and, if so, whether the governments are State, local, tribal, or Federal.

Federalism Implications: Indicates whether the action is expected to 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.

Energy Impacts: Indicates whether the action is a significant energy action under Executive Order 13211.

Sectors Affected: Indicates the main economic sectors regulated by the action. The regulated parties are identified by their North American Industry Classification System (NAICS) codes. These codes were created by the Census Bureau for collecting, analyzing, and publishing statistical data on the U.S. economy. There are more than 1,000 NAICS codes for sectors in agriculture, mining, manufacturing, services, and public administration.

International Trade Impacts: Indicates whether the action is likely to have international trade or investment effects, or otherwise be of international interest.

Agency Contact: The name, address, phone number, and email address, if available, of a person who is knowledgeable about the regulation.

Additional Information: Other information about the action including docket information.

URLs: For some actions, the Internet addresses are included for reading copies of rulemaking documents, submitting comments on proposals, and getting more information about the rulemaking and the program of which it is a part. (Note: To submit comments on proposals, you can go to the associated electronic docket, which is housed at *www.regulations.gov.* Once there, follow the online instructions to access the docket in question and submit comments. A docket identification [ID] number will assist in the search for materials.)

RIN: The Regulation Identifier Number is used by OMB to identify and track rulemakings. The first four digits of the RIN identify the EPA office with lead responsibility for developing the action.

D. How can you find out about rulemakings that start up after the Regulatory Agenda is signed?

EPA posts monthly information of new rulemakings that the Agency's senior managers have decided to develop. This list is also distributed via email. You can find the current list, known as the Action Initiation List (AIL), at *http://www.epa.gov/laws-regulations/actions-initiated-month* where you will also find information about how to get an email notification when a new list is posted.

E. What tools are available for mining Regulatory Agenda data and for finding more about EPA rules and policies?

1. The *http://www.reginfo.gov/* Searchable Database

The Regulatory Information Service Center and Office of Information and Regulatory Affairs have a Federal regulatory dashboard that allows users to view the Regulatory Agenda database (*http://www.reginfo.gov/public/do/eAgendaMain*), which includes search, display, and data transmission options.

2. Subject Matter EPA Web sites

Some actions listed in the Agenda include a URL that provides additional information about the action.

3. Public Dockets

When EPA publishes either an Advance Notice of Proposed Rulemaking (ANPRM) or a Notice of

Proposed Rulemaking (NPRM) in the **Federal Register**, the Agency typically establishes a docket to accumulate materials throughout the development process for that rulemaking. The docket serves as the repository for the collection of documents or information related to a particular Agency action or activity. EPA most commonly uses dockets for rulemaking actions, but dockets may also be used for RFA section 610 reviews of rules with significant economic impacts on a substantial number of small entities and for various non-rulemaking activities, such as **Federal Register** documents seeking public comments on draft guidance, policy statements, information collection requests under the PRA, and other non-rule activities. Docket information should be in that action's agenda entry. All of EPA's public dockets can be located at *www.regulations.gov.*

4. EPA's Regulatory Development and Retrospective Review Tracker

EPA's Regulatory Development and Retrospective Review Tracker (*www.epa.gov/regdarrt/*) serves as a portal to EPA's priority rules, providing you with earlier and more frequently updated information about Agency regulations than is provided by the Regulatory Agenda. It also provides information about retrospective reviews of existing regulations. Not all of EPA's Regulatory Agenda entries appear on Reg DaRRT; only priority rulemakings can be found on this Web site.

III. Review of Regulations Under 610 of the Regulatory Flexibility Act

A. Reviews of Rules With Significant Impacts on a Substantial Number of Small Entities

Section 610 of the RFA requires that an agency review, within 10 years of promulgation, each rule that has or will have a significant economic impact on a substantial number of small entities. At this time, EPA has one ongoing 610 review and is completing one 610 review.

Review title	RIN	Docket ID No.	Status
610 Review of Control of Hazardous Air Pollutants From Mobile Sources	2060–AS88	EPA–HQ–OAR–2016–0175	Complete.
Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3).	2070–AK17	EPA–HQ–OPPT–2016–0126	Ongoing.

EPA established official public dockets for these 610 Reviews. EPA is no longer accepting comment on the reviews themselves, but comments received earlier in 2016 can be accessed at *https://www.regulations.gov/* with docket identification number EPA–HQ–OAR–2016–0175 or EPA–HQ–OPPT–2016–0126.

B. What other special attention does EPA give to the impacts of rules on small businesses, small governments, and small nonprofit organizations?

For each of EPA's rulemakings, consideration is given to whether there will be any adverse impact on any small entity. EPA attempts to fit the regulatory requirements, to the extent feasible, to the scale of the businesses, organizations, and governmental jurisdictions subject to the regulation.

Under RFA as amended by SBREFA, the Agency must prepare a formal analysis of the potential negative impacts on small entities, convene a Small Business Advocacy Review Panel (proposed rule stage), and prepare a Small Entity Compliance Guide (final rule stage) unless the Agency certifies a rule will not have a significant economic impact on a substantial number of small entities. For more detailed information about the Agency's policy and practice with respect to implementing RFA/SBREFA, please visit EPA's RFA/SBREFA Web site at *www.epa.gov/reg-flex.*

IV. Thank You for Collaborating With Us

Finally, we would like to thank those of you who choose to join with us in making progress on the complex issues involved in protecting human health and the environment. Collaborative efforts such as EPA's open rulemaking process are a valuable tool for addressing the problems we face, and the regulatory agenda is an important part of that process.

Dated: September 13, 2016.

Shannon Kenny,

Principal Deputy Associate Administrator, Office of Policy.

10—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
386	Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources (Completion of a Section 610 Review).	2060–AS88

10—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
387	Modernization of the Accidental Release Prevention Regulations Under Clean Air Act **(Reg Plan Seq No. 138)**.	2050–AG82

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

10—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
388	Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2.	2060–AS16
389	Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources	2060–AS30

35—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
390	Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(c)(3) (Section 610 Review).	2070–AK17

35—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
391	N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(a) **(Reg Plan Seq No. 125)**.	2070–AK07
392	Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(a); Vapor Degreasing **(Reg Plan Seq No. 126)**.	2070–AK11

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

35—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
393	Formaldehyde Emission Standards for Composite Wood Products	2070–AJ44

60—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
394	Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry **(Reg Plan Seq No. 130)**.	2050–AG61

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Prerule Stage

386. Section 610 Review of Control of Hazardous Air Pollutants From Mobile Sources (Completion of a Section 610 Review)

Legal Authority: 5 U.S.C. 610

Abstract: The rulemaking ''Control of Hazardous Air Pollutants From Mobile Sources'' was finalized by the EPA in February 2007 (72 FR 8428, February 26, 2007). This program established stringent new controls on gasoline, passenger vehicles, and gas cans to further reduce emissions of benzene and other mobile source air toxics. The EPA developed a Small Entity Compliance Guide, which provides descriptions of the regulations and small entity provisions, Q&As, and other helpful compliance information. This new entry in the regulatory agenda announces that EPA has reviewed this action pursuant to section 610 of the Regulatory Flexibility Act (5 U.S.C. 610) to determine if the provisions that could affect small entities should be continued without change, or should be rescinded or amended to minimize adverse economic impacts on small entities. As part of this review, EPA solicited comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received from the public concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. The EPA received one comment about the program unrelated to the impact of the rulemaking on small entities. The current mobile source air toxics standards program provided substantial flexibility for regulated entities, especially small entities, and does not warrant revision at this time. See EPA's report summarizing the results of this review in the docket EPA–HQ–OAR–2016–0175. This docket can be accessed at *www.regulations.gov.*

Timetable:

Action	Date	FR Cite
Final Rule	02/26/07	72 FR 8427
Begin Review	06/09/16	81 FR 37373
End Review	11/00/16	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Tom Eagles, Environmental Protection Agency, Office of Air and Radiation, 6103A, 1200 Pennsylvania Avenue NW.,

Washington, DC 20460, *Phone:* 202 564–1952, *Fax:* 202 564–1554, *Email: eagles.tom@epamail.epa.gov*.

RIN: 2060–AS88

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Final Rule Stage

387. Modernization of the Accidental Release Prevention Regulations Under Clean Air Act

Regulatory Plan: This entry is Seq. No. 138 in part II of this issue of the **Federal Register**.

RIN: 2050–AG82

ENVIRONMENTAL PROTECTION AGENCY (EPA)

10

Completed Actions

388. Greenhouse Gas Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles—Phase 2

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

Abstract: The EPA and the Department of Transportation, in close coordination with the California Air Resources Board, developed a comprehensive National Program for Medium- and Heavy-Duty Vehicle Greenhouse Gas Emission and Fuel Efficiency Standards for model years beyond 2018. These standards will further reduce greenhouse gas emissions and fuel consumption from a wide range of on-road vehicles from semi-trucks to the largest pickup trucks and vans, and all types and sizes of work trucks and buses. This action is in continued response to the President's directive to take coordinated steps to produce a new generation of clean vehicles and follows the first ever Greenhouse Gas Emissions Standards and Fuel Efficiency Standards for Medium- and Heavy-Duty Engines and Vehicles.

Timetable:

Action	Date	FR Cite
NPRM	07/13/15	80 FR 40137
NPRM Comment Period Extended.	07/28/15	80 FR 44863
Notice	03/02/16	81 FR 10822
Final Rule	10/25/16	81 FR 73478
Final Rule Effective.	12/27/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Matt Spears, Environmental Protection Agency, Office of Air and Radiation, Mail Code: ASD1, Ann Arbor, MI 48105, *Phone:* 734 214–4921, *Fax:* 734 214–4816, *Email: spears.mattew@epa.gov*.

Charles Moulis, Environmental Protection Agency, Office of Air and Radiation, NVFEL, Ann Arbor, MI 48105, *Phone:* 734 214–4826.

RIN: 2060–AS16

389. Oil and Natural Gas Sector: Emission Standards for New, Reconstructed, and Modified Sources

Legal Authority: 42 U.S.C. 7401 *et seq.* Clean Air Act

Abstract: Consistent with the White House Methane Strategy and the January 14, 2015, announcement of the EPA's approach to achieving GHG (in the form of methane) and volatile organic compounds (VOC) reductions from the oil and natural gas sector, this action finalized amendments to the new source performance standards (NSPS) at 40 CFR part 60, subpart OOOO and established new standards at 40 CFR part 60, subpart OOOOa. Amendments to subpart OOOO will improve implementation of the current NSPS. The new standards for the oil and natural gas source category at subpart OOOOa set standards for both greenhouse gases (GHGs) and volatile organic compounds (VOC). Except for the implementation improvements, and the new standards for GHGs, these requirements do not change the requirements for operations covered by the current standards at subpart OOOO. The proposed rule published September 18, 2015 and the final published June 3, 2016.

Timetable:

Action	Date	FR Cite
NPRM	09/18/15	80 FR 56593
NPRM Comment Period End.	11/17/15	
Final Rule	06/03/16	81 FR 35823
Final Rule Effective.	08/02/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amy Hambrick, Environmental Protection Agency, Office of Air and Radiation, Environmental Protection Agency, Office of Air and Radiation, E143–05, Research Triangle Park, NC 27711, *Phone:* 919 541–0964, *Fax:* 919 541–3470, *Email: hambrick.amy@epa.gov*.

RIN: 2060–AS30

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Prerule Stage

390. Section 610 Review of Lead-Based Paint Activities; Training and Certification for Renovation and Remodeling Section 402(C)(3) (Section 610 Review)

Legal Authority: 5 U.S.C. 610

Abstract: EPA is continuing a review of the 2008 Lead; Renovation, Repair, and Painting Program (RRP) (73 FR 21692) pursuant to section 610 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 610). The rule was amended in 2010 (75 FR 24802) and 2011 (76 FR 47918) to eliminate a provision for contractors to opt-out of prescribed work practices and to affirm the qualitative clearance of renovated or repaired spaces, respectively. Although the section 610 review only needs to address the 2008 RRP Rule, EPA will exercise its discretion to consider relevant comments to the 2010 and 2011 amendments. The RRP rule is intended to reduce exposure to lead hazard created by renovation, repair, and painting activities that disturb lead-based paint. The current rule establishes requirements for training renovators and dust sampling technicians; certifying renovators, dust sampling technicians, and renovation firms; accrediting providers of renovation and dust sampling technician training; and for renovation work practices. As part of this review, EPA is considering public comments on the following factors: (1) The continued need for the rule; (2) the nature of complaints or comments received concerning the rule; (3) the complexity of the rule; (4) the extent to which the rule overlaps, duplicates, or conflicts with other Federal, State, or local government rules; and (5) the length of time since the rule has been evaluated or the degree to which the technology, economic conditions or other factors have changed in the area affected by the rule. This review will also serve as an additional opportunity to provide comment on lead test kits, field testing alternatives and other broader RRP rule concerns as referenced in 80 FR 79335 and 80 FR 27621.

Timetable:

Action	Date	FR Cite
Final Rule	04/22/08	73 FR 21691
Begin Review	06/09/16	81 FR 37373
Comment Period Extended.	08/08/16	81 FR 52393
Comment Period Extended End.	09/07/16	

Action	Date	FR Cite
End Review	01/00/17	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Jonathan Shafer, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 564–0789, *Email: shafer.jonathan@epa.gov*.

Michelle Price, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 566–0744, *Email: price.michelle@epa.gov*.

RIN: 2070–AK17

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Proposed Rule Stage

391. N-Methylpyrrolidone (NMP) and Methylene Chloride; Rulemaking Under TSCA Section 6(A)

Regulatory Plan: This entry is Seq. No. 125 in part II of this issue of the **Federal Register**.

RIN: 2070–AK07

392. Trichloroethylene (TCE); Rulemaking Under TSCA Section 6(A); Vapor Degreasing

Regulatory Plan: This entry is Seq. No. 126 in part II of this issue of the **Federal Register**.

RIN: 2070–AK11

ENVIRONMENTAL PROTECTION AGENCY (EPA)

35

Final Rule Stage

393. Formaldehyde Emission Standards for Composite Wood Products

Legal Authority: 15 U.S.C. 2697 Toxic Substances Control Act

Abstract: The EPA is developing a final rule under the Formaldehyde Standards for Composite Wood Products Act that was enacted in 2010 as title VI of Toxic Substances Control Act (TSCA), 15 U.S.C. 2697. In 2013, EPA issued a proposed rule to establish a framework for a TSCA title VI Third-Party Certification Program whereby third-party certifiers (TPCs) are accredited by accreditation bodies (ABs) so that they may certify composite wood product panel producers under TSCA title VI. That proposed rule identified the roles and responsibilities of the groups involved in the TPC process (EPA, ABs, and TPCs), as well as the criteria for participation in the program. EPA also proposed general requirements for TPCs, such as conducting and verifying formaldehyde emission tests, inspecting and auditing panel producers, and ensuring that panel producers' quality assurance and quality control procedures comply with the regulations set forth in the proposed rule. A separate proposed rule issued in 2013 under RIN 2070–AJ92 covered the implementation of the statutory formaldehyde emission standards for hardwood plywood, medium-density fiberboard, and particleboard sold, supplied, offered for sale, or manufactured (including imported) in the United States. Pursuant to TSCA section 3(7), the definition of ''manufacture'' includes import. As required by title VI, these regulations apply to hardwood plywood, medium-density fiberboard, and particleboard. TSCA title VI also directs EPA to promulgate supplementary provisions to ensure compliance with the emissions standards, including provisions related to labeling; chain of custody requirements; sell-through provisions; ultra low-emitting formaldehyde resins; no-added formaldehyde-based resins; finished goods; third-party testing and certification; auditing and reporting of third-party certifiers; recordkeeping; enforcement; laminated products; and exceptions from the requirements of regulations promulgated pursuant to this subsection for products and components containing de minimis amounts of composite wood products. As noted in the previously published Regulatory Agenda entry for each rulemaking, EPA has decided to issue a single final rule that addresses both of these proposals. As such, EPA also combined the entries for the Regulatory Agenda.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/08	73 FR 73620
Second ANPRM ..	01/30/09	74 FR 5632
NPRM	06/10/13	78 FR 34795
NPRM Comment Period Extended.	07/23/13	78 FR 44090
NPRM Comment Period Extended.	08/21/13	78 FR 51696
Final Rule	11/00/16	
Final Rule Effective.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robert Courtnage, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, *Phone:* 202 566–1081, *Email: courtnage.robert@epa.gov*.

Erik Winchester, Environmental Protection Agency, Office of Chemical Safety and Pollution Prevention, 7404T, Washington, DC 20460, *Phone:* 202 564–6450, *Email: winchester.erik@epa.gov*.

RIN: 2070–AJ44

ENVIRONMENTAL PROTECTION AGENCY (EPA)

60

Proposed Rule Stage

394. Financial Responsibility Requirements Under CERCLA Section 108(b) for Classes of Facilities in the Hardrock Mining Industry

Regulatory Plan: This entry is Seq. No. 130 in part II of this issue of the **Federal Register**.

RIN: 2050–AG61

[FR Doc. 2016–29915 Filed 12–22–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL REGISTER

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Part XVIII

General Services Administration

Semiannual Regulatory Agenda

GENERAL SERVICES ADMINISTRATION

41 CFR Chapters 101, 102, 105, 301, and 304

48 CFR Chapter 5

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: General Services Administration (GSA).

ACTION: Semiannual Regulatory Agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those that were completed since the spring 2016 edition. This agenda was developed under the guidelines of Executive Order 12866 ''Regulatory Planning and Review.'' GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process. GSA also invites interested persons to recommend existing significant regulations for review to determine whether they should be modified or eliminated. Published proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at *http://www.regulations.gov.*

Since the fall 2007 edition, the Internet has been the basic means for disseminating the Unified Agenda. The complete Unified Agenda will be available online at *www.reginfo.gov,* in a format that offers users a greatly enhanced ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), GSA's printed agenda entries include only:

(1) Rules that are in the Agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act, because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Any rules that the Agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet. In addition, for fall editions of the Agenda, the entire Regulatory Plan will continue to be printed in the **Federal Register**, as in past years, including GSA's regulatory plan.

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Division Director, Regulatory Secretariat Division at 202–501–4755.

Dated: September 1, 2016.

Troy Cribb,

Associate Administrator, Office of Government-wide Policy.

GENERAL SERVICES ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
395	General Services Administration Acquisition Regulation (GSAR); GSAR 2016–G506, Federal Supply Schedule, Order-Level Materials.	3090–AJ75

GENERAL SERVICES ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
396	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms.	3090–AJ67

GENERAL SERVICES ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
397	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities.	3090–AJ43
398	General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G504, Transactional Data Reporting.	3090–AJ51

GENERAL SERVICES ADMINISTRATION (GSA)

Office of Acquisition Policy

Proposed Rule Stage

395. • General Services Administration Acquisition Regulation (GSAR); GSAR 2016–G506, Federal Supply Schedule, Order-Level Materials

Legal Authority: 40 U.S.C. 121(c)

Abstract: The General Services Administration (GSA) is proposing to amend the General Services Administration Acquisition Regulation (GSAR) to clarify the authority to acquire order-level materials when placing a task order or establishing a Blanket Purchase Agreement (BPA) against a Federal Supply Schedule (FSS) contract. This proposed rule seeks to provide clear and comprehensive implementation of the ability to acquire order-level materials through the FSS program to create parity between FSS contracts and commercial indefinite-delivery/indefinite-quantity (IDIQ) contracts, reduce the need to conduct less efficient procurement transactions, lower barriers of entry to the federal marketplace and make it easier to do business the federal government.

Timetable:

Action	Date	FR Cite
NPRM	09/09/16	81 FR 62445
NPRM Comment Period End.	11/08/16	
Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Leah Price, Procurement Analyst, General Services Administration, 1800 F Street NW.,

Washington, DC 20405, *Phone:* 703 605–2558, *Email: leah.price@gsa.gov*.

RIN: 3090–AJ75

GENERAL SERVICES ADMINISTRATION (GSA)

Office of Acquisition Policy

Final Rule Stage

396. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2015–G512, Unenforceable Commercial Supplier Agreement Terms

Legal Authority: 40 U.S.C. 121(c)

Abstract: GSA is amending the General Services Administration Acquisition Regulation (GSAR) to streamline the evaluation process to award contracts containing commercial supplier agreements Government and industry often spend significant time negotiating elements common in almost every commercial supplier agreement where the terms conflict with federal law. Past negotiations would always lead to deleting the terms from the contract, but only after several rounds of legal review by both parties. This case would explore methods for automatically nullifying these common terms out of contracts.

Timetable:

Action	Date	FR Cite
NPRM	05/31/16	81 FR 34302
NPRM Comment Period End.	08/01/16	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Janet Fry, Program Analyst, General Services Administration, 1800 F Street NW., Washington, DC 20405, *Phone:* 703 605–3167, *Email: janet.fry@gsa.gov*.

RIN: 3090–AJ67

GENERAL SERVICES ADMINISTRATION (GSA)

Completed Actions

397. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2010–G511, Purchasing by Non-Federal Entities

Legal Authority: 40 U.S.C. 121(c)

Abstract: The General Services Administration (GSA) amended the General Services Administration Acquisition Regulation (GSAR) to implement the Federal Supply Schedules Usage Act of 2010 (FSSUA), the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (NAHASDA), the John Warner National Defense Authorization Act for Fiscal Year 2007 (NDAA), and the Local Preparedness Acquisition Act for Fiscal Year 2008 (LPAA), to provide increased access to GSA's Federal Supply Schedules (Schedules). GSA also amended the Federal Supply Schedule Contracting and Solicitation Provisions and Contract Clauses, in regard to this statutory implementation. This case is included in GSA's retrospective review of existing regulations under Executive Order 13563. Additional information is located in GSA's retrospective review (2016), available at: *www.gsa.gov/improvingregulations.*

Completed:

Reason	Date	FR Cite
Final Rule	06/06/16	81 FR 36425
Final Rule Effective.	07/06/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dana L. Munson, *Phone:* 202 357–9652, *Email: dana.munson@gsa.gov.*

RIN: 3090–AJ43

398. General Services Administration Acquisition Regulation (GSAR); GSAR Case 2013–G504, Transactional Data Reporting

Legal Authority: 40 U.S.C. 121(c)

Abstract: The General Services Administration (GSA) amended the General Services Administration Acquisition Regulation (GSAR) to include clauses that require vendors to report transactional data from orders placed against certain Federal Supply Schedule (FSS) contracts, Governmentwide Acquisition Contracts (GWACs), and Governmentwide Indefinite-Delivery, Indefinite-Quantity (IDIQ) contracts.

Transactional data refers to the information generated when the Government purchases goods or services from a vendor. It includes specific details such as descriptions, part numbers, quantities, and prices paid for the items purchased. GSA has experimented with collecting transactional data through some of its contracts and found it instrumental for improving competition, lowering pricing, and increasing transparency. Accordingly, GSA will now test these principles on a broader base of its contracting programs. This move supports the Government's shift towards category management by allowing it to centrally analyze what it buys and how much it pays, and thereby identify the most efficient solutions, channels, and sources to meet its mission critical needs.

GSA will introduce a new Transactional Data Reporting clause to its FSS contracts in phases, beginning with a pilot for select Schedules and Special Item Numbers. Participating vendors will no longer be subject to the existing requirements for Commercial Sales Practices (CSP) disclosures and Price Reductions clause (PRC) basis of award monitoring, resulting in a substantial burden reduction. Stakeholders have identified the CSP and PRC requirements as some of the most burdensome under the Schedules program. These actions represent the most significant change to the Schedules program in the past two decades. GSA has also created a Transactional Data Reporting clause for all new GWACs and Governmentwide IDIQ contracts and may apply the clause to any existing contracts in this class that do not contain other transactional data requirements.

In all, the Transactional Data Reporting rule will result in an estimated burden reduction of $29 million a year, which consists of a projected $15 million a year compliance burden minus the estimated $44 million a year burden for the CSP and PRC requirements being waived for vendors participating in the FSS pilot.

Completed:

Reason	Date	FR Cite
Final Rule	06/23/16	81 FR 41103
Final Rule Effective.	06/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Matthew McFarland, *Phone:* 202 690–9232, *Email: matthew.mcfarland@gsa.gov*.

RIN: 3090–AJ51

[FR Doc. 2016–29916 Filed 12–22–16; 8:45 am]

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Part XIX

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: NASA's regulatory agenda describes those regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of the knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESSES: Deputy Associate Administrator, Office Mission Support Directorate, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Cheryl E. Parker, (202) 358–0252.

SUPPLEMENTARY INFORMATION: OMB guidelines dated July 27, 2016, ''Fall 2016 Data Call for the Regulatory Plan and Unified Agenda of Federal Regulatory and Deregulatory Actions,'' require a regulatory agenda of those regulations under development and review to be published in the **Federal Register** each spring and fall.

Dated: September 2, 2016.

Daniel Tenney,

Deputy Associate Administrator, Office of the Mission Support Directorate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
399	Processing of Monetary Claims (Section 610 Review)	2700–AD83

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

Final Rule Stage

399. Processing of Monetary Claims (Section 610 Review)

Legal Authority: 31 U.S.C. sec. 3711

Abstract: NASA is amending its regulations at 14 CFR 1261 to make non-substantive changes in the amount to collect installment payments from $20,000 to $100,000 to align with title 31 subchapter II Claims of the United States Government section 3711(a)(2) Collection and Compromise. Subpart 4 prescribes standards for the administrative collection compromise suspension or termination of collection and referral to the Government Accountability Office (GAO) and/or to the Department of Justice for litigation of civil claims as defined by 31 U.S.C. 3701(b) arising out of the activities of designated NASA officials authorized to effect actions and requires compliance with GAO/DOJ joint regulations at 4 CFR parts 101–105 and the Office of Personnel Management regulations at 5 CFR part 550 subpart K. There are also some statute citation and terminology updates. The revisions to this rule are part of NASA's retrospective plan under Executive Order 13563 completed in August 2011.

Timetable:

Action	Date	FR Cite
Direct Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: No.

Agency Contact: Laura Burns, Law Librarian, National Aeronautics and Space Administration, Office of the General Counsel, 300 E Street SW., Washington, DC 20546, *Phone:* 202 358–2078, *Fax:* 202 358–4955, *Email: laura.burns-1@nasa.gov*.

RIN: 2700–AD83

[FR Doc. 2016–29917 Filed 12–22–16; 8:45 am]

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Part XX

Small Business Administration

Semiannual Regulatory Agenda

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: U.S. Small Business Administration.

ACTION: Semiannual regulatory agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of all current and projected rulemakings and completed actions of the Small Business Administration (SBA). SBA expects that this summary information will enable the public to be more aware of, and effectively participate in, SBA's regulatory activity. SBA invites the public to submit comments on any aspect of this Agenda.

FOR FURTHER INFORMATION CONTACT:

General: Please direct general comments or inquiries to Imelda A. Kish, Law Librarian, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416, (202) 205–6849, *imelda.kish@sba.gov.*

Specific: Please direct specific comments and inquiries on individual regulatory activities identified in this Agenda to the individual listed in the summary of the regulation as the point of contact for that regulation.

SUPPLEMENTARY INFORMATION: SBA provides this notice under the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 to 612 and Executive Order 12866, ''Regulatory Planning and Review,'' which require each agency to publish a semiannual agenda of regulations. The Regulatory Agenda is a summary of all current and projected Agency rulemakings, as well as actions completed since the publication of the last Regulatory Agenda. SBA's last Semiannual Regulatory Agenda was published on June 9, 2016, at 81 FR 37392. The Semiannual Agenda of the SBA conforms to the Unified Agenda format developed by the Regulatory Information Service Center. The complete Unified Agenda will be available online at *www.reginfo.gov* in a format that greatly enhances a user's ability to obtain information about the rules in SBA's Agenda.

The Regulatory Flexibility Act requires federal agencies to publish those regulatory actions that are likely to have a significant economic impact on a substantial number of small entities in their regulatory flexibility agendas in the **Federal Register**. SBA's Regulatory Agenda includes regulatory actions that are in the SBA's regulatory flexibility agenda. Publication of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's Agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

Maria Contreras-Sweet,

Administrator.

SMALL BUSINESS ADMINISTRATION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
400	Small Business Development Center Program Revisions	3245–AE05
401	Small Business HUBZone Program; Government Contracting Programs; Office of Hearings and Appeals	3245–AG38
402	Record Disclosure and Privacy	3245–AG52
403	Small Business Timber Set-Aside Program	3245–AG69
404	Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification.	3245–AG75
405	Disaster Loan Programs; Federal Flood Risk Management Standard	3245–AG77

SMALL BUSINESS ADMINISTRATION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
406	Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program	3245–AF85
407	Agent Revocation and Suspension Procedures	3245–AG40
408	Small Business Investment Company (SBIC) Program—Impact SBICs **(Reg Plan Seq No. 142)**	3245–AG66
409	Small Business Investment Companies; Passive Business Expansion & Technical Clarifications	3245–AG67
410	Credit for Lower Tier Small Business Subcontracting	3245–AG71

References in boldface appear in The Regulatory Plan in part II of this issue of the **Federal Register**.

SMALL BUSINESS ADMINISTRATION—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
411	Immediate, Expedited, and Private Disaster Assistance Loan Programs	3245–AF99
412	Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs	3245–AG16

SMALL BUSINESS ADMINISTRATION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
413	Small Business Mentor Protégé Programs	3245–AG24
414	Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments	3245–AG58
415	Affiliation for Business Loan Programs and Surety Bond Guarantee Program	3245–AG73

SMALL BUSINESS ADMINISTRATION (SBA)

Proposed Rule Stage

400. Small Business Development Center Program Revisions

Legal Authority: 15 U.S.C. 634(b)(6); 15 U.S.C. 648

Abstract: Updates the SBDC program regulations by proposing to amend: (1) Procedures for approving applications for new Host SBDCs; (2) approval procedures for travel outside the continental U.S. and U.S. territories; (3) procedures and requirements regarding findings and disputes resulting from financial exams, programmatic reviews, accreditation reviews, and other SBA oversight activities; (4) requirements for new or renewal applications for SBDC grants, including the requirements for electronic submission through the approved electronic Government submission facility; (5) procedures regarding the determination to affect suspension, termination or non-renewal of an SBDC's cooperative agreement; and (6) provisions regarding the collection and use of the individual SBDC client data.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/15	80 FR 17708
ANPRM Comment Period End.	06/01/15	
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Adriana Menchaca-Gendron, Associate Administrator for Small Business Development Centers, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–6988.

RIN: 3245–AE05

401. Small Business HUBZone Program; Government Contracting Programs; Office of Hearings and Appeals

Legal Authority: 15 U.S.C. 657a

Abstract: SBA has been reviewing its processes and procedures for implementing the HUBZone program and has determined that several of the regulations governing the program should be amended in order to resolve certain issues that have arisen. As a result, the proposed rule would constitute a comprehensive revision of part 126 of SBA's regulations to clarify current HUBZone Program regulations, and implement various new procedures. The amendments will make it easier for participants to comply with the program requirements and enable them to maximize the benefits afforded by participation. In developing this proposed rule, SBA will focus on the principles of Executive Order 13563 to determine whether portions of regulations should be modified, streamlined, expanded or repealed to make the HUBZone program more effective and/or less burdensome on small business concerns. At the same time, SBA will maintain a framework that helps identify and reduce waste, fraud, and abuse in the program.

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mariana Pardo, Director, Office of HUBZone, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 205–2985, *Email: mariana.pardo@sba.gov.*

RIN: 3245–AG38

402. Record Disclosure and Privacy

Legal Authority: 5 U.S.C. 301, 552 and 552(a); 31 U.S.C. 9701; 44 U.S.C. 3501 *et seq.;* E.O. 12600; 52 FR 23781

Abstract: SBA proposes to amend its Record Disclosure and Privacy regulations to implement the Openness Promotes Effectiveness in our National Government Act and the FOIA Improvement Act of 2016. The amendments, among other things, will update the Agency's Freedom of Information Act regulations to adjust the time for the public to submit an appeal of SBA's decision regarding a request for information, correct an obsolete address and provide applicable Web site addresses, and clarify the definition of news media for purposes of assessing processing fees.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Laura Magere, Director, Freedom of Information Act Office, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6837, *Email: laura.magere@sba.gov.*

RIN: 3245–AG52

403. Small Business Timber Set-Aside Program

Legal Authority: 15 U.S.C. 631; 15 U.S.C. 644(a)

Abstract: The U.S. Small Business Administration (SBA or Agency) is proposing to amend its Small Business Timber Set-Aside Program (the Program) regulations. The Small Business Timber Set-Aside Program is rooted in the Small Business Act, which tasked SBA with ensuring that small businesses receive a fair proportion of the total sales of government property. Accordingly, the Program requires Timber sales to be set aside for small business when small business participation falls below a certain amount. SBA is considering comments received during the ANPRM process, including on issues such as, but not limited to, whether the saw timber volume purchased through stewardship timber contracts should be included in calculations, and whether the appraisal point used in set-aside sales should be the nearest small business mill. In addition, SBA is considering data from the timber industry to help evaluate the current program and economic impact of potential changes.

Timetable:

Action	Date	FR Cite
ANPRM	03/25/15	80 FR 15697
ANPRM Comment Period End.	05/26/15	
NPRM	09/27/16	81 FR 66199
NPRM Comment Period End.	11/28/16	
Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: David W. Loines, Area Director, Office of Government Contracting, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7311, *Email: david.loines@sba.gov.*

RIN: 3245–AG69

404. Women-Owned Small Business and Economically Disadvantaged Women-Owned Small Business—Certification

Legal Authority: Pub. L. 113–291, sec. 825; 15 U.S.C. 637(m)

Abstract: Section 825 of the National Defense Authorization Act for Fiscal Year 2015 (NDAA), Public Law 113–291, 128 Stat. 3292, Dec. 19, 2014, included language requiring that women-owned small business concerns and economically disadvantaged women-owned small business concerns are certified by a Federal agency, a State government, the Administrator, or national certifying entity approved by the Administrator as a small business concern owned and controlled by women. SBA is issuing this Advance Notice of Proposed Rulemaking to get public feedback on how best to implement this statutory provision. SBA

intends to request information on whether SBA should: Create its own certification program, rely on private certifiers, allow Federal agencies to create their own certification systems, or create a hybrid system. SBA also intends to request information from the public concerning State government certification programs.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/15	80 FR 78984
ANPRM Comment Period End.	02/16/16	
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 619–1766, *Fax:* 202 481–2950, *Email: kenneth.dodds@sba.gov.*

RIN: 3245–AG75

405. Disaster Loan Programs; Federal Flood Risk Management Standard

Legal Authority: 15 U.S.C. 634(b)(6); E.O. 11988; E.O. 13690

Abstract: In accordance with Executive Order 11988, Floodplain Management, as amended by Executive Order 13690, Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input, SBA will propose a rule to describe which disaster loans are subject to the FFRMS. SBA will propose to apply the FFRMS and corresponding elevation component to disaster loans that meet one of the following conditions: (1) SBA funds will be used for total real estate reconstruction at the damaged site that is located in the Special Flood Hazard Area (SFHA); (2) SBA funds will be used for new real estate construction at a relocation site that is located in the SFHA; or (3) SBA funds will be used for code required elevation at the damaged site that is located in the SFHA.

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alejandro Contreras, Program Analyst, Office of Disaster Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–6674, *Email: alejandro.contreras@sba.gov.*

RIN: 3245–AG77

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

406. Miscellaneous Amendments to Business Loan Programs and Surety Bond Guarantee Program

Legal Authority: 15 U.S.C. 636(a); 15 U.S.C. 694b

Abstract: Certain lenders have been delegated the authority to make loan decisions without prior approval from SBA under certain circumstances. SBA plans to formalize such delegated authorities in this proposed rule. Several minor modifications to the 504 Loan Program and governance rules for Certified Development Company (CDC) are also proposed in a follow-on to the Final Rule: 504 and 7(a) Loan Program Updates (March 21, 2014), along with alignment of terminology for 7(a) lenders that are federally regulated to synchronize with existing industry requirements. SBA plans to propose several other miscellaneous amendments to improve oversight and operations of its finance programs.

This rule proposes to make four changes to the Surety Bond Guarantee (SBG) Program. The first would change the threshold for notification to SBA of changes in the contract or bond amount. Second, the change would require sureties to submit quarterly contract completion reports. Third, SBA proposes to increase the eligible contract limit for the Quick Bond Application and Agreement from $250,000 to $400,000. Finally, SBA proposes to increase the guarantee percentage in the Preferred Surety Bond program to reflect the statutory change made by the National Defense Authorization Act of 2016. The guarantee percentage will increase from 70% to 80% or 90%, depending on contract size and socioeconomic factors currently in effect in the Prior Approval Program.

Timetable:

Action	Date	FR Cite
NPRM	08/09/16	81 FR 52595
Comment Period End.	10/11/16	
Final Rule	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dianna L. Seaborn, Acting Director, Office of Financial Assistance, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–3645, *Email: dianna.seaborn@sba.gov.*

RIN: 3245–AF85

407. Agent Revocation and Suspension Procedures

Legal Authority: 15 U.S.C. 634; 15 U.S.C. 642

Abstract: This rule establishes detailed procedures for the suspension and revocation of an Agent's privilege to do business with the United States Small Business Administration (SBA) within a single Part of the Code of Federal Regulations; removes 8(a) program specific procedures for Agent suspension and revocation; clarifies existing and related regulations as to suspension, revocation, and debarment; and removes Office of Hearings and Appeals jurisdiction over Agent suspensions and revocations and government-wide debarment and suspension actions. This rule will also conform SBA suspension and revocation procedures for Agents with general government-wide nonprocurement suspension and debarment procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/16/14	79 FR 62060
NPRM Comment Period Extended.	12/12/14	79 FR 73853
NPRM Comment Period End.	12/15/14	
Second NPRM Comment Period End.	02/14/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Debra Mayer, Chief, Supervision and Enforcement, Office of Credit Risk Management, Small Business Administration, 409 Third Street SW., Washington, DC 20416, *Phone:* 202 205–7577, *Email: debra.mayer@sba.gov.*

RIN: 3245–AG40

408. Small Business Investment Company (SBIC) Program—Impact SBICS

Regulatory Plan: This entry is Seq. No. 142 in part II of this issue of the **Federal Register**.

RIN: 3245–AG66

409. Small Business Investment Companies; Passive Business Expansion & Technical Clarifications

Legal Authority: 15 U.S.C. 681 *et seq.*

Abstract: The SBA is revising the regulations for the Small Business Investment Company (SBIC) program to

further expand the use of Passive Businesses and provide needed protections for SBA with regard to such investments. SBICs are generally prohibited from investing in passive businesses under the Small Business Investment Act of 1958 as amended as well as by regulations. Current program regulations provided for two exceptions that allow an SBIC to structure an investment utilizing a passive small business as a pass-through. The first exception identified in 107.720(b)(2) provides that an SBIC may structure an investment utilizing two pass-through entities to make an investment into an active business. The second exception identified in 107.720(b)(3) allows partnership SBICs with SBA prior approval to invest in a wholly owned passive business that in turn provides financing to an active small business only if a direct financing would cause its investors to incur Unrelated Business Taxable Income (UBTI). The second exception is commonly known as a blocker corporation. The current rule creates unnecessary complications in defining two exceptions and does not provide SBA with sufficient protections. SBA is simplifying the rule to allow a more flexible two pass-through entity structure but provides SBA certain protections to offset risks associated with passive investment structures. As part of the rule, SBA will also make technical corrections and clarifications, including conforming the regulation to the new ''family of funds'' statutory provision.

Timetable:

Action	Date	FR Cite
NPRM	10/05/15	80 FR 60077
NPRM Comment Period End.	12/04/15	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Theresa M. Jamerson, Senior Policy Advisor, Investment Division, Small Business Administration, 409 3rd Street SW., Washington, DC 20461, *Phone:* 202 205–7563, *Email: theresa.jamerson@sba.gov.*

RIN: 3245–AG67

410. Credit for Lower Tier Small Business Subcontracting

Legal Authority: Pub. L. 113–66, sec. 1614

Abstract: The U.S. Small Business Administration (SBA or Agency) is proposing to amend its regulations to implement section 1614 of the National Defense Authorization Act (NDAA) of 2014, Pub. L. 113–66, December 26, 2013. Under the statute, when an other than small prime contractor has an individual subcontracting plan for a contract, the large business may receive credit towards its small business subcontracting goals for subcontract awards made to small business concerns at any tier. Currently, other than small business prime contractors only report on their performance awarding subcontracts to small businesses at the first tier level.

Timetable:

Action	Date	FR Cite
NPRM	10/06/15	80 FR 60300
NPRM Comment Period End.	12/07/15	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kenneth Dodds, Director, Office of Policy, Planning and Liaison, Small Business Administration, 409 3rd Street SW., Washington, DC 20416, *Phone:* 202 619–1766, *Fax:* 202 481–2950, *Email: kenneth.dodds@sba.gov.*

RIN: 3245–AG71

SMALL BUSINESS ADMINISTRATION (SBA)

Long-Term Actions

411. Immediate, Expedited, and Private Disaster Assistance Loan Programs

Legal Authority: 15 U.S.C. 636(c); 15 U.S.C. 636j; 15 U.S.C. 657n

Abstract: Through this advanced notice of proposed rulemaking, SBA solicited comments from potential lenders and the public on three guaranteed disaster loan programs: (1) The expedited disaster assistance program (EDAP), under which the SBA would guarantee short-term loans of up to $150,000 made by private lenders to eligible small businesses located in a catastrophic disaster area; (2) the private disaster assistance program (PDAP), under which SBA would guarantee loans of up to $2 million made by private lenders to eligible small businesses and homeowners located in a catastrophic disaster area; and (3) the immediate disaster assistance program (IDAP), under which the SBA would guarantee interim loans of up to $25,000 made by private lenders to eligible small businesses, which would then be repaid with the proceeds of SBA direct disaster loans. SBA will seek input on what program features would be required for lenders to participate in these guaranteed disaster loan programs. SBA plans to use this feedback in drafting proposed rules for the EDAP and PDAP programs and in considering changes to the existing IDAP regulations.

Timetable:

Action	Date	FR Cite
ANPRM	10/21/15	80 FR 63715
ANPRM Comment Period End.	12/21/15	
NPRM	08/00/18	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dianna L. Seaborn, *Phone:* 202 205–3645, *Email: dianna.seaborn@sba.gov.*

RIN: 3245–AF99

412. Small Business Size Standards; Alternative Size Standard for 7(a), 504, and Disaster Loan Programs

Legal Authority: Pub. L. 111–240, sec. 1116

Abstract: SBA will amend its size eligibility criteria for Business Loans, certified development company (CDC) loans under title V of the Small Business Investment Act (504) and economic injury disaster loans (EIDL). For the SBA 7(a) Business Loan Program and the 504 program, the amendments will provide an alternative size standard for loan applicants that do not meet the small business size standards for their industries. The Small Business Jobs Act of 2010 (Jobs Act) established alternative size standards that apply to both of these programs until SBA's Administrator establishes other alternative size standards. For the disaster loan program, the amendments will provide an alternative size standard for loan applicants that do not meet the Small Business Size Standard for their industries. These alternative size standards do not affect other Federal Government programs, including Federal procurement.

Timetable:

Action	Date	FR Cite
NPRM	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Khem Raj Sharma, *Phone:* 202 205–7189, *Fax:* 202 205–6390, *Email: khem.sharma@sba.gov.*

RIN: 3245–AG16

SMALL BUSINESS ADMINISTRATION (SBA)

Completed Actions

413. Small Business Mentor-Protégé Programs

Legal Authority: Pub. L. 111–240; sec. 1347; 15 U.S.C. 657r

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the Small Business Jobs Act of 2010 and the National Defense Authorization Act for Fiscal Year 2013. Based on authorities provided in these two statutes, the rule establishes a Government-wide mentor-protégé program for all small business concerns, consistent with SBA's mentor-protégé program for Participants in SBA's 8(a) Business Development (BD) program. The rule also makes minor changes to the mentor-protégé provisions for the 8(a) Business Development program in order to make the mentor-protégé rules for each of the programs as consistent as possible. The rule amends the current joint venture provisions to clarify the conditions for creating and operating joint venture partnerships, including the effect of such partnerships on any mentor-protégé relationships. Finally, the rule makes several additional changes to current size, 8(a) Office of Hearings and Appeals or HUBZone regulations, concerning among other things, ownership and control, changes in primary industry, standards of review and interested party status for some appeals.

Completed:

Reason	Date	FR Cite
Final Rule	07/25/16	81 FR 48558
Final Rule Effective.	08/24/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda J. Fernandez, *Phone:* 202 205–7337, *Email: brenda.fernandez@sba.gov.*

RIN: 3245–AG24

414. Small Business Government Contracting and National Defense Authorization Act of 2013 Amendments

Legal Authority: 15 U.S.C. 631; Pub. L. 112–239

Abstract: The U.S. Small Business Administration (SBA or Agency) is amending its regulations to implement provisions of the National Defense Authorization Act of 2013, which pertain to performance requirements applicable to small business and socioeconomic program set aside contracts and small business subcontracting. SBA is making changes to its regulations concerning the nonmanufacturer rule and affiliation rules. Further, SBA is allowing a joint venture to qualify as small for any government procurement as long as each partner to the joint venture qualifies individually as small under the size standard corresponding to the NAICS code assigned in the solicitation.

Completed:

Reason	Date	FR Cite
Final Rule	05/31/16	81 FR 34243
Final Rule Effective.	06/30/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda J. Fernandez, *Phone:* 202 205–7337, *Email: brenda.fernandez@sba.gov.*

RIN: 3245–AG58

415. Affiliation for Business Loan Programs and Surety Bond Guarantee Program

Legal Authority: 15 U.S.C. 634(b)(6)

Abstract: The U.S. Small Business Administration (SBA) has determined that changing conditions in the American economy and a constantly evolving small business community compel it to seek ways to improve program efficiency for its Surety Bond Guarantee (SBG) Program, and the business loan programs consisting of the 7(a) Loan Program, the Business Disaster Loan Programs (the Economic Injury Disaster Loans, Reservist Injury Disaster Loans, Physical Disaster Business Loans, Immediate Disaster Assistance Program loans), the Microloan Program, and the Development Company Program (the 504 Loan Program). As a result, SBA is simplifying guidelines for determining affiliation for eligibility based on size as it relates to these programs. This rule redefines affiliation for all five Programs, thereby simplifying eligibility determinations.

Completed:

Reason	Date	FR Cite
Final Rule	06/27/16	81 FR 41423
Final Rule Effective.	07/27/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Dianna L. Seaborn, *Phone:* 202 205–3645, *Email: dianna.seaborn@sba.gov.*

RIN: 3245–AG73

[FR Doc. 2016–29918 Filed 12–22–16; 8:45 am]

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Part XXI

Department of Defense
General Services Administration
National Aeronautics and Space Administration

Semiannual Regulatory Agenda

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Semiannual Regulatory Agenda

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council in compliance with Executive Order 12866 ''Regulatory Planning and Review.'' This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process. The Regulatory Secretariat Division has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions; however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

Published proposed rules may be reviewed in their entirety at the Government's rulemaking Web site at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Hada Flowers, Director, Regulatory Secretariat Division, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001, 202–501–4755.

SUPPLEMENTARY INFORMATION: DoD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the FAR through periodic issuance of changes published in the **Federal Register** and produced electronically as Federal Acquisition Circulars (FACs).

The electronic version of the FAR, including changes, can be accessed on the FAR Web site at *http://www.acquisition.gov/far.*

Dated: August 29, 2016.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

DOD/GSA/NASA (FAR)—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
416	Federal Acquisition Regulation (FAR); FAR Case 2013–018; Clarification of Requirement for Justifications for 8(a) Sole Source Contracts.	9000–AM90
417	Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts	9000–AM93
418	Federal Acquisition Regulation (FAR); FAR Case 2015–021; Determination of Fair and Reasonable Prices on Orders Under Multiple Award Contracts.	9000–AM94
419	Federal Acquisition Regulation (FAR); FAR Case 2015–014; Prohibition on Providing Funds to the Enemy	9000–AN03
420	Federal Acquisition Regulation (FAR); FAR Case 2015–039, Audit of Settlement Proposals	9000–AN26

DOD/GSA/NASA (FAR)—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
421	Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest and Unequal Access to Information.	9000–AL82
422	Federal Acquisition Regulation (FAR); FAR Case 2010–013; Privacy Training	9000–AM02
423	Federal Acquisition Regulation (FAR); FAR Case 2012–025; Applicability of the Senior Executive Compensation Benchmark.	9000–AM39
424	Federal Acquisition Regulation (FAR); FAR Case 2012–022; Contracts Under the Small Business Administration 8(a) Program.	9000–AM68
425	Federal Acquisition Regulation (FAR); FAR Case 2013–014; Uniform Use of Line Items	9000–AM73
426	Federal Acquisition Regulation (FAR); FAR Case 2015–015; Strategic Sourcing Documentation	9000–AM89
427	Federal Acquisition Regulation (FAR); FAR Case 2014–003; Small Business Subcontracting Improvements.	9000–AM91
428	Federal Acquisition Regulation (FAR); FAR Case 2015–016; Prohibition on Reimbursement for Congressional Investigations and Inquiries.	9000–AM97
429	Federal Acquisition Regulation (FAR); FAR Case 2014–004; Payment of Subcontractors	9000–AM98
430	Federal Acquisition Regulation (FAR); FAR Case 2015–017; Combating Trafficking in Persons—Definition of ''Recruitment Fees''.	9000–AN02
431	Federal Acquisition Regulation (FAR); FAR Case 2015–012; Contractor Employee Internal Confidentiality Agreements.	9000–AN04
432	Federal Acquisition Regulation (FAR); FAR Case 2016–007; Non-Retaliation for Disclosure of Compensation Information.	9000–AN10
433	Federal Acquisition Regulation (FAR); FAR Case 2016–004; Acquisition Threshold for Special Emergency Procurement Authority.	9000–AN18
434	Federal Acquisition Regulation (FAR); FAR Case 2015–005, System for Award Management Registration	9000–AN19
435	Federal Regulation Acquisition (FAR); FAR Case 2015–024, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals-Representation.	9000–AN20
436	Federal Acquisition Regulation (FAR); FAR Case 2015–035, Removal of Regulations Relating to Telegraphic Communication.	9000–AN23
437	Federal Acquisition Regulation; FAR Case 2017–001; Paid Sick Leave for Federal Contractors	9000–AN27

DOD/GSA/NASA (FAR)—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
438	Federal Acquisition Regulation (FAR); FAR Case 2011–020; Basic Safeguarding of Contractor Information Systems.	9000–AM19
439	Federal Acquisition Regulation (FAR); FAR Case 2014–012; Limitation on Allowable Government Contractor Compensation Costs.	9000–AM75
440	Federal Acquisition Regulation (FAR); FAR Case 2014–025; Fair Pay and Safe Workplaces	9000–AM81
441	Federal Acquisition Regulation (FAR); FAR Case 2014–026; High Global Warming Potential Hydrofluorocarbons.	9000–AM87
442	Federal Acquisition Regulation (FAR); FAR Case 2014–015; Consolidation and Bundling	9000–AM92
443	Federal Acquisition Regulation (FAR); FAR Case 2015–018; Improvements in Design Build Construction Process.	9000–AM99
444	Federal Acquisition Regulation (FAR); FAR Case 2015–022; Unique Identification of Entities Receiving Federal Awards.	9000–AN00
445	Federal Acquisition Regulation (FAR); FAR Case 2015–011; Prohibition on Contracting With Corporations With Delinquent Taxes or a Felony Conviction.	9000–AN05
446	Federal Acquisition Regulation (FAR): FAR Case 2014–018; Contractors Performing Private Security Functions.	9000–AN07
447	Federal Acquisition Regulation; FAR Case 2015–020, Simplified Acquisition Threshold for Overseas Acquisitions in Support of Humanitarian or Peacekeeping Operations.	9000–AN09
448	Federal Acquisition Regulation (FAR); FAR Case 2015–025, Revision to Standard Forms for Bonds	9000–AN11
449	Federal Acquisition Regulation (FAR); FAR Case 2015–032, Sole Source Contracts for Women-Owned Small Businesses.	9000–AN13
450	Federal Acquisition Regulation (FAR); FAR Case 2015–036, Updating Federal Contractor Reporting of Veterans' Employment.	9000–AN14
451	Federal Acquisition Regulation (FAR); FAR Case 2016–003, Administrative Cost To Issue and Administer a Contract.	9000–AN21
452	FAR Case 2016–006; Amendment Relating to Multi-year Contract Authority for Acquisition of Property	9000–AN24
453	Federal Acquisition Regulation; FAR Case 2016–009; New Designated Countries-Ukraine and Moldova	9000–AN25

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

416. Federal Acquisition Regulation (FAR); FAR Case 2013–018; Clarification of Requirement for Justifications for 8(a) Sole Source Contracts

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to clarify the guidance for sole-source 8(a) contract awards exceeding $20 million, in response to Government Accounting Office Report to the Chairman, Subcommittee on Contracting Oversight, Committee on Homeland Security and Governmental Affairs, U.S. Senate, entitled Federal Contracting: Slow Start to Implementation of Justifications for 8(a) Sole-Source Contracts (GAO–13–118 dated December 2012).

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov.*

RIN: 9000–AM90

417. Federal Acquisition Regulation (FAR); FAR Case 2014–002; Set-Asides Under Multiple Award Contracts

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide Government-wide policy for partial set-asides and reserves, and setting aside orders for small business concerns under multiple-award contracts. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov.*

RIN: 9000–AM93

418. Federal Acquisition Regulation (FAR); FAR Case 2015–021; Determination of Fair and Reasonable Prices on Orders Under Multiple Award Contracts

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation to clarify the responsibilities for ordering activity contracting officers to determine fair and reasonable prices when using Federal Supply Schedules. This case codifies the class deviations issued by both NASA and DoD. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington,

DC 20405, *Phone:* 202 501–1448, *Email: curtis.glover@gsa.gov.*

RIN: 9000–AM94

419. Federal Acquisition Regulation (FAR); FAR Case 2015–014; Prohibition on Providing Funds to the Enemy

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement subtitle E of title VIII of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2015, which prohibits providing funds to the enemy. It also provides additional access to records to the extent necessary to ensure that funds available under the contract are not made available to the enemy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov*.

RIN: 9000–AN03

420. • Federal Acquisition Regulation (FAR); FAR Case 2015–039, Audit of Settlement Proposals

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to raise the dollar threshold requirement for the audit of prime contract settlement proposals and subcontract settlements from $100,000 to $750,000.

Timetable:

Action	Date	FR Cite
NPRM	09/14/16	81 FR 63158
NPRM Comment Period End.	11/14/16	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Hopkins, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 969–7226, *Email: kathlyn.hopkins@gsa.gov*.

RIN: 9000–AN26

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

421. Federal Acquisition Regulation (FAR); FAR Case 2011–001; Organizational Conflicts of Interest and Unequal Access to Information

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to provide revised regulatory coverage on organizational conflicts of interest (OCIs), and add related provisions and clauses. Coverage on contractor access to protected information has been moved to a new proposed rule, FAR Case 2012–029 now FAR Case 2014–021. Section 841 of the Duncan Hunter National Defense Authorization Act for fiscal year 2009 (Pub. L. 110–417) required a review of the FAR coverage on OCIs. The proposed rule was developed as a result of a review conducted in accordance with section 841 by the Civilian Agency Acquisition Council, the Defense Acquisition Regulations Council, and the Office of Federal Procurement Policy, in consultation with the Office of Government Ethics. The proposed rule was preceded by an Advance Notice of Proposed Rulemaking, under FAR Case 2007–018 (73 FR 15962), to gather comments from the public with regard to whether and how to improve the FAR coverage on OCIs. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	04/26/11	76 FR 23236
NPRM Comment Period End.	06/27/11	
NPRM Comment Period Extended.	06/29/11	76 FR 38089
NPRM Comment Period Extended End.	07/27/11	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov*.

RIN: 9000–AL82

422. Federal Acquisition Regulation (FAR); FAR Case 2010–013; Privacy Training

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to ensure that all contractors are required to complete training in the protection of privacy and the handling and safeguarding of Personally Identifiable Information (PII). The proposed FAR language provides flexibility for agencies to conduct the privacy training or require the contractor to conduct the privacy training. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	10/14/11	76 FR 63896
NPRM Comment Period End.	12/13/11	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Gray, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–6726, *Email: charles.gray@gsa.gov*.

RIN: 9000–AM02

423. Federal Acquisition Regulation (FAR); FAR Case 2012–025; Applicability of the Senior Executive Compensation Benchmark

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to continue the implementation of the requirements of section 803 of the National Defense Authorization Act for Fiscal Year 2012. The proposed rule seeks public comments on the retroactive application of section 803 to contracts that had been awarded by DoD, NASA, and the Coast Guard before the date of enactment of section 803 (which was December 31, 2011). In addition, also as part of the implementation in the FAR of section 803, DoD, GSA, and NASA are separately issuing an interim rule (FAR Case 2012–017) that addresses the prospective application of section 803 to contracts awarded on or after December 31, 2011.

Timetable:

Action	Date	FR Cite
NPRM	06/26/13	78 FR 38539
NPRM Comment Period End.	08/26/13	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Hopkins, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 969–7226, *Email: kathlyn.hopkins@gsa.gov*.

RIN: 9000–AM39

424. Federal Acquisition Regulation (FAR); FAR Case 2012–022; Contracts Under the Small Business Administration 8(a) Program

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement revisions made by the Small Business Administration to its regulations implementing section 8(a) of the Small Business Act, and to provide additional FAR coverage regarding protesting an 8(a) participant's eligibility or size status, procedures for releasing a requirement for non-8(a) procurements, and the ways a participant could exit the 8(a) Business Development program.

Timetable:

Action	Date	FR Cite
NPRM	02/03/14	79 FR 6135
NPRM Comment Period End.	04/14/14	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov*.

RIN: 9000–AM68

425. Federal Acquisition Regulation (FAR); FAR Case 2013–014; Uniform Use of Line Items

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation to establish and require a uniform use of a line item identification structure in Federal procurement. The system is designed to improve the accuracy, traceability, and usability of procurement data.

Timetable:

Action	Date	FR Cite
NPRM	08/05/14	79 FR 45408
NPRM Comment Period End.	10/06/14	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550–0935, *Email: camara.francis@gsa.gov*.

RIN: 9000–AM73

426. Federal Acquisition Regulation (FAR); FAR Case 2015–015; Strategic Sourcing Documentation

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation to implement section 836 of the 2015 National Defense Authorization Act, which provides that when the Federal Government makes a purchase of supplies or services offered under the Federal Strategic Sourcing Initiative (FSSI), but the FSSI is not used, the contract file for the purchase shall include a brief analysis of the comparative value, including price and nonprice factors, between the supplies and services offered under the FSSI and those offered under the source(s) to be used for the purchase. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/*.

Timetable:

Action	Date	FR Cite
NPRM	06/20/16	81 FR 39883
NPRM Comment Period End.	08/19/16	
Final Rule	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov*.

RIN: 9000–AM89

427. Federal Acquisition Regulation (FAR); FAR Case 2014–003; Small Business Subcontracting Improvements

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration (SBA) in its final rule, concerning small business subcontracting. Among other things, SBA's final rule implements the statutory requirements set forth at sections 1321 and 1322 of the Small Business Jobs Act of 2010. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/*.

Timetable:

Action	Date	FR Cite
NPRM	06/10/15	80 FR 32909
NPRM Comment Period End.	08/10/15	
Final Rule	07/14/16	81 FR 45833
Final Rule Effective.	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov*.

RIN: 9000–AM91

428. Federal Acquisition Regulation (FAR); FAR Case 2015–016; Prohibition on Reimbursement for Congressional Investigations and Inquiries

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 857 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015. This section provides additional requirements relative to the allowability of costs incurred by a contractor in connection with a congressional investigation or inquiry.

Timetable:

Action	Date	FR Cite
NPRM	02/17/16	81 FR 8031
NPRM Comment Period End.	04/18/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Hopkins, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 969–7226, *Email: kathlyn.hopkins@gsa.gov*.

RIN: 9000–AM97

429. Federal Acquisition Regulation (FAR); FAR Case 2014–004; Payment of Subcontractors

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a section of the Small Business Jobs Act of 2010. This statute requires contractors to notify the contracting officer in writing if the contractor pays a reduced price to a small business subcontractor, or if the contractor's payment to a small business contractor is more than 90 days past due. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Timetable:

Action	Date	FR Cite
NPRM	01/20/16	81 FR 3087
NPRM Comment Period End.	03/21/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–1448, *Email: curtis.glover@gsa.gov*.

RIN: 9000–AM98

430. Federal Acquisition Regulation (FAR); FAR Case 2015–017; Combating Trafficking in Persons—Definition of ''Recruitment Fees''

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to provide a definition of recruitment fees. The FAR policy on combating trafficking in persons prohibits contractors from charging employees recruitment fees, in accordance with the Executive Order entitled Strengthening Protections Against Trafficking in Persons in Federal Contracts.''

Timetable:

Action	Date	FR Cite
NPRM	05/11/16	81 FR 29244
NPRM Comment Period End.	07/11/16	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov*.

RIN: 9000–AN02

431. Federal Acquisition Regulation (FAR); FAR Case 2015–012; Contractor Employee Internal Confidentiality Agreements

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement a section of the Consolidated and Further Continuing Appropriations Act, 2015, that prohibits the use of funds, appropriated or otherwise made available, for a contract with an entity that requires employees or subcontractors to sign an internal confidentiality agreement that restricts such employees or subcontractors from lawfully reporting waste, fraud, or abuse to a designated Government representative authorized to receive such information.

Timetable:

Action	Date	FR Cite
NPRM	01/22/16	81 FR 3763
NPRM Comment Period End.	03/22/16	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

RIN: 9000–AN04

432. Federal Acquisition Regulation (FAR); FAR Case 2016–007; Non-Retaliation for Disclosure of Compensation Information

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13665, entitled, Non-Retaliation for Disclosure of Compensation Information,'' and a final rule issued by the Department of Labor at 41 CFR part 60–1.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/16	81 FR 67732
Interim Final Rule Comment Period End.	11/29/16	
Final Rule	05/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 969–7207, *Email: zenaida.delgado@gsa.gov.*

RIN: 9000–AN10

433. • Federal Acquisition Regulation (FAR); FAR Case 2016–004; Acquisition Threshold for Special Emergency Procurement Authority

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement section 816 of the National Defense Authorization Act for Fiscal Year 2016 to raise the simplified acquisition threshold for special emergency procurement authority from $300,000 to $750,000 (within the United States) and from $1 million to $1.5 million (outside the United States). The threshold is used to support contingency operations or to facilitate defense against or recovery from nuclear, biological, chemical, or radiological attack.

Timetable:

Action	Date	FR Cite
NPRM	06/20/16	81 FR 39882
NPRM Comment Period End.	08/19/16	
Final Rule	04/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550–0935, *Email: camara.francis@gsa.gov.*

RIN: 9000–AN18

434. • Federal Acquisition Regulation (FAR); FAR Case 2015–005, System for Award Management Registration

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to update the instructions for System for Award Management (SAM) registration requirements and to correct an inconsistency with offeror representation and certification requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/20/16	81 FR 31895
NPRM Comment Period End.	07/19/16	
Final Rule	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover Sr., Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 501–1448, *Email: curtis.glover@gsa.gov.*

RIN: 9000–AN19

435. Federal Regulation Acquisition (FAR); FAR Case 2015–024, Public Disclosure of Greenhouse Gas Emissions and Reduction Goals—Representation

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to create an annual representation within the System for Award Management for vendors to indicate if and where they publicly disclose greenhouse gas emissions and greenhouse gas reduction goals or targets. This information will help the Government assess supplier greenhouse gas management practices and assist agencies in developing strategies to engage with contractors to reduce supply chain emissions, as directed in the Executive Order on Planning for Federal Sustainability in the Next Decade.

Timetable:

Action	Date	FR Cite
NPRM	05/25/16	81 FR 33192
NPRM Comment Period End.	07/25/16	
Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Gray, Program Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–6766, *Email: charles.gray@gsa.gov.*

RIN: 9000–AN20

436. • Federal Acquisition Regulation (FAR); FAR Case 2015–035, Removal of Regulations Relating to Telegraphic Communication

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to delete the use of telegram, telegraph, and related terms. The objective is to delete reference to obsolete technologies no longer in use and replace with references to electronic communications. In addition, conforming changes are proposed covering expedited notice of termination and change orders.

Timetable:

Action	Date	FR Cite
NPRM	06/06/16	81 FR 36245
NPRM Comment Period End.	08/05/16	
Final Rule	02/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 550–0935, *Email: camara.francis@gsa.gov.*

RIN: 9000–AN23

437. • Federal Acquisition Regulation; FAR Case 2017–001; Paid Sick Leave for Federal Contractors

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are proposing to amend the Federal Acquisition Regulation (FAR) to implement the Executive Order, Establishing Paid Sick Leave for Federal Contractors, and a final rule issued by the Department of Labor.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 969–7207, *Email: zenaida.delgado@gsa.gov.*

RIN: 9000–AN27

DEPARTMENT OF DEFENSE/ GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

438. Federal Acquisition Regulation (FAR); FAR Case 2011–020; Basic Safeguarding of Contractor Information Systems

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule that amended the Federal Acquisition Regulation (FAR) to add a new subpart and contract clause for the basic safeguarding of contractor information systems that process, store or transmit Federal contract information. The clause does not relieve the contractor of any other specific safeguarding requirement specified by Federal agencies and departments as it relates to covered contractor information systems generally or other Federal requirements for safeguarding oControlled Unclassified Information (CUI) as established by Executive Order (E.O.). Systems that contain classified information, or CUI such as personally identifiable information, require more than the basic level of protection.

Completed:

Reason	Date	FR Cite
Final Rule	05/16/16	81 FR 30439
Final Rule Effective.	06/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L Davis, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

RIN: 9000–AM19

439. Federal Acquisition Regulation (FAR); FAR Case 2014–012; Limitation on Allowable Government Contractor Compensation Costs

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA and NASA are issuing a final rule amending the Federal Acquisition Regulation to implement section 702 of the Bipartisan Budget Act of 2013. In accordance with section 702, the interim rule revises the allowable cost limit relative to the compensation of contractor and subcontractor employees. Also, in accordance with section 702, this interim rule implements the possible exception to this allowable cost limit for narrowly targeted scientists, engineers, or other specialists upon an agency determination that such exceptions are needed to ensure that the executive agency has continued access to needed skills and capabilities.

Completed:

Reason	Date	FR Cite
Final Rule	09/30/16	81 FR 67778
Final Rule Effective.	09/30/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Hopkins, *Phone:* 202 969–7226, *Email: kathlyn.hopkins@gsa.gov.*

RIN: 9000–AM75

440. Federal Acquisition Regulation (FAR); FAR Case 2014–025; Fair Pay and Safe Workplaces

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation which

implements Executive Order 13673, Fair Pay and Safe Workplaces, seeks to increase efficiency in the work performed by Federal contractors by ensuring that they understand and comply with labor laws designed to promote safe, healthy, fair and effective workplaces.

Completed:

Reason	Date	FR Cite
Final Rule	08/25/16	81 FR 58562
Final Rule Effective.	10/25/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, *Phone:* 202 969–7207, *Email: zenaida.delgado@gsa.gov.*

RIN: 9000–AM81

441. Federal Acquisition Regulation (FAR); FAR Case 2014–026; High Global Warming Potential Hydrofluorocarbons

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to implement Executive branch policy in the President's Climate Action Plan to procure, when feasible, alternatives to high global warming potential (GWP) hydrofluorocarbons (HFCs). This final rule will allow agencies to better meet the greenhouse gas emission reduction goals and reporting requirements of the Executive Order on Planning for Sustainability in the Next Decade.

Completed:

Reason	Date	FR Cite
Final Rule	05/16/16	81 FR 30429
Final Rule Effective.	06/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Charles Gray, *Phone:* 202 208–6726, *Email: charles.gray@gsa.gov.*

RIN: 9000–AM87

442. Federal Acquisition Regulation (FAR); FAR Case 2014–015; Consolidation and Bundling

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to implement sections of the Small Business Jobs Act of 2010 and regulatory changes made by the Small Business Administration, which provide for a Governmentwide policy on consolidation and bundling. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Completed:

Reason	Date	FR Cite
Final Rule	09/30/16	81 FR 67763
Final Rule Effective.	10/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov.*

RIN: 9000–AM92

443. Federal Acquisition Regulation (FAR); FAR Case 2015–018; Improvements in Design Build Construction Process

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule amending the Federal Acquisition Regulation (FAR) to implement section 814 of the Carl Levin and Howard P. 'Buck' McKeon National Defense Authorization Act for Fiscal Year 2015 that requires the head of the contracting activity to approve any determinations to select more than five offerors to submit phase-two proposals for a two-phase design-build construction acquisition that is valued at greater than $4 million.

Completed:

Reason	Date	FR Cite
Final Rule	05/16/16	81 FR 30447
Final Rule Effective.	06/15/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Curtis E. Glover, *Phone:* 202 501–1448, *Email: curtis.glover@gsa.gov.*

RIN: 9000–AM99

444. Federal Acquisition Regulation (FAR); FAR Case 2015–022; Unique Identification of Entities Receiving Federal Awards

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to re-designate the terminology for unique identification of entities receiving Federal awards. The change to the FAR will remove the proprietary standard or number.

Completed:

Reason	Date	FR Cite
Final Rule	09/30/16	81 FR 67736
Final Rule Effective.	10/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, *Phone:* 202 969–7207, *Email: zenaida.delgado@gsa.gov.*

RIN: 9000–AN00

445. Federal Acquisition Regulation (FAR); FAR Case 2015–011; Prohibition on Contracting With Corporations With Delinquent Taxes or a Felony Conviction

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement sections of the Consolidated and Further Continuing Appropriations Act, 2015, to prohibit the Federal Government from entering into a contract with any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

Completed:

Reason	Date	FR Cite
Final Rule	09/30/16	81 FR 67728
Final Rule Effective.	09/30/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

RIN: 9000–AN05

446. Federal Acquisition Regulation (FAR): FAR Case 2014–018; Contractors Performing Private Security Functions

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to remove the distinction between DoD and non-DoD agency areas of operation applicable for the use of FAR clause ''Contractors Performing Private Security Functions Outside the United States'' and provide a definition of ''full cooperation'' within the clause.

Completed:

Reason	Date	FR Cite
Final Rule	09/30/16	81 FR 67776

Reason	Date	FR Cite
Final Rule Effective.	10/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

RIN: 9000–AN07

447. Federal Acquisition Regulation; FAR Case 2015–020, Simplified Acquisition Threshold for Overseas Acquisitions in Support of Humanitarian or Peacekeeping Operations

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule to amend the Federal Acquisition Regulation (FAR) to implement 41 U.S.C. 153, which establishes a higher simplified acquisition threshold for overseas acquisitions in support of humanitarian or peacekeeping operations.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	05/16/16 06/15/16	81 FR 30438

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Camara Francis, *Phone:* 202 550–0935, *Email: camara.francis@gsa.gov.*

RIN: 9000–AN09

448. Federal Acquisition Regulation (FAR); FAR Case 2015–025, Revision to Standard Forms for Bonds

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA issued a final rule to revise Standard Forms prescribed by the Federal Acquisition Regulation (FAR) for contracts involving bonds and other financial protections. The revisions are aimed at clarifying liability limitations and expanding the options for organization types.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	07/14/16 08/15/16	81 FR 45855

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Hopkins, *Phone:* 202 969–7226, Email: *kathlyn.hopkins@gsa.gov.*

RIN: 9000–AN11

449. Federal Acquisition Regulation (FAR); FAR Case 2015–032, Sole Source Contracts for Women-Owned Small Businesses

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement regulatory changes made by the Small Business Administration, which provide for authority to award sole source contracts to economically disadvantaged women-owned small business concerns and to women-owned small business concerns eligible under the Women-Owned Small Business Program. This case is included in the FAR retrospective review of existing regulations under Executive Order 13563. Additional information is located in the FAR final plan (2016), available at: *https://www.acquisition.gov/.*

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	09/30/16 09/30/16	81 FR 67735

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mahruba Uddowla, *Phone:* 703 605–2868, *Email: mahruba.uddowla@gsa.gov.*

RIN: 9000–AN13

450. Federal Acquisition Regulation (FAR); FAR Case 2015–036, Updating Federal Contractor Reporting of Veterans' Employment

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS), which replaced the VETS–100A Federal Contractor Veterans' Employment Report forms with the new VETS–4212, Federal Contractor Veterans' Employment Report form.

Completed:

Reason	Date	FR Cite
Final Rule Final Rule Effective.	09/30/16 09/30/16	81 FR 67731

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zenaida Delgado, *Phone:* 202 969–7207, *Email: zenaida.delgado@gsa.gov.*

RIN: 9000–AN14

451. • Federal Acquisition Regulation (FAR); FAR Case 2016–003, Administrative Cost To Issue and Administer a Contract

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule to amend the Federal Acquisition Regulation (FAR) to revise the estimated administrative cost to award and administer a contract, for the purpose of evaluating bids for multiple awards.

Timetable:

Action	Date	FR Cite
NPRM NPRM Comment Period End. Withdrawn	05/12/16 07/11/16 10/05/16	81 FR 29514

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

RIN: 9000–AN21

452. • FAR Case 2016–006; Amendment Relating to Multi-Year Contract Authority for Acquisition of Property

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement section 811 of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, which amended 10 U.S.C. 2306b to require that significant savings would be achieved by entering into a multi-year contract.

Timetable:

Action	Date	FR Cite
Final Rule Final Rule Effective.	09/30/16 10/31/16	81 FR 67773

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael O. Jackson, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 208–4949, *Email: michaelo.jackson@gsa.gov.*

RIN: 9000–AN24

453. • Federal Acquisition Regulation; FAR Case 2016–009; New Designated Countries—Ukraine and Moldova

Legal Authority: 40 U.S.C. 121(c); 10 U.S.C. ch. 137; 51 U.S.C. 20113

Abstract: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to add Ukraine and Moldova as new designated countries under the World Trade Organization Government Procurement Agreement (WTO GPA).

Timetable:

Action	Date	FR Cite
Final Rule	09/30/16	81 FR 67774
Final Rule Effective.	10/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cecelia L. Davis, Procurement Analyst, DOD/GSA/NASA (FAR), 1800 F Street NW., Washington, DC 20405, *Phone:* 202 219–0202, *Email: cecelia.davis@gsa.gov.*

RIN: 9000–AN25

[FR Doc. 2016–29919 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XXII

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Commodity Futures Trading Commission (Commission), in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of rulemakings that the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others on the agenda.

FOR FURTHER INFORMATION CONTACT: Christopher J. Kirkpatrick, Secretary of the Commission, (202) 418–5964, *ckirkpatrick@cftc.gov,* Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA), 5 U.S.C. 601, *et seq.,* includes a requirement that each agency publish semiannually in the **Federal Register** a regulatory flexibility agenda. Such agendas are to contain the following elements, as specified in 5 U.S.C. 602(a):

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda, the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in the agenda.

Accordingly, the Commission has prepared an agenda of rulemakings that it presently expects may be considered during the course of the next year. Subject to a determination for each rule, it is possible as a general matter that some of these rules may have some impact on small entities.[1] The Commission notes also that, under the RFA, it is not precluded from considering or acting on a matter not included in the regulatory flexibility agenda, nor is it required to consider or act on any matter that is listed in the agenda. See 5 U.S.C. 602(d).

The Commission's Fall 2016 regulatory flexibility agenda is included in the Unified Agenda of Federal Regulatory and Deregulatory Actions. The complete Unified Agenda will be available online at *www.reginfo.gov,* in a format that offers users enhanced ability to obtain information from the Agenda database.

Issued in Washington, DC, on September 28, 2016, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

COMMODITY FUTURES TRADING COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
454	Regulation Automated Trading	3038–AD52
455	Indemnification Rulemaking	3038–AE44

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Proposed Rule Stage

454. Regulation Automated Trading

Legal Authority: 7 U.S.C. 1a(23), 7 U.S.C. 6c(a); 7 U.S.C. 7(d); and 7 U.S.C. 12(a)(5)

Abstract: On December 17, 2015, the Commission published a notice of proposed rulemaking (''NPRM'') titled ''Regulation Automated Trading.'' Regulation Automated Trading proposes a series of risk controls, transparency measures and other safeguards to enhance the regulatory regime for automated trading on U.S. designated contract markets. The initial comment period was open through March 16, 2016, and was re-opened from June 10 through June 24, 2016. After evaluating all comments received, the Commission is now considering publishing a supplemental NPRM to incorporate comments and make certain amendments to its proposal.

Timetable:

Action	Date	FR Cite
ANPRM	09/12/13	78 FR 56542
ANPRM Comment Period End.	12/11/13	
ANPRM Comment Period Extended.	01/24/14	79 FR 4104
ANPRM Comment Period Extended End.	02/14/14	
NPRM	12/17/15	80 FR 78824
NPRM Comment Period End.	03/16/16	
NPRM Comment Period Reopened.	06/10/16	81 FR 36484
NPRM Comment Period End.	06/24/16	
Supplemental NPRM.	11/00/16	
Supplemental NPRM Comment Period End.	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilee Dahlman, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, *Phone:* 202 418–5264, *Email: mdahlman@cftc.gov.*

RIN: 3038–AD52

455. • Indemnification Rulemaking

Legal Authority: CEA 8a(5) and 21

Abstract: The FAST Act repealed CEA 21(d)(2), added to the CEA by Dodd-Frank 728, which provided that domestic and foreign regulators that are

[1] The Commission published its definition of a ''small entity'' for purposes of rulemaking proceedings at 47 FR 18618 (April 30, 1982). Pursuant to that definition, the Commission is not required to list—but nonetheless does—many of the items contained in this regulatory flexibility agenda. *See also* 5 U.S.C. 602(a)(1). Moreover, for certain items listed in this agenda, the Commission has previously certified, under section 605 of the RFA, 5 U.S.C. 605, that those items will not have a significant economic impact on a substantial number of small entities. For these reasons, the listing of a rule in this regulatory flexibility agenda should not be taken as a determination that the rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. Rather, the Commission has chosen to publish an agenda that includes significant and other substantive rules, regardless of their potential impact on small entities, to provide the public with broader notice of new or revised regulations the Commission may consider and to enhance the public's opportunity to participate in the rulemaking process.

otherwise eligible to, and that do, request data from an SDR (collectively Regulators) agree to indemnify the SDR and the CFTC for expenses resulting from litigation relating to the information provided. When considered in light of the CFTC's current regulations addressing Regulators' access to SDR data, the removal of the indemnification requirement presents a number of issues, primarily related to the scope of Regulators' access to SDR data, and maintaining the confidentiality of such data consistent with CEA 8. The Commission plans to address these issues in a notice of proposed rulemaking (NPRM) that revises the current approach to Regulators' access to SDRs' swap data and set forth more information regarding the confidentiality agreement that is required by CEA 21(d).

Timetable:

Action	Date	FR Cite
NPRM	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel J. Bucsa, Deputy Director, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, *Phone:* 202 418–5435, *Email: dbucsa@cftc.gov*.

David E. Aron, Special Counsel, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, *Phone:* 202 418–6621, *Email: daron@cftc.gov*.

Owen Kopon, Attorney Advisor, Division of Market Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, *Phone:* 202 418–5360, *Email: okopon@cftc.gov*.

RIN: 3038–AE44

[FR Doc. 2016–29920 Filed 12–22–16; 8:45 am]

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Part XXIII

Bureau of Consumer Financial Protection

Semiannual Regulatory Agenda

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Ch. X

Semiannual Regulatory Agenda

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Bureau of Consumer Financial Protection (CFPB or Bureau) is publishing this agenda as part of the Fall 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions. The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from November 1, 2016 to October 31, 2017. The next agenda will be published in spring 2017 and will update this agenda through spring 2018. Publication of this agenda is in accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

DATES: This information is current as of October 19, 2016.

ADDRESSES: Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: A staff contact is included for each regulatory item listed herein.

SUPPLEMENTARY INFORMATION: The CFPB is publishing its fall 2016 agenda as part of the Fall 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The CFPB's participation in the Unified Agenda is voluntary. The complete Unified Agenda is available to the public at the following Web site: *http://www.reginfo.gov.*

Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act), the CFPB has rulemaking, supervisory, enforcement, and other authorities relating to consumer financial products and services. These authorities include the ability to issue regulations under more than a dozen Federal consumer financial laws, which was transferred to the CFPB from seven Federal agencies on July 21, 2011. The CFPB is working on a wide range of initiatives to address issues in markets for consumer financial products and services that are not reflected in this notice because the Unified Agenda is limited to rulemaking activities.

The CFPB reasonably anticipates having the regulatory matters identified below under consideration during the period from November 1, 2016, to October 31, 2017.[1] Among the Bureau's more significant regulatory efforts are the following.

Bureau Regulatory Efforts in Various Consumer Markets

The Bureau is working on a number of rulemakings to address important consumer protection issues in a wide variety of markets for consumer financial products and services, including mortgages, debt collection, credit cards, and installment lending, among others.

For example, in May 2016, the Bureau issued a Notice of Proposed Rulemaking concerning the use of agreements between a covered person and a consumer for a consumer financial product or service providing for arbitration of any future disputes. The rulemaking follows on a report that the Bureau issued to Congress in March 2015, as required by the Dodd-Frank Act, as well as on preliminary results of arbitration research that were released by the Bureau in December 2013. The proposal would prohibit covered providers of certain consumer financial products and services from using an arbitration agreement to bar the consumer from filing or participating in a class action. Under the proposal, companies would still be able to include arbitration clauses in their contracts. However, for contracts subject to the proposal, the clauses would have to say explicitly that they cannot be used to stop consumers from being part of a class action in court. The proposal would also require a covered provider that has an arbitration agreement and that is involved in arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the Bureau. The deadline for comments on the Notice of Proposed Rulemaking was August 22, 2016. As the Bureau considers development of a final rule for spring 2017, it is reviewing and considering comments on the proposed rule.

The Bureau also released a Notice of Proposed Rulemaking in June 2016, to address consumer harms from practices related to payday loans, vehicle title loans, and other similar credit products, including failure to determine whether consumers have the ability to repay without default or re-borrowing and certain payment collection practices. The deadline for comments on the Notice of Proposed Rulemaking is October 7, 2016. Among other things, the proposal would require lenders to make a reasonable determination that the consumer has the ability to repay a covered loan before extending credit. It would also require lenders to make certain disclosures before attempting to collect payments from consumers' accounts and restrict lenders from making additional payment collection attempts after two consecutive attempts have failed.

The Bureau also expects to issue a final rule in early fall 2016, to create a comprehensive set of consumer protections for prepaid financial products, such as general purpose reloadable cards and other similar products, which are increasingly being used by consumers in place of traditional checking accounts or credit cards. The final rule will build off a proposal that the Bureau issued in November 2014, to bring prepaid products expressly within the ambit of Regulation E (which implements the Electronic Fund Transfer Act) as prepaid accounts and to create new provisions specific to such accounts. The proposal also included provisions to amend Regulation E and Regulation Z (which implements the Truth in Lending Act) to regulate prepaid accounts with overdraft services or certain other credit features.

The Bureau also expects to issue a final rule amending Regulation P, which implements the Gramm-Leach-Bliley Act (GLBA) in fall 2016. Congress recently amended the GLBA to provide an exception to the requirement for financial institutions to deliver annual privacy notices when certain conditions are met. On July 11, the Bureau published in the **Federal Register** proposed conforming amendments to Regulation P for consistency with the statutory amendment.

Building on Bureau research and other sources, the Bureau is also engaged in policy analysis and further research initiatives in preparation for a rulemaking on overdraft programs on checking accounts. The CFPB issued a white paper in June 2013, and a report in July 2014, based on supervisory data from several large banks that highlighted a number of possible consumer protection concerns, including how consumers opt in to overdraft coverage for ATM and one-time debit card transactions, overdraft coverage limits, transaction posting order practices, overdraft and insufficient funds fee structure, and involuntary account closures. The CFPB is continuing to engage in additional research, including qualitative

[1] The listing does not include certain routine, frequent, or administrative matters. Further, certain of the information fields for the listing are not applicable to independent regulatory agencies, including the CFPB, and, accordingly, the CFPB has indicated responses of ''no'' for such fields.

consumer testing initiatives relating to the opt-in process.

The Bureau is also engaged in rulemaking activities regarding debt collection practices. Debt collection continues to be the single largest source of complaints to the Federal Government of any industry. Building on the Bureau's November 2013, Advance Notice of Proposed Rulemaking, the Bureau released materials in July 2016, in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA) in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with small businesses that may be affected by the policy proposals under consideration. This SBREFA process focuses on companies that are considered ''debt collectors'' under the Fair Debt Collection Practices Act; the Bureau expects to convene a separate SBREFA proceeding focusing on companies that collect their own debts in 2017. The CFPB also continues to analyze the results of a survey to obtain information from consumers about their experiences with debt collection and plans to publish a report in the coming months.

The Bureau is also continuing rulemaking activities that will further establish the Bureau's nonbank supervisory authority by defining larger participants of certain markets for consumer financial products and services. Larger participants of such markets, as the Bureau defines by rule, are subject to the Bureau's supervisory authority. The Bureau expects that its next larger participant rulemaking will focus on the markets for consumer installment loans and vehicle title loans for purposes of supervision. The Bureau is also considering whether rules to require registration of these or other non-depository lenders would facilitate supervision, as has been suggested to the Bureau by both consumer advocates and industry groups.

The Bureau is also continuing to develop research on other critical markets to help implement statutory directives and to assess whether regulation of other consumer financial products and services may be warranted. For example, the Bureau is starting its work to implement section 1071 of the Dodd-Frank Act, which amends the Equal Credit Opportunity Act to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau is focusing on outreach and research to develop its understanding of the players, products, and practices in business lending markets and of the potential ways to implement section 1071. The CFPB then expects to begin developing proposed regulations concerning the data to be collected and determining the appropriate procedures and privacy protections needed for information-gathering and public disclosure under this section.

Implementing Dodd-Frank Act Mortgage Protections

The Bureau is also continuing efforts to implement critical consumer protections under the Dodd-Frank Act to guard against mortgage market practices that contributed to the nation's most significant financial crisis in several decades. Since 2013, the Bureau has issued regulations as directed by the Dodd-Frank Act to implement certain consumer protections for mortgage originations and servicing, integrate various federal mortgage disclosures, and amend mortgage reporting requirements for institutions covered under the Home Mortgage Disclosure Act. The Bureau engages in intensive implementation work for each new rule or rule change to facilitate understanding and implementation of rulemaking requirements, including follow-up rulemaking where warranted.

For example, the Bureau issued a Notice of Proposed Rulemaking in July 2016, to make clarifications and provide further regulatory guidance concerning its rule integrating several Federal mortgage disclosures that consumers receive in connection with applying for and closing on a mortgage loan under the Truth in Lending Act and the Real Estate Settlement Procedures Act. The integration and streamlining of the disclosures is mandated under the Dodd-Frank Act and the rule took effect in October 2015. The rule is the cornerstone of the Bureau's broader ''Know Before You Owe'' mortgage initiative.

In August 2016, the Bureau issued a final rule to amend various provisions of the mortgage servicing rules in Regulation X (which implements RESPA) and Regulation Z. Among other amendments, the final rule clarifies the applicability of certain provisions when a borrower is in bankruptcy or has invoked cease communication rights under the Fair Debt Collection Practices Act (FDCPA), enhances loss mitigation requirements, and extends the protections of the mortgage servicing rules to confirmed successors in interest. The Bureau conducted consumer testing of certain disclosures on sample forms provided in the final rule.

Concurrently with the final rule, the Bureau also issued an interpretive rule under the FDCPA, relating to servicers' compliance with certain mortgage servicing provisions as amended by the final rule. Most provisions of the final rule and interpretive rule take effect 12 months after publication in the **Federal Register**. The provisions relating to bankruptcy periodic statements and successors in interest take effect 18 months after publication in the **Federal Register**. The Bureau will work to conduct outreach with industry to monitor and facilitate implementation of the final rule.

The Bureau is also working intensely to conduct outreach with industry and coordinate with other agencies to monitor and facilitate implementation of its rule to implement Dodd-Frank amendments to HMDA. The Bureau has already released a small entity compliance guide in connection with the rule, which was finalized in October 2015. Certain elements of the rule take effect in January 2017, and most new data collection requirements begin in January 2018. The Bureau is working to streamline and modernize HMDA data collection and reporting processes in conjunction with implementation.

Further Planning

Finally, the Bureau is continuing to conduct outreach and research to assess issues in various other markets for consumer financial products and services beyond those discussed herein. As this work continues, the Bureau will evaluate possible policy responses, including possible rulemaking actions, taking into account the critical need for and effectiveness of various policy tools. The Bureau will update its regulatory agenda in spring 2017, to reflect the results of this further prioritization and planning.

Kelly Thompson Cochran,

Assistant Director for Regulations, Bureau of Consumer Financial Protection.

CONSUMER FINANCIAL PROTECTION BUREAU—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
456	Business Lending Data (Regulation B)	3170–AA09

CONSUMER FINANCIAL PROTECTION BUREAU—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
457	Payday Loans and Deposit Advance Products	3170–AA40

CONSUMER FINANCIAL PROTECTION BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
458	The Expedited Funds Availability Act (Regulation CC)	3170–AA31

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Prerule Stage

456. Business Lending Data (Regulation B)

Legal Authority: 15 U.S.C. 1691c–2

Abstract: Section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) amends the Equal Credit Opportunity Act (ECOA) to require financial institutions to report information concerning credit applications made by women-owned, minority-owned, and small businesses. The amendments to ECOA made by the Dodd-Frank Act require that certain data be collected and maintained, including the number of the application and date the application was received; the type and purpose of loan or credit applied for; the amount of credit applied for and approved; the type of action taken with regard to each application and the date of such action; the census tract of the principal place of business; the gross annual revenue of the business; and the race, sex, and ethnicity of the principal owners of the business. The Dodd-Frank Act also provides authority for the CFPB to require any additional data that the CFPB determines would aid in fulfilling the purposes of this section. The Bureau is focusing on outreach and research to develop its understanding of the players, products, and practices in business lending markets and of the potential ways to implement section 1071. The CFPB then expects to begin developing proposed regulations concerning the data to be collected and determining the appropriate procedures and privacy protections needed for information-gathering and public disclosure under this section.

Timetable:

Action	Date	FR Cite
Prerule Activities	03/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elena Grigera Babinecz, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA09

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Proposed Rule Stage

457. Payday Loans and Deposit Advance Products

Legal Authority: 12 U.S.C. 5531; 12 U.S.C. 5532; 12 U.S.C. 5512; 12 U.S.C. 5551

Abstract: The Bureau is conducting a rulemaking to address consumer harms from practices related to payday loans and other similar credit products, including failure to determine whether consumers have the ability to repay without default or reborrowing and certain payment collection practices. The proposal would cover two categories of loans. First, the proposal generally would cover loans with a term of 45 days or less. Second, the proposal generally would cover loans with a term greater than 45 days, provided that they: (1) Have an all-in annual percentage rate greater than 36 percent; and (2) either are repaid directly from the consumer's account or income or are secured by the consumer's vehicle. For both categories of covered loans, the proposal would identify it as an abusive and unfair practice for a lender to make a covered loan without reasonably determining that the consumer has the ability to repay the loan. Among other things, the proposal would require that, before making a covered loan, a lender must reasonably determine that the consumer has the ability to repay the loan. The Bureau released a Notice of Proposed Rulemaking in June 2016, and is accepting comments on the proposal through October 7, 2016.

Timetable:

Action	Date	FR Cite
NPRM	07/22/16	81 FR 47864
RFI	07/22/16	81 FR 47781
NPRM Comment Period End.	10/07/16	
RFI Comment Period End.	11/07/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Morelli, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA40

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

Final Rule Stage

458. The Expedited Funds Availability Act (Regulation CC)

Legal Authority: 12 U.S.C. 4001 *et seq.*

Abstract: The Expedited Funds Availability Act (EFA Act), implemented by Regulation CC, governs availability of funds after a check deposit and check collection and return processes. Section 1086 of the Dodd-Frank Wall Street Reform and Consumer Protection Act amended the EFA Act to provide the CFPB with joint rulemaking

authority with the Board of Governors of the Federal Reserve System (Board) over certain consumer-related EFA Act provisions. The Board proposed amendments to Regulation CC in March 2011, to facilitate the banking industry's ongoing transition to fully-electronic interbank check collection and return. The Board's proposal includes some provisions that are subject to the CFPB's joint rulemaking authority, including the period for funds availability and revising model form disclosures. In addition, in December 2013, the Board proposed revised amendments to certain Regulation CC provisions that are not subject to the CFPB's authority and extended the comment period to May 2014. The CFPB will work with the Board to issue jointly a final rule that includes provisions within the CFPB's authority.

Timetable:

Action	Date	FR Cite
NPRM	03/25/11	76 FR 16862
NPRM Comment Period End.	06/03/11	
Final Rule	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joseph Baressi, Office of Regulations, Consumer Financial Protection Bureau, *Phone:* 202 435–7700.

RIN: 3170–AA31

[FR Doc. 2016–29921 Filed 12–22–16; 8:45 am]

BILLING CODE 4810–AM–P

FEDERAL REGISTER

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Part XXIV

Consumer Product Safety Commission

Semiannual Regulatory Agenda

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Semiannual Regulatory Agenda

AGENCY: U.S. Consumer Product Safety Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In this document, the Commission publishes its semiannual regulatory flexibility agenda. In addition, this document includes an agenda of regulatory actions that the Commission expects to be under development or review by the agency during the next year. This document meets the requirements of the Regulatory Flexibility Act and Executive Order 12866. The Commission welcomes comments on the agenda and on the individual agenda entries.

DATES: Comments should be received in the Office of the Secretary on or before December 14, 2016.

ADDRESSES: Comments on the regulatory flexibility agenda should be captioned, ''Regulatory Flexibility Agenda,'' and be emailed to: *cpsc-os@cpsc.gov.* Comments may also be mailed or delivered to the Office of the Secretary, U.S. Consumer Product Safety Commission, Room 820, 4330 East-West Highway, Bethesda, MD 20814–4408.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Eileen Williams, Office of the General Counsel, U.S. Consumer Product Safety Commission, 4330 East-West Highway, Bethesda, MD 20814–4408; *ewilliams@cpsc.gov.* For further information regarding a particular item on the agenda, consult the individual listed in the column headed, ''Contact,'' for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 to 612) contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the RFA (5 U.S.C. 602) requires each agency to publish, twice each year, a regulatory flexibility agenda containing a brief description of the subject area of any rule expected to be proposed or promulgated, which is likely to have a ''significant economic impact'' on a ''substantial number'' of small entities. The agency must also provide a summary of the nature of the rule and a schedule for acting on each rule for which the agency has issued a notice of proposed rulemaking.

The regulatory flexibility agenda is also required to contain the name and address of the agency official knowledgeable about the items listed. Furthermore, agencies are required to provide notice of their agendas to small entities and to solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

Additionally, Executive Order 12866 requires each agency to publish, twice each year, a regulatory agenda of regulations under development or review during the next year, and the Executive order states that such an agenda may be combined with the agenda published in accordance with the RFA. The regulatory flexibility agenda lists the regulatory activities expected to be under development or review during the next 12 months. It includes all such activities, whether or not they may have a significant economic impact on a substantial number of small entities. This agenda also includes regulatory activities that appeared in the spring 2016 agenda and have been completed by the Commission prior to publication of this agenda. Although CPSC, as an independent regulatory agency, is not required to comply with Executive orders, the Commission does follow Executive Order 12866 with respect to the publication of its regulatory agenda.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda.

The Internet is the basic means through which the Unified Agenda is disseminated. The complete Unified Agenda will be available online at *www.reginfo.gov,* in a format that offers users the ability to obtain information from the Agenda database.

Because publication in the **Federal Register** is mandated for the regulatory flexibility agendas required by the Regulatory Flexibility Act (5 U.S.C. 602), the Commission's printed agenda entries include only:

(1) Rules that are in the agency's regulatory flexibility agenda, in accordance with the Regulatory Flexibility Act because they are likely to have a significant economic impact on a substantial number of small entities; and

(2) Rules that the agency has identified for periodic review under section 610 of the Regulatory Flexibility Act.

Printing of these entries is limited to fields that contain information required by the Regulatory Flexibility Act's agenda requirements. Additional information on these entries is available in the Unified Agenda published on the Internet.

The agenda reflects an assessment of the likelihood that the specified event will occur during the next year; the precise dates for each rulemaking are uncertain. New information, changes of circumstances, or changes in law may alter anticipated timing. In addition, no final determination by staff or the Commission regarding the need for, or the substance of, any rule or regulation should be inferred from this agenda.

Dated: September 1, 2016.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

CONSUMER PRODUCT SAFETY COMMISSION—PRERULE STAGE

Sequence No.	Title	Regulation Identifier No.
459	Rule Review of: Standard for the Flammability (Open Flame) of Mattress Sets (Section 610 Review)	3041–AD47

CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
460	Recreational Off-Road Vehicles	3041–AC78
461	Standard for Sling Carriers	3041–AD28

CONSUMER PRODUCT SAFETY COMMISSION—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
462	Determinations Regarding Third Party Testing of Phthalates In Four Specified Plastics	3041–AD59

CONSUMER PRODUCT SAFETY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
463	Revisions to Safety Standard for Carriages and Strollers	3041–AD60

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Prerule Stage

459. Rule Review of: Standard for the Flammability (Open Flame) of Mattress Sets (Section 610 Review)

Legal Authority: 5 U.S.C. 1193, Flammable Fabrics Act; 5 U.S.C. 610, Regulatory Flexibility Act

Abstract: The Commission published the Standard for the Flammability (Open Flame) of Mattress Sets in March 2006. The Standard sets open flame performance measures on all mattress sets entered into commerce on or after the effective date in July 2007. The purpose of the rule review is to assess the impact of the rule on small entities and to determine whether the rule should be continued without change, or should be amended or rescinded to make the rule more effective or less burdensome while still maintaining safety objectives. CPSC staff solicited comments on the rule through a **Federal Register** Notice. Staff also conducted economic and fire loss data analyses to review the impact and effectiveness of the rule. A staff briefing package is being developed and will be submitted to the Commission.

Timetable:

Action	Date	FR Cite
Notice for Comment Published in the **Federal Register**.	04/03/15	80 FR 18218
Comment Period End.	06/02/15	
Staff Sends Briefing Package to Commission.	11/00/16	

Regulatory Flexibility Analysis Required: Undetermined.

Agency Contact: Lisa Scott, Project Manager, Directorate for Laboratory Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2064, *Email: lscott@cpsc.gov*.

RIN: 3041–AD47

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Final Rule Stage

460. Recreational Off-Road Vehicles

Legal Authority: 15 U.S.C. 2056; 15 U.S.C. 2058

Abstract: The Commission is considering whether recreational off-road vehicles (ROVs) present an unreasonable risk of injury that should be regulated. ROVs are motorized vehicles having four or more low-pressure tires designed for off-road use and intended by the manufacturer primarily for recreational use by one or more persons. The salient characteristics of an ROV include a steering wheel for steering control, foot controls for throttle and braking, bench or bucket seats, a roll-over protective structure, and a maximum speed greater than 30 mph. On October 21, 2009, the Commission voted (4–0–1) to publish an advance notice of proposed rulemaking (ANPRM) in the **Federal Register**. The ANPRM was published in the **Federal Register** on October 28, 2009, and the comment period ended December 28, 2009. The Commission received two letters requesting an extension of the comment period. The Commission extended the comment period until March 15, 2010. Staff conducted testing and evaluation programs to develop performance requirements addressing vehicle stability, vehicle handling, and occupant protection. On October 29, 2014, the Commission voted (3–2) to publish an NPRM proposing standards addressing vehicle stability, vehicle handling, and occupant protection. The NPRM was published in the **Federal Register** on November 19, 2014. On January 23, 2015, the Commission published a notice of extension of the comment period for the NPRM, extending the comment period to April 8, 2015. The Omnibus Appropriations Bill provides that during fiscal year 2016, none of the amounts made available by the Appropriations Bill may be used to finalize or implement the Safety Standard for Recreational Off-Highway Vehicles published by the CPSC in the **Federal Register** on November 19, 2014 (79 FR 68964) (ROV NPRM) until after the National Academy of Sciences completes a study to determine specific information as set forth in the Appropriations Bill. Staff has ceased work on a Final Rule briefing package that would implement the ROV NPRM, but continues to engage in the development of voluntary standards associated with ROVs. In FY 2016, staff will prepare a briefing package assessing the voluntary standards for Commission consideration.

Timetable:

Action	Date	FR Cite
Staff Sends ANPRM Briefing Package to Commission.	10/07/09	
Commission Decision.	10/21/09	
ANPRM	10/28/09	74 FR 55495
ANPRM Comment Period Extended.	12/22/09	74 FR 67987
Extended Comment Period End.	03/15/10	
Staff Sends NPRM Briefing Package to Commission.	09/24/14	
Staff Sends Supplemental Information on ROVs to Commission.	10/17/14	
Commission Decision.	10/29/14	
NPRM Published in **Federal Register**.	11/19/14	79 FR 68964
NPRM Comment Period Extended.	01/23/15	80 FR 3535

Action	Date	FR Cite
Extended Comment Period End.	04/08/15	
Staff Sends Briefing Package Assessing Voluntary Standards to Commission.	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Caroleene Paul, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2225, *Email: cpaul@cpsc.gov*.

RIN: 3041–AC78

461. Standard for Sling Carriers

Legal Authority: Pub. L. 110–314, sec. 104

Abstract: Section 104 of the Consumer Product Safety Improvement Act of 2008 (CPSIA) requires the Commission to issue consumer product safety standards for durable infant or toddler products. The Commission is directed to assess the effectiveness of applicable voluntary standards, and in accordance with the Administrative Procedure Act, promulgate consumer product safety standards that are substantially the same as the voluntary standard, or more stringent than the voluntary standard if the Commission determines that more stringent standards would further reduce the risk of injury associated with the product. The CPSIA requires that not later than August 14, 2009, the Commission begin rulemaking for at least two categories of durable infant or toddler products and promulgate two such standards every six months thereafter. The Commission proposed a consumer product safety standard for infant sling carriers as part of this series of standards for durable infant and toddler products. On June 13, 2014, staff sent an NPRM briefing package to the Commission. The Commission voted unanimously (3–0) to approve publication of the NPRM in the **Federal Register**. The NPRM was published in the **Federal Register** on July 23, 2014. Following review of the comments, staff will prepare a Final Rule briefing package for the Commission's consideration.

Timetable:

Action	Date	FR Cite
Staff Sends NPRM Briefing Package to the Commission.	06/13/14	
Commission Decision to Publish NPRM.	07/09/14	
NPRM	07/23/14	79 FR 42724
NPRM Comment Period End.	10/06/14	
Staff Sends Final Rule Briefing Package to Commission.	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hope Nesteruk, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2579, *Email: hnesteruk@cpsc.gov*.

RIN: 3041–AD28

462. Determinations Regarding Third Party Testing of Phthalates in Four Specified Plastics

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

Abstract: Section 14(i)(3) of the Consumer Product Safety Act requires the Commission to seek opportunities to reduce the cost of third party testing requirements consistent with assuring compliance with any applicable children's product safety rule. Staff prepared for Commission consideration a briefing package with a draft notice of proposed rulemaking (NPRM) regarding third party testing of phthalates in four specified plastics. The Commission approved the NPRM on August 9, 2016. After reviewing any submitted comments, staff will prepare a final rule briefing package for Commission consideration.

Timetable:

Action	Date	FR Cite
Staff Sends NPRM to the Commission.	08/03/16	
Commission Decision.	08/09/16	
NPRM Published in the FEDERAL REGISTER.	08/17/16	81 FR 54754
NPRM Comment Period End.	10/31/16	
Staff Sends Final Rule Briefing Package to Commission.	09/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Randy Butturini, Project Manager, Office of Hazard Identification and Reduction, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, *Phone:* 301 504–7562, *Email: rbutturini@cpsc.gov*.

RIN: 3041–AD59

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Completed Actions

463. • Revisions to Safety Standard for Carriages and Strollers

Legal Authority: Pub. L. 110–314, Sec. 104

Abstract: ASTM notified the CPSC that a more recent version of the voluntary standard referenced in the Safety Standard for Carriages and Strollers at 16 CFR part 1227 was approved on November 1, 2015. In accordance with the process for updating CPSC's durable infant or toddler standards under section 104(b) of the CPSIA, the Commission published a direct final rule, revising the CPSC's Standard for Carriages and Strollers to incorporate by reference a more recent version of the voluntary standard, ASTM F833–15.

Timetable:

Action	Date	FR Cite
Briefing Package to Commission.	05/25/16	
Commission Vote to Publish Direct Final Rule.	06/01/16	
Direct Final Rule Published in the FEDERAL REGISTER.	06/09/16	81 FR 37128
Direct Final Rule Comment Period End.	07/11/16	
Direct Final Rule Effective.	10/02/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rana Balci–Sinha, Project Manager, Directorate for Engineering Sciences, Consumer Product Safety Commission, National Product Testing and Evaluation Center, 5 Research Place, Rockville, MD 20850, *Phone:* 301 987–2584, *Email: rbalcisinha@cpsc.gov*.

RIN: 3041–AD60

[FR Doc. 2016–29922 Filed 12–22–16; 8:45 am]

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Part XXV

Federal Communications Commission

Semiannual Regulatory Agenda

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulatory and Deregulatory Actions—Fall 2016

AGENCY: Federal Communications Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Twice a year, in spring and fall, the Commission publishes in the **Federal Register** a list in the Unified Agenda of those major items and other significant proceedings under development or review that pertain to the Regulatory Flexibility Act (U.S.C. 602). The Unified Agenda also provides the Code of Federal Regulations citations and legal authorities that govern these proceedings. The complete Unified Agenda will be published on the Internet in a searchable format at *www.reginfo.gov*.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maura McGowan, Telecommunications Policy Specialist, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, (202) 418–0990.

SUPPLEMENTARY INFORMATION:

Unified Agenda of Major and Other Significant Proceedings

The Commission encourages public participation in its rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared a list of important proceedings now in progress. The General Services Administration publishes the Unified Agenda in the **Federal Register** in the spring and fall of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

Docket Number—assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry concerning the matter under consideration. The Commission has used docket numbers since January 1, 1978. Docket numbers consist of the last two digits of the calendar year in which the docket was established plus a sequential number that begins at 1 with the first docket initiated during a calendar year (*e.g.,* Docket No. 96–1 or Docket No. 99–1). The abbreviation for the responsible bureau usually precedes the docket number, as in ''MB Docket No. 96–222,'' which indicates that the responsible bureau is the Media Bureau. A docket number consisting of only five digits (*e.g.,* Docket No. 29622) indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI)—issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM)—issued by the Commission when it is proposing a specific change to Commission rules and regulations. Before any changes are actually made, interested parties may submit written comments on the proposed revisions.

Further Notice of Proposed Rulemaking (FNPRM)—issued by the Commission when additional comment in the proceeding is sought.

Memorandum Opinion and Order (MO&O)—issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or address a petition for reconsideration of a decision.

Rulemaking (RM) Number—assigned to a proceeding after the appropriate bureau or office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report and Order (R&O)—issued by the Commission to state a new or amended rule or state that the Commission rules and regulations will not be revised.

Marlene H. Dortch,

Secretary, Federal Communications Commission.

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
464	Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278).	3060–AI14

CONSUMER AND GOVERNMENTAL AFFAIRS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
465	Implementation of the Telecom Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities (WT Docket No. 96–198).	3060–AG58
466	Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123).	3060–AI15
467	Consumer Information, Disclosure, and Truth in Billing and Billing Format	3060–AI61
468	Closed-Captioning of Video Programming; CG Docket Nos. 05–231 and 06–181 (Section 610 Review)	3060–AI72
469	Accessibility of Programming Providing Emergency Information; MB Docket No. 12–107	3060–AI75
470	Empowering Consumers to Avoid Bill Shock (Docket No. 10–207)	3060–AJ51
471	Contributions to the Telecommunications Relay Services Fund (CG Docket No. 11–47)	3060–AJ63
472	Empowering Consumers to Prevent and Detect Billing for Unauthorized Charges (''Cramming'')	3060–AJ72
473	Implementation of the Middle Class Tax Relief and Job Creation Act of 2012/Establishment of a Public Safety Answering Point Do-Not-Call Registry.	3060–AJ84
474	Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10–213).	3060–AK00
475	Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24.	3060–AK01

OFFICE OF ENGINEERING AND TECHNOLOGY—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
476	New Advanced Wireless Services (ET Docket No. 00–258)	3060–AH65
477	Exposure to Radiofrequency Electromagnetic Fields (ET Docket No. 10–97)	3060–AI17
478	Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186)	3060–AI52
479	Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10–142)	3060–AJ46
480	Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules (ET Docket No. 10–236).	3060–AJ62
481	Operation of Radar Systems in the 76–77 GHz Band (ET Docket No. 11–90)	3060–AJ68
482	WRC–07 Implementation (ET Docket No. 12–338)	3060–AJ93
483	Federal Earth Stations-Non Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115.	3060–AK09
484	Authorization of Radiofrequency Equipment; ET Docket No. 13–44	3060–AK10
485	Operation of Radar Systems in the 76–77 GHz Band (ET Docket No. 15–26)	3060–AK29
486	Spectrum Access for Wireless Microphone Operations (GN Docket Nos. 14–166 and 12–268)	3060–AK30

INTERNATIONAL BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
487	Space Station Licensing Reform (IB Docket No. 02–34)	3060–AH98

INTERNATIONAL BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
488	International Settlements Policy Reform (IB Docket No. 11–80)	3060–AJ77
489	Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267)	3060–AJ98
490	Expanding Broadband and Innovation Through Air-Ground Mobile Broadband Secondary Service for Passengers Aboard Aircraft in the 14.0–14.5 GHz Band; GN Docket No. 13–114.	3060–AK02
491	Terrestrial Use of the 2473–2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules of Mobile Satellite Service System; IB Docket No. 13–213.	3060–AK16
492	Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as amended (Docket No. 15–236).	3060–AK47

MEDIA BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
493	Broadcast Ownership Rules	3060–AH97
494	Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07–294)	3060–AJ27

MEDIA BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
495	Establishment of Rules for Digital Low-Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03–185).	3060–AI38
496	Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (MB Docket No. 11–154).	3060–AJ67
497	Accessibility of User Interfaces and Video Programming Guides and Menus (MB Docket No. 12–108)	3060–AK11
498	Network Non-Duplication and Syndicated Exclusivity Rule (MB Docket No. 14–29)	3060–AK18
499	Channel Sharing by Full Power and Class A Stations Outside of the Incentive Auction Context; (MB Docket No. 15–137).	3060–AK42
500	Preserving Vacant Channels in the UHF Television Band for Unlicensed Use; (MB Docket No. 15–68)	3060–AK43
501	Revision to Public Inspection Requirements (MB Docket No. 16–161)	3060–AK50

OFFICE OF MANAGING DIRECTOR—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
502	Assessment and Collection of Regulatory Fees for Fiscal Year 2016	3060–AK53

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
503	700 MHz Public Safety Broadband—First Net (PS Docket Nos. 12–94 & 06–229 and WT 06–150)	3060–AJ99
504	Proposed Amendments to Service Rules Governing Public Safety Narrowband Operations in the 769–775 and 799–805 MHz Bands.	3060–AK19
505	New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04–35	3060–AK41
506	Amendment of Part 90 of the Commission's Rules to Enable Railroad Police Officers to Access Public Safety Interoperability and Mutual Aid Channels.	3060–AK51

PUBLIC SAFETY AND HOMELAND SECURITY BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
507	Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102; PS Docket No. 07–114).	3060–AG34
508	Enhanced 911 Services for Wireline and Multi-Line Telephone Systems; PS Docket Nos. 10–255 and 07–114.	3060–AG60
509	Implementation of 911 Act (CC Docket No. 92–105, WT Docket No. 00–110)	3060–AH90
510	Commission Rules Concerning Disruptions to Communications (PS Docket No. 11–82)	3060–AI22
511	E911 Requirements for IP-Enabled Service Providers (Dockets Nos. GN 11–117, PS 07–114, WC 05–196, WC 04–36).	3060–AI62
512	Wireless E911 Location Accuracy Requirements; PS Docket No. 07–114	3060–AJ52
513	Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206.	3060–AK39
514	Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; PS Docket No. 15–80.	3060–AK40
515	Wireless Emergency Alerts (WEA); PS Docket No. 15–91	3060–AK54

WIRELESS TELECOMMUNICATIONS BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
516	Use of Spectrum Bands above 24 GHz for Mobile Services—Spectrum Frontiers; WT Docket 10–112	3060–AK44

WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
517	Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers	3060–AH83
518	Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289)	3060–AI35
519	Implementation of the Commercial Spectrum Enhancement Act (CSEA) and Modernization of the Commission's Competitive Bidding Rules and Procedures (WT Docket No. 05–211).	3060–AI88
520	Facilitating the Provision of Fixed and Mobile Broadband Access, Educational, and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands.	3060–AJ12
521	Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band; WT Docket No. 13–185	3060–AJ19
522	Amendment of the Commission's Rules to Improve Public Safety Communications in the 800 MHz Band, and to Consolidate the 800 MHz and 900 MHz Business and Industrial/Land Transportation Pool Channels.	3060–AJ22
523	Amendment of Part 101 to Accommodate 30 MHz Channels in the 6525 to 6875 MHz Band and Provide Conditional Authorization on Channels in the 21.8–22.0 and 23.0–23.2 GHz Band (WT Docket No. 04–114).	3060–AJ28
524	Amendment of Part 90 of the Commission's Rules	3060–AJ37
525	Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility.	3060–AJ47
526	Universal Service Reform Mobility Fund (WT Docket No. 10–208)	3060–AJ58
527	Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz.	3060–AJ59
528	Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees (WT Docket Nos. 12–64 and 11–110).	3060–AJ71
529	Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands	3060–AJ73
530	Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; (GN Docket No. 12–268).	3060–AJ82
531	Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands (WT Docket No. 12–357).	3060–AJ86
532	Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4).	3060–AJ87
533	Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42).	3060–AJ88
534	Amendment of the Commission's Rules Concerning Commercial Radio Operators (WT Docket No. 10–177).	3060–AJ91
535	Amendment of Part 90 of the Commission's Rules to Permit Terrestrial Trunked Radio (TETRA) Technology; WT Docket No. 11–6.	3060–AK05
536	Promoting Technological Solutions to Combat Wireless Contraband Device Use in Correctional Facilities	3060–AK06
537	Enabling Small Cell Use in the 3.5 GHz band	3060–AK12

WIRELESS TELECOMMUNICATIONS BUREAU—LONG-TERM ACTIONS—Continued

Sequence No.	Title	Regulation Identifier No.
538	800 MHz Cellular Telecommunications Licensing Reform; Docket No. 12–40	3060–AK13
539	Updating Part 1 Competitive Bidding Rules (WT Docket No. 14–170)	3060–AK28

WIRELINE COMPETITION BUREAU—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
540	Technology Transitions; GN Docket No 13–5, WC Docket No. 05–25	3060–AK32

WIRELINE COMPETITION BUREAU—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
541	Implementation of the Universal Service Portions of the 1996 Telecommunications Act	3060–AF85
542	2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements	3060–AH72
543	National Exchange Carrier Association Petition	3060–AI47
544	IP-Enabled Services; WC Docket No. 04–36	3060–AI48
545	Jurisdictional Separations	3060–AJ06
546	Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21).	3060–AJ14
547	Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans.	3060–AJ15
548	Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244)	3060–AJ32
549	Implementation of Section 224 of the Act; A National Broadband Plan for Our Future (WC Docket No. 07–245, GN Docket No. 09–51).	3060–AJ64
550	Rural Call Completion; WC Docket No. 13–39	3060–AJ89
551	Rates for Inmate Calling Services; WC Docket No. 12–375	3060–AK08
552	Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14–130)	3060–AK20
553	Protecting and Promoting the Open Internet; (WC Docket No. 14–28)	3060–AK21
554	Modernizing Common Carrier Rules, WC Docket No 15–33	3060–AK33
555	Numbering Policies for Modern Communications, WC Docket No. 13–97	3060–AK36

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Consumer and Governmental Affairs Bureau

Final Rule Stage

464. Rules and Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991 (CG Docket No. 02–278)

Legal Authority: 47 U.S.C. 227

Abstract: On July 3, 2003, the Commission released a Report and Order establishing, along with the FTC, a national do-not-call registry. The Commission's Report and Order also adopted rules on the use of predictive dialers, the transmission of caller ID information by telemarketers, and the sending of unsolicited fax advertisements. On September 21, 2004, the Commission released an Order amending existing safe harbor rules for telemarketers subject to the do-not-call registry to require such telemarketers to access the do-not-call list every 31 days, rather than every 3 months. On April 5, 2006, the Commission adopted a Report and Order and Third Order on Reconsideration amending its facsimile advertising rules to implement the Junk Fax Protection Act of 2005. On October 14, 2008, the Commission released an Order on Reconsideration addressing certain issues raised in petitions for reconsideration and/or clarification of the Report and Order and Third Order on Reconsideration. On January 4, 2008, the Commission released a Declaratory Ruling, clarifying that autodialed and prerecorded message calls to wireless numbers that are provided by the called party to a creditor in connection with an existing debt are permissible as calls made with the ''prior express consent'' of the called party. Following a December 4, 2007, NPRM, on June 17, 2008, the Commission released a Report and Order amending its rules to require sellers and/or telemarketers to honor registrations with the National Do-Not-Call Registry indefinitely, unless the registration is cancelled by the consumer or the number is removed by the database administrator. Following a January 22, 2010, NPRM, the Commission released a Report and Order (on February 15, 2012), requiring telemarketers to obtain prior express written consent, including by electronic means, before making an autodialed or prerecorded telemarketing call to a wireless number or before making a prerecorded telemarketing call to a residential line; eliminating the ''established business relationship'' exemption to the consent requirement for prerecorded telemarketing calls to residential lines; requiring telemarketers to provide an automated, interactive ''opt-out'' mechanism during autodialed or prerecorded telemarketing calls to wireless numbers and during prerecorded telemarketing calls to residential lines; and requiring that the abandoned call rate for telemarketing calls be calculated on a ''per-campaign'' basis. On November 29, 2012, the Commission released a Declaratory Ruling clarifying that sending a one-time text message confirming a consumer's request that no further text messages be sent does not violate the Telephone Consumer Protection Act (TCPA) or the Commission's rules as long as the confirmation text only confirms receipt of the consumer's opt-out request, and does not contain marketing, solicitations, or an attempt to convince the consumer to reconsider his or her opt-out decision. The ruling applies only when the sender of the text messages has obtained prior express consent, as required by the TCPA and Commission rules, from the consumer to

be sent text messages using an automatic telephone dialing system. On May 9, 2013, the Commission released a declaratory ruling clarifying that while a seller does not generally ''initiate'' calls made through a third-party telemarketer, within the meaning of the Telephone Consumer Protection Act (TCPA), it nonetheless may be held vicariously liable under Federal common law principles of agency for violations of either section 227(b) or section 227(c) that are committed by third-party telemarketers.

On July 10, 2015, the commission released a Declaratory Ruling and Order resolving 21 separate requests for clarification or other action regarding the TCPA. It clarified, among other things, that: Nothing in the Communications Act of the Commission's rules prohibits carriers or other service providers from implementing consumer-initiated call-blocking technologies; equipment meets the TCPA's definition of ''autodialer'' if it has the ''capacity'' to store or produce random sequential numbers, and to dial them, even if it is not presently used for that purpose; an ''app'' provider that plays a minimal role in making a call, such as just proving the app itself, is not the maker of the call for TCPA purposes; consumers who have previously consented to robocalls may revoke that consent at any time and through any reasonable means; the TCPA requires the consent of the party called—the subscriber to a phone number or the customary user of the number—not the intended recipient of the call; and callers who make calls without knowledge or reassignment of a wireless phone number and with a reasonable basis to believe that they have valid consent to make the call to the wireless number should be able to initiate one call after reassignment as an additional opportunity to gain actual or constructive knowledge of the reassignment and cease future calls to the new subscriber. The Commission also exempted certain financial and healthcare-related calls, when free to the consumer, from the TCPA's consumer-consent requirement.

Timetable:

Action	Date	FR Cite
NPRM	10/08/02	67 FR 62667
FNPRM	04/03/03	68 FR 16250
Order	07/25/03	68 FR 44144
Order Effective	08/25/03	
Order on Reconsideration.	08/25/03	68 FR 50978
Order	10/14/03	68 FR 59130
FNPRM	03/31/04	69 FR 16873
Order	10/08/04	69 FR 60311
Order	10/28/04	69 FR 62816
Order on Reconsideration.	04/13/05	70 FR 19330
Order	06/30/05	70 FR 37705
NPRM	12/19/05	70 FR 75102
Public Notice	04/26/06	71 FR 24634
Order	05/03/06	71 FR 25967
NPRM	12/14/07	72 FR 71099
Declaratory Ruling	02/01/08	73 FR 6041
R&O	07/14/08	73 FR 40183
Order on Reconsideration.	10/30/08	73 FR 64556
NPRM	03/22/10	75 FR 13471
R&O	06/11/12	77 FR 34233
Public Notice	06/30/10	75 FR 34244
Public Notice (Reconsideration Petitions Filed).	10/03/12	77 FR 60343
Announcement of Effective Date.	10/16/12	77 FR 63240
Opposition End Date.	10/18/12	
Rule Corrections	11/08/12	77 FR 66935
Declaratory Ruling (release date).	11/29/12	
Declaratory Ruling (release date).	05/09/13	
Declaratory Ruling and Order.	10/09/15	80 FR 61129
NPRM	05/20/16	81 FR 31889
Declaratory Ruling	07/05/16	
R&O	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kristi Thornton, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2467, *Email: kristi.thornton@fcc.gov*.

RIN: 3060–AI14

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Consumer and Governmental Affairs Bureau

Long-Term Actions

465. Implementation of the Telecom Act of 1996; Access to Telecommunications Service, Telecommunications Equipment, and Customer Premises Equipment by Persons With Disabilities (WT Docket No. 96–198)

Legal Authority: 47 U.S.C. 255; 47 U.S.C. 251(a)(2)

Abstract: These proceedings implement the provisions of sections 255 and 251(a)(2) of the Communications Act and related sections of the Telecommunications Act of 1996 regarding the accessibility of telecommunications equipment and services to persons with disabilities.

Timetable:

Action	Date	FR Cite
R&O	08/14/96	61 FR 42181
NOI	09/26/96	61 FR 50465
NPRM	05/22/98	63 FR 28456
R&O	11/19/99	64 FR 63235
Further NOI	11/19/99	64 FR 63277
Public Notice	01/07/02	67 FR 678
R&O	08/06/07	72 FR 43546
Petition for Waiver	11/01/07	72 FR 61813
Public Notice	11/01/07	72 FR 61882
Final Rule	04/21/08	73 FR 21251
Public Notice	08/01/08	73 FR 45008
Extension of Waiver.	05/15/08	73 FR 28057
Extension of Waiver.	05/06/09	74 FR 20892
Public Notice	05/07/09	74 FR 21364
Extension of Waiver.	07/29/09	74 FR 37624
NPRM	03/14/11	76 FR 13800
NPRM Comment Period Extended.	04/12/11	76 FR 20297
FNPRM	12/30/11	76 FR 82240
Comment Period End.	03/14/12	
R&O	12/30/11	76 FR 82354
Announcement of Effective Date.	04/25/12	77 FR 24632
2nd R&O	05/22/13	78 FR 30226
FNPRM	12/20/13	78 FR 77074
FNPRM Comment Period End.	02/18/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cheryl J. King, Deputy Chief, Disability Rights Office, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2284, *TDD Phone:* 202 418–0416, *Fax:* 202 418–0037, *Email: cheryl.king@fcc.gov*.

RIN: 3060–AG58

466. Rules and Regulations Implementing Section 225 of the Communications Act (Telecommunications Relay Service) (CG Docket No. 03–123)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

Abstract: This proceeding established a new docket flowing from the previous telecommunications relay service (TRS) history, CC Docket No. 98–67. This proceeding continues the Commission's inquiry into improving the quality of TRS and furthering the goal of functional equivalency, consistent with Congress' mandate that TRS regulations encourage the use of existing technology and not discourage or impair the development of new technology. In this docket, the Commission explores ways to improve emergency preparedness for TRS facilities and services, new TRS technologies, public access to information and outreach, and issues related to payments from the Interstate TRS Fund.

Timetable:

Action	Date	FR Cite
NPRM	08/25/03	68 FR 50993
R&O, Order on Reconsideration.	09/01/04	69 FR 53346
FNPRM	09/01/04	69 FR 53382
Public Notice	02/17/05	70 FR 8034
Declaratory Ruling/Interpretation.	02/25/05	70 FR 9239
Public Notice	03/07/05	70 FR 10930
Order	03/23/05	70 FR 14568
Public Notice/Announcement of Date.	04/06/05	70 FR 17334
Order	07/01/05	70 FR 38134
Order on Reconsideration.	08/31/05	70 FR 51643
R&O	08/31/05	70 FR 51649
Order	09/14/05	70 FR 54294
Order	09/14/05	70 FR 54298
Public Notice	10/12/05	70 FR 59346
R&O/Order on Reconsideration.	12/23/05	70 FR 76208
Order	12/28/05	70 FR 76712
Order	12/29/05	70 FR 77052
NPRM	02/01/06	71 FR 5221
Declaratory Ruling/Clarification.	05/31/06	71 FR 30818
FNPRM	05/31/06	71 FR 30848
FNPRM	06/01/06	71 FR 31131
Declaratory Ruling/Dismissal of Petition.	06/21/06	71 FR 35553
Clarification	06/28/06	71 FR 36690
Declaratory Ruling on Reconsideration.	07/06/06	71 FR 38268
Order on Reconsideration.	08/16/06	71 FR 47141
MO&O	08/16/06	71 FR 47145
Clarification	08/23/06	71 FR 49380
FNPRM	09/13/06	71 FR 54009
Final Rule; Clarification.	02/14/07	72 FR 6960
Order	03/14/07	72 FR 11789
R&O	08/06/07	72 FR 43546
Public Notice	08/16/07	72 FR 46060
Order	11/01/07	72 FR 61813
Public Notice	01/04/08	73 FR 863
R&O/Declaratory Ruling.	01/17/08	73 FR 3197
Order	02/19/08	73 FR 9031
Order	04/21/08	73 FR 21347
R&O	04/21/08	73 FR 21252
Order	04/23/08	73 FR 21843
Public Notice	04/30/08	73 FR 23361
Order	05/15/08	73 FR 28057
Declaratory Ruling	07/08/08	73 FR 38928
FNPRM	07/18/08	73 FR 41307
R&O	07/18/08	73 FR 41286
Public Notice	08/01/08	73 FR 45006
Public Notice	08/05/08	73 FR 45354
Public Notice	10/10/08	73 FR 60172
Order	10/23/08	73 FR 63078
2nd R&O and Order on Reconsideration.	12/30/08	73 FR 79683
Order	05/06/09	74 FR 20892
Public Notice	05/07/09	74 FR 21364
NPRM	05/21/09	74 FR 23815
Public Notice	05/21/09	74 FR 23859
Public Notice	06/12/09	74 FR 28046
Order	07/29/09	74 FR 37624
Public Notice	08/07/09	74 FR 39699
Order	09/18/09	74 FR 47894
Order	10/26/09	74 FR 54913
Public Notice	05/12/10	75 FR 26701
Order Denying Stay Motion (Release Date).	07/09/10	
Order	08/13/10	75 FR 49491
Order	09/03/10	75 FR 54040
NPRM	11/02/10	75 FR 67333
NPRM	05/02/11	76 FR 24442
Order	07/25/11	76 FR 44326
Final Rule (Order)	09/27/11	76 FR 59551
Final Rule; Announcement of Effective Date.	11/22/11	76 FR 72124
Proposed Rule (Public Notice).	02/28/12	77 FR 11997
Proposed Rule (FNPRM).	02/01/12	77 FR 4948
First R&O	07/25/12	77 FR 43538
Public Notice	10/29/12	77 FR 65526
Order on Reconsideration.	12/26/12	77 FR 75894
Order	02/05/13	78 FR 8030
Order (Interim Rule).	02/05/13	78 FR 8032
NPRM	02/05/13	78 FR 8090
Announcement of Effective Date.	03/07/13	78 FR 14701
NPRM Comment Period End.	03/13/13	
FNPRM	07/05/13	78 FR 40407
FNPRM Comment Period End.	09/18/13	
R&O	07/05/13	78 FR 40582
R&O	08/15/13	78 FR 49693
FNPRM	08/15/13	78 FR 49717
FNPRM Comment Period End.	09/30/13	
R&O	08/30/13	78 FR 53684
FNPRM	09/03/13	78 FR 54201
NPRM	10/23/13	78FR 63152
FNPRM Comment Period End.	11/18/13	
Petiton for Reconsideration; Request for Comment.	12/16/13	78 FR 76096
Petition for Reconsideration; Request for Comment.	12/16/13	78 FR 76097
Request for Clarification; Request for Comment; Correction.	12/30/13	78 FR 79362
Petition for Reconsideration Comment Period End.	01/10/14	
NPRM Comment Period End.	01/21/14	
Announcement of Effective Date.	07/11/14	79 FR 40003
Announcement of Effective Date.	08/28/14	79 FR 51446
Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Technical Amendments.	09/09/14	79 FR 53303
Public Notice	09/15/14	79 FR 54979
R&O and Order	10/21/14	79 FR 62875
FNPRM	10/21/14	79 FR 62935
FNPRM Comment Period End.	12/22/14	
Final Action (Announcement of Effective Date).	10/30/14	79 FR 64515
Final Rule Effective.	10/30/14	
FNPRM	11/08/15	80 FR 72029
FNPRM Comment Period End.	01/01/16	
Public Notice	01/20/16	81 FR 3085
Public Notice Comment Period End.	02/16/16	
R&O	03/21/16	81 FR 14984
FNPRM	08/24/16	81 FR 57851
FNPRM Comment Period End.	09/14/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Karen Peltz Strauss, Deputy Chief, Consumer and Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2388, *Email: karen.strauss@fcc.gov*.

RIN: 3060–AI15

467. Consumer Information, Disclosure, and Truth in Billing and Billing Format

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 258

Abstract: In 1999, the Commission adopted truth-in-billing rules to address concerns that there is consumer confusion relating to billing for telecommunications services. On March 18, 2005, the Commission released an Order and Further Notice of Proposed Rulemaking (FNPRM) to further facilitate the ability of telephone consumers to make informed choices among competitive service offerings. On August 28, 2009, the Commission released a Notice of Inquiry that asks questions about information available to consumers at all stages of the purchasing process for all communications services, including: (1) Choosing a provider; (2) choosing a service plan; (3) managing use of the service plan; and (4) deciding whether and when to switch an existing provider or plan. On October 14, 2010, the Commission released a Notice of Proposed Rulemaking (NPRM) proposing rules that would require mobile service providers to provide usage alerts and information that will assist consumers in avoiding unexpected charges on their bills. On July 12, 2011, the Commission released an NPRM proposing rules that would assist consumers in detecting and preventing the placement of unauthorized charges on their telephone bills, an unlawful and fraudulent practice, commonly referred to as ''cramming.'' On April 27, 2012, the Commission adopted rules to address ''cramming'' on wireline telephone bills and released an FNPRM seeking comment on additional measures to protect wireline and wireless consumers from unauthorized charges.

Timetable:

Action	Date	FR Cite
FNPRM	05/25/05	70 FR 30044
R&O	05/25/05	70 FR 29979
NOI	08/28/09	

Action	Date	FR Cite
Public Notice	05/20/10	75 FR 28249
Public Notice	06/11/10	75 FR 33303
NPRM	11/26/10	75 FR 72773
NPRM	08/23/11	76 FR 52625
NPRM Comment Period End.	11/21/11	
Order (Reply Comment Period Extended).	11/30/11	76 FR 74017
Reply Comment Period End.	12/05/11	
R&O	05/24/12	77 FR 30915
FNPRM	05/24/12	77 FR 30972
FNPRM Comment Period End.	07/09/12	
Order (Comment Period Extended).	07/17/12	77 FR 41955
Comment Period End.	07/20/12	
Announcement of Effective Dates.	10/26/12	77 FR 65230
Correction of Final Rule.	11/30/12	77 FR 71353
Correction of Final Rule.	11/30/12	77 FR 71354
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D. Smith, Special Counsel, Consumer Policy Division, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov*.

RIN: 3060–AI61

468. Closed-Captioning of Video Programming; CG Docket Nos. 05–231 and 06–181 (Section 610 Review)

Legal Authority: 47 U.S.C. 613

Abstract: The Commission's closed-captioning rules are designed to make video programming more accessible to deaf and hard-of-hearing Americans. This proceeding resolves some issues regarding the Commission's closed-captioning rules that were raised for comment in 2005, and also seeks comment on how a certain exemption from the closed-captioning rules should be applied to digital multicast broadcast channels.

Timetable:

Action	Date	FR Cite
NPRM	02/03/97	62 FR 4959
R&O	09/16/97	62 FR 48487
Order on Reconsideration.	10/20/98	63 FR 55959
NPRM	09/26/05	70 FR 56150
Order and Declaratory Ruling.	01/13/09	74 FR 1594
NPRM	01/13/09	74 FR 1654
Final Rule Correction.	09/11/09	74 FR 46703
Final Rule (Announcement of Effective Date).	02/19/10	75 FR 7370
Order	02/19/10	75 FR 7368
Order Suspending Effective Date.	02/19/10	75 FR 7369
Waiver Order	10/04/10	75 FR 61101
Public Notice	11/17/10	75 FR 70168
Interim Final Rule (Order).	11/01/11	76 FR 67376
Final Rule (MO&O).	11/01/11	76 FR 67377
NPRM	11/01/11	76 FR 67397
NPRM Comment Period End.	12/16/11	
Public Notice	05/04/12	77 FR 26550
Public Notice	12/15/12	77 FR 72348
Final Rule Effective.	03/16/15	
FNPRM	03/27/14	79 FR 17094
R&O	03/31/14	79 FR 17911
FNPRM Comment Period End.	07/25/14	
Final Action (Announcement of Effective Date).	12/29/14	79 FR 77916
2nd FNPRM	12/31/14	79 FR 78768
Comment Period End.	01/30/15	
2nd R&O	08/23/16	81 FR 57473
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eliot Greenwald, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2235, *Email: eliot.greenwald@fcc.gov*.

RIN: 3060–AI72

469. Accessibility of Programming Providing Emergency Information; MB Docket No. 12–107

Legal Authority: 47 U.S.C. 613

Abstract: In this proceeding, the Commission adopted rules detailing how video programming distributors must make emergency information accessible to persons with hearing and visual disabilities.

Timetable:

Action	Date	FR Cite
FNPRM	01/21/98	63 FR 3070
NPRM	12/01/99	64 FR 67236
NPRM Correction	12/22/99	64 FR 71712
Second R&O	05/09/00	65 FR 26757
R&O	09/11/00	65 FR 54805
Final Rule; Correction.	09/20/00	65 FR 5680
NPRM	11/28/12	77 FR 70970
NPRM Comment Period Extended.	12/20/12	77 FR 75404
NPRM Comment Period Extension End.	01/07/13	
R&O	05/24/13	78 FR 31770
FNPRM	05/24/13	78 FR 31800
FNPRM	12/20/13	78 FR 77074
FNPRM Comment Period End.	02/18/14	
NPRM	06/18/13	78 FR 36478
NPRM Comment Period End.	08/07/13	
R&O	12/20/13	78 FR 77210
Petition for Reconsideration.	01/31/14	79 FR 5364
Comment Period End.	02/25/14	
Correcting Amendments.	02/10/14	79 FR 7590
Announcement of Effective Date.	04/16/14	79 FR 21399
Final Action (Announcement of Effective Date).	01/26/15	80 FR 3913
Final Action Effective.	01/26/15	
2nd R&O	07/10/15	80 FR 39698
2nd FNPRM	07/10/15	80 FR 39722
2nd FNPRM Comment Period End.	09/08/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eliot Greenwald, Consumer & Governmental Affairs Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2235, *Email: eliot.greenwald@fcc.gov*.

RIN: 3060–AI75

470. Empowering Consumers To Avoid Bill Shock (Docket No. 10–207)

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 303; 47 U.S.C. 332

Abstract: On October 14, 2010, the Commission released a Notice of Proposed Rulemaking which proposes a rule that would require mobile service providers to provide usage alerts and information to help consumers avoid unexpected charges on their bills.

Timetable:

Action	Date	FR Cite
Public Notice	05/20/10	75 FR 28249
NPRM	11/26/10	75 FR 72773
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D. Smith, Special Counsel, Consumer Policy Division, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov*.

RIN: 3060–AJ51

471. Contributions to the Telecommunications Relay Services Fund (CG Docket No. 11–47)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225; 47 U.S.C. 616

Abstract: The Commission prescribes by regulation the obligations of each provider of interconnected and non-interconnected Voice over Internet Protocol (VoIP) service to participate in and contribute to the Interstate Telecommunications Relay Services Fund in a manner that is consistent with and comparable to such fund.

Timetable:

Action	Date	FR Cite
NPRM	04/04/11	76 FR 18490
NPRM Comment Period End.	05/04/11	
Final Rule	10/25/11	76 FR 65965
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rosaline Crawford, Attorney, Disability Rights Office, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2075, *Email: rosaline.crawford@fcc.gov.*

RIN: 3060–AJ63

472. Empowering Consumers To Prevent and Detect Billing for Unauthorized Charges (''Cramming'')

Legal Authority: 47 U.S.C. 201; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 332

Abstract: On July 12, 2011, the Commission released a Notice of Proposed Rulemaking proposing rules that would help consumers detect and prevent the placement of unauthorized charges on telephone bills, an unlawful and fraudulent practice commonly referred to as ''cramming.'' On April 27, 2012, the Commission adopted rules to address ''cramming'' on wireline telephone bills and released a Further Notice of Proposed Rulemaking seeking comment on additional measures to protect wireline and wireless consumers from unauthorized charges.

Timetable:

Action	Date	FR Cite
NPRM	08/23/11	76 FR 52625
NPRM Comment Period End.	11/21/11	
Order (Extends Reply Comment Period).	11/30/11	76 FR 74017
NPRM Comment Period End.	12/05/11	
FNPRM	05/24/12	77 FR 30972
R&O	05/24/12	77 FR 30915
FNPRM Comment Period End.	07/09/12	
Order (Extends Reply Comment Period).	07/17/12	77 FR 41955
FNPRM Comment Period End.	07/20/12	
Announcement of Effective Dates.	10/26/12	77 FR 65230
Correction of Final Rule.	11/30/12	77 FR 71354
Correction of Final Rule.	11/30/12	77 FR 71353
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D Smith, Special Counsel, Consumer Policy Division, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov.*

RIN: 3060–AJ72

473. Implementation of the Middle Class Tax Relief and Job Creation Act of 2012/Establishment of a Public Safety Answering Point Do-Not-Call Registry

Legal Authority: Pub. L. 112–96, sec. 6507

Abstract: The Commission issued, on May 22, 2012, an NPRM to initiate a proceeding to create a Do-Not-Call registry for public safety answer points (PSAPs), as required by section 6507 of the Middle Class Tax Relief and Job Creation Act of 2012. The statute requires the Commission to establish a registry that allows PSAPs to register their telephone numbers on a do-not-call list; prohibit the use of automatic dialing equipment to contact registered numbers; and implement a range of monetary penalties for disclosure of registered numbers and for use of automatic dialing equipment to contact such numbers. On October 17, 2012, the Commission adopted final rules implementing the statutory requirements described above.

Timetable:

Action	Date	FR Cite
NPRM	06/21/12	77 FR 37362
R&O	10/29/12	77 FR 71131
Correction Amendments.	02/13/13	78 FR 10099
Announcement of Effective Date.	03/26/13	78 FR 18246
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Richard D Smith, Special Counsel, Consumer Policy Division, Federal Communications Commission, Consumer and Governmental Affairs Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 717 338–2797, *Fax:* 717 338–2574, *Email: richard.smith@fcc.gov.*

RIN: 3060–AJ84

474. Implementation of Sections 716 and 717 of the Communications Act of 1934, as Enacted by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CG Docket No. 10–213)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 255; 47 U.S.C. 617 to 619

Abstract: These proceedings implement sections 716, 717, and 718 of the Communications Act, which were added by the Twenty-First Century Communications and Video Accessibility Act of 2010 (CVAA), related to the accessibility of advanced communications services and equipment (section 716), recordkeeping and enforcement requirements for entities subject to sections 255, 716, and 718 (section 717), and accessibility of Internet browsers built into mobile phones (section 718).

Timetable:

Action	Date	FR Cite
NPRM	03/14/11	76 FR 13800
NPRM Comment Period Extended.	04/12/11	76 FR 20297
NPRM Comment Period End.	05/13/11	
FNPRM	12/30/11	76 FR 82240
R&O	12/30/11	76 FR 82354
FNPRM Comment Period End.	03/14/12	
Announcement of Effective Date.	04/25/12	77 FR 24632
2nd R&O	05/22/13	78 FR 30226
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AK00

475. Misuse of Internet Protocol (IP) Captioned Telephone Service; Telecommunications Relay Services and Speech-to-Speech Services; CG Docket No. 13–24

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 225

Abstract: The FCC initiated this proceeding in its effort to ensure that IP CTS is available for eligible users only.

In doing so, the FCC released an Interim Order and Notice of Proposed Rulemaking (NPRM) to address certain practices related to the provision and marketing of Internet Protocol Captioned Telephone Service (IP CTS). IP CTS is a form of relay service designed to allow people with hearing loss to speak directly to another party on a telephone call and to simultaneously listen to the other party and read captions of what that party is saying over an IP-enabled device. To ensure that IP CTS is provided efficiently to persons who need to use this service, this new Order establishes several requirements on a temporary basis from March 7, 2013, to September 3, 2013.

Timetable:

Action	Date	FR Cite
NPRM	02/05/13	78 FR 8090
Order (Interim Rule).	02/05/13	78 FR 8032
Order	02/05/13	78 FR 8030
Announcement of Effective Date.	03/07/13	78 FR 14701
NPRM Comment Period End.	03/12/13	
R&O	08/30/13	78 FR 53684
FNPRM	09/30/13	78FR 54201
FNPRM Comment Period End.	11/18/13	
Petition for Reconsideration Request for Comment.	12/16/13	78 FR 76097
Petiton for Reconsideration Comment Period End.	01/10/14	
Announcement of Effective Date.	08/28/14	79 FR 51446
Correction—Announcement of Effective Date.	08/28/14	79 FR 51450
Technical Amendments.	09/09/14	79 FR 53303
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AK01

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Engineering and Technology

Long-Term Actions

476. New Advanced Wireless Services (ET Docket No. 00–258)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r)

Abstract: This proceeding explores the possible uses of frequency bands below 3 GHz to support the introduction of new advanced wireless services, including third generations as well as future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks. The Third Notice of Proposed Rulemaking discusses the frequency bands that are still under consideration in this proceeding and invites additional comments on their disposition. Specifically, it addresses the Unlicensed Personal Communications Service (UPCS) band at 1910–1930 MHz, the Multipoint Distribution Service (MDS) spectrum at 2155–2160/62 MHz bands, the Emerging Technology spectrum, at 2160–2165 MHz, and the bands reallocated from MSS 91990–2000 MHz, 2020–2025 MHz, and 2165–2180 MHz. We seek comment on these bands with respect to using them for paired or unpaired Advance Wireless Service (AWS) operations or as relocation spectrum for existing services. The seventh Report and Order facilitates the introduction of Advanced Wireless Service (AWS) in the band 1710–1755 MHz—an integral part of a 90 MHz spectrum allocation recently reallocated to allow for such new and innovative wireless services. We largely adopt the proposals set forth in our recent AWS Fourth NPRM in this proceeding that are designed to clear the 1710–1755 MHz band of incumbent Federal Government operations that would otherwise impede the development of new nationwide AWS services. These actions are consistent with previous actions in this proceeding and with the United States Department of Commerce, National Telecommunications and Information Administration (NTIA) 2002 Viability Assessment, which addressed relocation and reaccommodation options for Federal Government operations in the band. The eighth Report and Order reallocated the 2155–2160 MHz band for fixed and mobile services and designates the 2155–2175 MHz band for Advanced Wireless Service (AWS) use. This proceeding continues the Commission's ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including Advanced Wireless Services. The Order requires Broadband Radio Service (BRS) licensees in the 2150–2160/62 MHz band to provide information on the construction status and operational parameters of each incumbent BRS system that would be the subject of relocation. The Notice of Proposed Rule Making requested comments on the specific relocation procedures applicable to Broadband Radio Service (BRS) operations in the 2150–2160/62 MHz band, which the Commission recently decided will be relocated to the newly restructured 2495–2690 MHz band. The Commission also requested comments on the specific relocation procedures applicable to Fixed Microwave Service (FS) operations in the 2160–2175 MHz band. The Office of Engineering and Technology (OET) and the Wireless Telecommunications Bureau (WTB) set forth the specific data that Broadband Radio Service (BRS) licensees in the 2150–2160/62 MHz band must file along with the deadline date and procedures for filing this data on the Commission's Universal Licensing System (ULS). The data will assist in determining future AWS licensees' relocation obligations. The ninth Report and Order established procedures for the relocation of Broadband Radio Service (BRS) operations from the 2150–2160/62 MHz band, as well as for the relocation of Fixed Microwave Service (FS) operations from the 2160–2175 MHz band, and modified existing relocation procedures for the 2110–2150 MHz and 2175–2180 MHz bands. It also established cost-sharing rules to identify the reimbursement obligations for Advanced Wireless Service (AWS) and Mobile Satellite Service (MSS) entrants benefiting from the relocation of incumbent FS operations in the 2110–2150 MHz and 2160–2200 MHz bands and AWS entrants benefiting from the relocation of BRS incumbents in the 2150–2160/62 MHz band. The Commission continues its ongoing efforts to promote spectrum utilization and efficiency with regard to the provision of new services, including AWS. The Order dismisses a petition for reconsideration filed by the Wireless Communications Association International, Inc. (WCA) as moot. Two petitions for reconsideration were filed in response to the ninth Report and Order. The Report and Orders and Declaratory Ruling concludes the Commission's longstanding efforts to

relocate the Broadcast Auxiliary Service (BAS) from the 1990–2110 MHz band to the 2025–2110 MHz band, freeing up 35 megahertz of spectrum in order to foster the development of new and innovative services. This decision addresses the outstanding matter of Sprint Nextel Corporation's (Sprint Nextel) inability to agree with Mobile Satellite Service (MSS) operators in the band on the sharing of the costs to relocate the BAS incumbents. To resolve this controversy, the Commission applied its time-honored relocation principles for emerging technologies previously adopted for the BAS band to the instant relocation process, where delays and unanticipated developments have left ambiguities and misconceptions among the relocating parties. In the process, the Commission balances the responsibilities for and benefits of relocating incumbent BAS operations among all the new entrants in the different services that will operate in the band. The Commission proposed to modify its cost-sharing requirements for the 2 GHz BAS band because the circumstances surrounding the BAS transition are very different than what was expected when the cost-sharing requirements were adopted. The Commission believed that the best course of action was to propose new requirements that would address the ambiguity of applying the literal language of the current requirements to the changed circumstances, as well as balance the responsibilities for and benefits of relocating incumbent BAS operations among all new entrants in the band based on the Commission's relocation policies set forth in the Emerging Technologies proceeding. The Commission proposed to eliminate, as of January 1, 2009, the requirement that Broadcast Auxiliary Service (BAS) licensees in the 30 largest markets and fixed BAS links in all markets be transitioned before the Mobile Satellite Service (MSS) operators can begin offering service. The Commission also sought comments on how to mitigate interference between new MSS entrants and incumbent BAS licensees who had not completed relocation before the MSS entrants begin offering service. In addition, the Commission sought comments on allowing MSS operators to begin providing service in those markets where BAS incumbents have been transitioned. In the Further Notice of Proposed Rule Making the Commission proposed to modify its cost-sharing requirements for the 2 GHz BAS band because the circumstances surrounding the BAS transition are very different than what was expected when the cost-sharing requirements were adopted. The Commission believes that the best course of action is to propose new requirements that will address the ambiguity of applying the literal language of the current requirements to the changed circumstances, as well as balance the responsibilities for and benefits of relocating incumbent BAS operations among all new entrants in the band based on the Commission's relocation policies set forth in the Emerging Technologies proceeding.

Timetable:

Action	Date	FR Cite
NPRM	01/23/01	66 FR 7438
NPRM Comment Period End.	03/09/01	
Final Report	04/11/01	66 FR 18740
FNPRM	09/13/01	66 FR 47618
MO&O	09/13/01	66 FR 47591
First R&O	10/25/01	66 FR 53973
Petition for Reconsideration.	11/02/01	66 FR 55666
Second R&O	01/24/03	68 FR 3455
Third NPRM	03/13/03	68 FR 12015
Seventh R&O	12/29/04	69 FR 7793
Petition for Reconsideration.	04/13/05	70 FR 19469
Eighth R&O	10/26/05	70 FR 61742
Order	10/26/05	70 FR 61742
NPRM	10/26/05	70 FR 61752
Public Notice	12/14/05	70 FR 74011
Ninth R&O and Order.	05/24/06	71 FR 29818
Petition for Reconsideration.	07/19/06	71 FR 41022
FNPRM	03/31/08	73 FR 16822
R&O and NPRM	06/23/09	74 FR 29607
FNPRM	06/23/09	74 FR 29607
5th R&O, 11th R&O, 6th R&O, and Declaratory Ruling.	11/02/10	75 FR 67227
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AH65

477. Exposure to Radiofrequency Electromagnetic Fields (ET Docket No. 10–97)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 302 and 303; 47 U.S.C. 309(j); 47 U.S.C. 336

Abstract: In the Report and Order the Federal Communications Commission (Commission) resolved several issues regarding compliance with its regulations for conducting environmental reviews under the National Environmental Policy Act (NEPA) as they relate to the guidelines for human exposure to RF electromagnetic fields. More specifically, the Commission clarifies evaluation procedures and references to determine compliance with its limits, including specific absorption rate (SAR) as a primary metric for compliance, consideration of the pinna (outer ear) as an extremity, and measurement of medical implant exposure. The Commission also elaborates on mitigation procedures to ensure compliance with its limits, including labeling and other requirements for occupational exposure classification, clarification of compliance responsibility at multiple transmitter sites, and labeling of fixed consumer transmitters.

Timetable:

Action	Date	FR Cite
NPRM	09/08/03	68 FR 52879
NPRM Comment Period End.	12/08/03	
R&O	06/04/13	78 FR 33634
Petition for Recon	08/27/13	78 FR 52893
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ira Keltz, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0616, *Fax:* 202 418–1944, *Email: ikeltz@fcc.gov.*

RIN: 3060–AI17

478. Unlicensed Operation in the TV Broadcast Bands (ET Docket No. 04–186)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 302; 47 U.S.C. 303(e) and 303(f); 47 U.S.C. 303(r); 47 U.S.C. 307

Abstract: The Commission adopted rules to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used by licensed services (this unused TV spectrum is often termed ''white spaces''). This action will make a significant amount of spectrum available for new and innovative products and services, including broadband data and other services for businesses and consumers. The actions taken are a conservative first step that includes many safeguards to prevent harmful interference to incumbent communications services. Moreover, the Commission will closely oversee the development and introduction of these devices to the market and will take

whatever actions may be necessary to avoid, and if necessary, correct any interference that may occur. The Second Memorandum Opinion and Order finalizes rules to make the unused spectrum in the TV bands available for unlicensed broadband wireless devices. This particular spectrum has excellent propagation characteristics that allow signals to reach farther and penetrate walls and other structures. Access to this spectrum could enable more powerful public Internet connections—super Wi-Fi hot spots—with extended range, fewer dead spots, and improved individual speeds as a result of reduced congestion on existing networks. This type of ''opportunistic use'' of spectrum has great potential for enabling access to other spectrum bands and improving spectrum efficiency. The Commission's actions here are expected to spur investment and innovation in applications and devices that will be used not only in the TV band, but eventually in other frequency bands as well. This Order addressed five petitions for reconsideration of the Commission's decisions in the Second Memorandum Opinion and Order (''Second MO&O'') in this proceeding and modified rules in certain respects. In particular, the Commission: (1) Increased the maximum height above average terrain (HAAT) for sites where fixed devices may operate; (2) modified the adjacent channel emission limits to specify fixed rather than relative levels; and (3) slightly increased the maximum permissible power spectral density (PSD) for each category of TV bands device. These changes will result in decreased operating costs for fixed TVBDs and allow them to provide greater coverage, thus increasing the availability of wireless broadband services in rural and underserved areas without increasing the risk of interference to incumbent services. The Commission also revised and amended several of its rules to better effectuate the Commission's earlier decisions in this docket and to remove ambiguities.

Timetable:

Action	Date	FR Cite
NPRM	06/18/04	69 FR 34103
First R&O	11/17/06	71 FR 66876
FNPRM	11/17/06	71 FR 66897
R&O and MO&O	02/17/09	74 FR 7314
Petitions for Reconsideration.	04/13/09	74 FR 16870
Second MO&O	12/06/10	75 FR 75814
Petitions for Reconsideration.	02/09/11	76 FR 7208
3rd MO&O and Order.	05/17/12	77 FR 28236
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AI52

479. Fixed and Mobile Services in the Mobile Satellite Service (ET Docket No. 10–142)

Legal Authority: 47 U.S.C. 154(i) and 301; 47 U.S.C. 303(c) and 303(f); 47 U.S.C. 303(r) and 303(y); 47 U.S.C. 310

Abstract: The Notice of Proposed Rulemaking proposed to take a number of actions to further the provision of terrestrial broadband services in the MSS bands. In the 2 GHz MSS band, the Commission proposed to add co-primary Fixed and Mobile allocations to the existing Mobile-Satellite allocation. This would lay the groundwork for providing additional flexibility in use of the 2 GHz spectrum in the future. The Commission also proposed to apply the terrestrial secondary market spectrum leasing rules and procedures to transactions involving terrestrial use of the MSS spectrum in the 2 GHz, Big LEO, and L-bands in order to create greater certainty and regulatory parity with bands licensed for terrestrial broadband service. The Commission also asked, in a notice of inquiry, about approaches for creating opportunities for full use of the 2 GHz band for standalone terrestrial uses. The Commission requested comment on ways to promote innovation and investment throughout the MSS bands while also ensuring market-wide mobile satellite capability to serve important needs like disaster recovery and rural access.

In the Report and Order, the Commission amended its rules to make additional spectrum available for new investment in mobile broadband networks while also ensuring that the United States maintains robust mobile satellite service capabilities. First, the Commission adds co-primary Fixed and Mobile allocations to the Mobile Satellite Service (MSS) 2 GHz band, consistent with the International Table of Allocations, allowing more flexible use of the band, including for terrestrial broadband services, in the future. Second, to create greater predictability and regulatory parity with the bands licensed for terrestrial mobile broadband service, the Commission extends its existing secondary market spectrum manager spectrum leasing policies, procedures, and rules that currently apply to wireless terrestrial services to terrestrial services provided using the Ancillary Terrestrial Component (ATC) of an MSS system. Petitions for Reconsideration have been filed in the Commission's rulemaking proceeding concerning Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz, and published pursuant to 47 CFR 1.429(e). See 1.4(b)(1) of the Commission's rules.

Timetable:

Action	Date	FR Cite
NPRM	08/16/10	75 FR 49871
NPRM Comment Period End.	09/15/10	
Reply Comment Period End.	09/30/10	
R&O	05/31/11	76 FR 31252
Petitions for Reconsideration.	08/10/11	76 FR 49364
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nicholas Oros, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0636, *Email: nicholas.oros@fcc.gov.*

RIN: 3060–AJ46

480. Radio Experimentation and Market Trials Under Part 5 of the Commission's Rules and Streamlining Other Related Rules (ET Docket No. 10–236)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 301 and 303

Abstract: The Commission initiated this proceeding to promote innovation and efficiency in spectrum use in the Experimental Radio Service (ERS). For many years, the ERS has provided fertile ground for testing innovative ideas that have led to new services and new devices for all sectors of the economy. The Commission proposed to leverage the power of experimental radio licensing to accelerate the rate at which these ideas transform from prototypes to consumer devices and services. Its goal is to inspire researchers to dream, discover, and deliver the innovations that push the boundaries of the broadband ecosystem. The resulting advancements in devices and services available to the American public and

greater spectrum efficiency over the long term will promote economic growth, global competitiveness, and a better way of life for all Americans.

In the Report and Order (R&O), the Commission revised and streamlined its rules to modernize the Experimental Radio Service (ERS). The rules adopted in the R&O updated the ERS to a more flexible framework to keep pace with the speed of modern technological change while continuing to provide an environment where creativity can thrive. To accomplish this transition, the Commission created three new types of ERS licenses—the program license, the medical testing license, and the compliance testing license—to benefit the development of new technologies, expedite their introduction to the marketplace, and unleash the full power of innovators to keep the United States at the forefront of the communications industry. The Commission's actions also modified the market trial rules to eliminate confusion and more clearly articulate its policies with respect to marketing products prior to equipment certification. The Commission believes that these actions will remove regulatory barriers to experimentation, thereby permitting institutions to move from concept to experimentation to finished product more rapidly and to more quickly implement creative problem-solving methodologies.

The Memorandum Opinion and Order responds to three petitions for reconsideration seeking to modify certain rules adopted in the Report and Order in this proceeding. In response, the Commission modifies its rules, consistent with past practice, to permit conventional Experimental Radio Service (ERS) licensees and compliance testing licensees to use bands exclusively allocated to the passive services in some circumstances; clarifies that some cost recovery is permitted for the testing and operation of experimental medical devices that take place under its market trial rules; and adds a definition of emergency notification providers to its rules to clarify that all participants in the Emergency Alert System (EAS) are such providers. However, the Commission declines to expand the eligibility for medical testing licenses.

In the Further Notice of Proposed Rulemaking the Commission proposes to modify the rules for program experimental licenses to permit experimentation for radio frequency (RF)-based medical devices, if the device being tested is designed to comply with all applicable service rules in part 18, Industrial, Scientific, and Medical Equipment; part 95, Personal Radio Services subpart H Wireless Medical Telemetry Service; or part 95, subpart I Medical Device Radiocommunication Service. This proposal is designed to establish parity between all qualified medical device manufacturers for conducting basic research and clinical trials with RF-based medical devices as to permissible frequencies of operation.

This Memorandum Opinion and Order responds to three petitions for reconsideration seeking to modify certain rules adopted in the Report and Order in this proceeding. In response, the Commission modifies its rules, consistent with past practice, to permit conventional Experimental Radio Service (ERS) licensees and compliance testing licensees to use bands exclusively allocated to the passive services in some circumstances; clarifies that some cost recovery is permitted for the testing and operation of experimental medical devices that take place under its market trial rules; and adds a definition of emergency notification providers: To its rules to clarify that all participants in the Emergency Alert System (EAS) are such providers. However, the Commission declines to expand the eligibility for medical testing licenses.

Timetable:

Action	Date	FR Cite
NPRM	02/08/11	76 FR 6928
NPRM Comment Period End.	03/10/11	
R&O	04/29/13	78 FR 25138
FNPRM	08/31/15	80 FR 52437
MO&O	08/31/15	80 FR 52408
2nd R&O	07/25/16	81 FR 48362
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AJ62

481. Operation of Radar Systems in the 76–77 GHz Band (ET Docket No. 11–90)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 301 to 302; 47 U.S.C. 303(f)

Abstract: The Commission proposed to amend its rules to enable enhanced vehicular radar technologies in the 76–77 GHz band to improve collision avoidance and driver safety. Vehicular radars can determine the exact distance and relative speed of objects in front of, beside, or behind a car to improve the driver's ability to perceive objects under bad visibility conditions or objects that are in blind spots. These modifications to the rules will provide more efficient use of spectrum, and enable the automotive and fixed radar application industries to develop enhanced safety measures for drivers and the general public. The Commission takes this action in response to petitions for rulemaking filed by Toyota Motor Corporation (''TMC'') and Era Systems Corporation (''Era''). The Report and Order amends the Commission's rules to provide a more efficient use of the 76–77 GHz band, and to enable the automotive and aviation industries to develop enhanced safety measures for drivers and the general public. Specifically, the Commission eliminated the in-motion and not-in-motion distinction for vehicular radars, and instead adopted new uniform emission limits for forward, side, and rear-looking vehicular radars. This will facilitate enhanced vehicular radar technologies to improve collision avoidance and driver safety. The Commission also amended its rules to allow the operation of fixed radars at airport locations in the 76–77 GHz band for purposes of detecting foreign object debris on runways and monitoring aircraft and service vehicles on taxiways and other airport vehicle service areas that have no public vehicle access. The Commission took this action in response to petitions for rulemaking filed by Toyota Motor Corporation (''TMC'') and Era Systems Corporation (''Era''). Petitions for Reconsideration were filed by Navtech Radar, Ltd. and Honeywell International Inc.

Navtech Radar, Ltd. and Honeywell International, Inc., filed petitions for reconsideration in response to the *Vehicular Radar R&O* that modified the Commission's part 15 rules to permit vehicular radar technologies and airport-based fixed radar applications in the 76–77 GHz band.

The Commission denied Honeywell's petition. Section 1.429(b) of the Commission's rules provides three ways in which a petition for reconsideration can be granted, and none of these have been met. Honeywell has not shown that its petition relies on facts regarding fixed radar use which had not previously been presented to the Commission, nor does it show that its petition relies on facts that relate to events that changed since Honeywell had the last opportunity to present its facts regarding fixed radar use.

The Commission stated in the Vehicular Radar R&O, ''that no parties have come forward to support fixed

radar applications beyond airport locations in this band,'' and it decided not to adopt provisions for unlicensed fixed radar use other than those for FOD detection applications at airport locations. Because Navtech first participated in the proceeding when it filed its petition well after the decision was published, its petition fails to meet the timeliness standard of section 1.429(d).

In connection with the Commission's decision to deny the petitions for reconsideration discussed above, the Commission terminates ET Docket Nos. 10–28 and 11–90 (pertaining to vehicular radar).

Timetable:

Action	Date	FR Cite
NPRM	06/16/11	76 FR 35176
R&O	08/13/12	77 FR 48097
Petition for Reconsideration.	11/11/12	77 FR 68722
Reconsideration Order.	03/06/15	80 FR 12120
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AJ68

482. WRC–07 Implementation (ET Docket No. 12–338)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303

Abstract: In the Notice of Proposed Rulemaking (NPRM), the Commission proposed to amend parts 1, 2, 74, 78, 87, 90, and 97 of its rules to implement allocation decisions from the World Radiocommunication Conference (Geneva, 2007) (WRC–07) concerning portions of the radio frequency (RF) spectrum between 108 MHz and 20.2 GHz and to make certain updates to its rules in this frequency range. The NPRM follows the Commission's July 2010 WRC–07 Table Clean-up Order, 75 FR 62924, October 13, 2010, which made certain nonsubstantive, editorial revisions to the Table of Frequency Allocations (Allocation Table) and to other related rules. The Commission also addressed the recommendations for implementation of the WRC–07 Final Acts that the National Telecommunications and Information Administration (NTIA) submitted to the Commission in August 2009. As part of its comprehensive review of the Allocation Table, the Commission also proposed to make allocation changes that are not related to the WRC–07 Final Acts and update certain service rules, and requested comment on other allocation issues that concern portions of the RF spectrum between 137.5 kHz and 54.25 GHz.

In the Report and Order the Commission implemented allocation changes from the World Radiocommunication Conference (Geneva, 2007) (WRC–07) and updated related service rules. The Commission took this action in order to conform its rules, to the extent practical, to the decisions that the international community made at WRC–07. This action will promote the advancement of new and expanded services and provide significant benefits to the American people. In addition, the Commission revised the International Table of Frequency Allocations within its rules to generally reflect the allocation changes made at the World Radiocommunication Conference (Geneva, 2012) (WRC–12).

Timetable:

Action	Date	FR Cite
NPRM	12/27/12	77 FR 76250
NPRM Comment Period End.	02/25/13	
Report and Order	04/23/15	80 FR 38811
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AJ93

483. Federal Earth Stations—Non Federal Fixed Satellite Service Space Stations; Spectrum for Non-Federal Space Launch Operations; ET Docket No. 13–115

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 336

Abstract: The Notice of Proposed Rulemaking proposes to make spectrum allocation proposals for three different space-related purposes. The Commission makes two alternative proposals to modify the Allocation Table to provide interference protection for Fixed-Satellite Service (FSS) and Mobile-Satellite Service (MSS) earth stations operated by Federal agencies under authorizations granted by the National Telecommunications and Information Administration (NTIA) in certain frequency bands. The Commission also proposes to amend a footnote to the Allocation Table to permit a Federal MSS system to operate in the 399.9 to 400.05 MHz band; it also makes alternative proposals to modify the Allocation Table to provide access to spectrum on an interference protected basis to Commission licensees for use during the launch of launch vehicles (*i.e.* rockets). The Commission also seeks comment broadly on the future spectrum needs of the commercial space sector. The Commission expects that, if adopted, these proposals would advance the commercial space industry and the important role it will play in our Nation's economy and technological innovation now and in the future.

Timetable:

Action	Date	FR Cite
NPRM	07/01/13	78 FR 39200
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AK09

484. Authorization of Radiofrequency Equipment; ET Docket No. 13–44

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

Abstract: The Commission is responsible for an equipment authorization program for radiofrequency (RF) devices under part 2 of its rules. This program is one of the primary means that the Commission uses to ensure that the multitude of RF devices used in the United States operate effectively without causing harmful interference and otherwise comply with the Commission rules. All RF devices subject to equipment authorization must comply with the Commission's technical requirement before they can be imported or marketed. The Commission or a Telecommunication Certification Body (TCB) must approve some of these devices before they can be imported or marketed, while others do not require such approval. The Commission last comprehensively reviewed its equipment authorization program more than 10 years ago. The rapid innovation

in equipment design since that time has led to ever-accelerating growth in the number of parties applying for equipment approval. The Commission therefore believes that the time is now right for us to comprehensively review our equipment authorization processes to ensure that they continue to enable this growth and innovation in the wireless equipment market. In May of 2012, the Commission began this reform process by issuing an Order to increase the supply of available grantee codes. With this Notice of Proposed Rulemaking (NPRM), the Commission continues its work to review and reform the equipment authorization processes and rules. This Notice of Proposed Rulemaking proposes certain changes to the Commission's part 2 equipment authorization processes to ensure that they continue to operate efficiently and effectively. In particular, it addresses the role of TCBs in certifying RF equipment and post-market surveillance, as well as the Commission's role in assessing TCB performance. The NPRM also addressed the role of test laboratories in the RF equipment approval process, including accreditation of test labs and the Commission's recognition of laboratory accreditation bodies, and measurement procedures used to determine RF equipment compliance. Finally, it proposes certain modifications to the rules regarding TCBs that approve terminal equipment under part 68 of the rules that are consistent with our proposed modifications to the rules for TCBs that approve RF equipment. Specifically, the Commission proposes to recognize the National Institute for Standards and Technology (NIST) as the organization that designates TCBs in the United States and to modify the rules to reference the current International Organization for Standardization and International Electrotechnical Commission (ISO/IEC) guides used to accredit TCBs.

This Report and Order updates the Commission's radiofrequency (RF) equipment authorization program to build on the success realized by its use of Commission-recognized Telecommunications Certification Bodies (TCBs). The rules the Commission is adopting will facilitate the continued rapid introduction of new and innovative products to the market while ensuring that these products do not cause harmful interference to each other or to other communications devices and services.

Timetable:

Action	Date	FR Cite
NPRM	05/03/13	78 FR 25916
R&O	06/12/15	80 FR 33425
Memorandum, Opinion & Order.	06/29/16	81 FR 42264
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Hugh Van Tuyl, Electronics Engineer, Federal Communications Commission, Office of Engineering and Technology, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7506, *Fax:* 202 418–1944, *Email: hugh.vantuyl@fcc.gov*.

RIN: 3060–AK10

485. Operation of Radar Systems in the 76–77 GHz Band (ET Docket No. 15–26)

Legal Authority: 47 U.S.C. 1; 47 U.S.C. 4(i); 47 U.S.C. 154(i); 47 U.S.C. 302; 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 332; 47 U.S.C. 337

Abstract: The Notice of Proposed Rulemaking proposes to authorize radar applications in the 76–81 GHz band. The Commission seeks to develop a flexible and streamlined regulatory framework that will encourage efficient, innovative uses of the spectrum and to allow various services to operate on an interference-protected basis. In doing so, it further seeks to adopt service rules that will allow for the deployment of the various radar applications in this band, both within and outside the U.S. The Commission takes this action in response to a petition for rulemaking filed by Robert Bosch, LLC (Bosch) and two petitions for reconsideration of the 2012 Vehicular Radar R&O.

Timetable:

Action	Date	FR Cite
NPRM	03/06/15	80 FR 12120
NPRM Comment Period End.	04/06/15	
NPRM Reply Comment Period End.	04/20/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Aamer Zain, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2437, *Email: aamer.zain@fcc.gov*.

RIN: 3060–AK29

486. Spectrum Access for Wireless Microphone Operations (GN Docket Nos. 14–166 and 12–268)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 301; 47 U.S.C. 303(f); 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 307(e); 47 U.S.C. 332

Abstract: The Notice of Proposed Rule Making initiated a proceeding to address how to accommodate the long-term needs of wireless microphone users. Wireless microphones play an important role in enabling broadcasters and other video programming networks to serve consumers, including as they cover breaking news and broadcast live sports events. They enhance event productions in a variety of settings including theaters and music venues, film studios, conventions, corporate events, houses of worship, and internet webcasts. They also help create high quality content that consumers demand and value. Recent actions by the Commission, and in particular the repurposing of broadcast television band spectrum for wireless services set forth in the Incentive Auction R&O, will significantly alter the regulatory environment in which wireless microphones operate, which necessitates our addressing how to accommodate wireless microphone users in the future.

In the Report and Order, the Commission takes several steps to accommodate the long-term needs of wireless microphone users. Wireless microphones play an important role in enabling broadcasters and other video programming networks to serve consumers, including as they cover breaking news and live sports events. They enhance event productions in a variety of settings including theaters and music venues, film studios, conventions, corporate events, houses of worship, and internet webcasts. They also help create high quality content that consumers demand and value. In particular, the Commission provide additional opportunities for wireless microphone operations in the TV bands following the upcoming incentive auction, and the Commission provide new opportunities for wireless microphone operations to access spectrum in other frequency bands where they can share use of the bands without harming existing users.

Timetable:

Action	Date	FR Cite
NPRM	11/21/14	79 FR 69387
NPRM Comment Period End.	01/05/15	

Action	Date	FR Cite
NPRM Reply Comment Period End.	01/26/15	
R&O	11/17/15	80 FR 71702
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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RIN: 3060–AK30

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Final Rule Stage

487. Space Station Licensing Reform (IB Docket No. 02–34)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 303(c); 47 U.S.C. 303(g)

Abstract: The Commission adopted a Notice of Proposed Rulemaking (NPRM) to streamline its procedures for reviewing satellite license applications. Before 2003, the Commission used processing rounds to review those applications. In a processing round, when an application is filed, the International Bureau (Bureau) issued a Public Notice establishing a cutoff date for other mutually exclusive satellite applications, and then considered all those applications together. In cases where sufficient spectrum to accommodate all the applications was not available, the Bureau directed the applicants to negotiate a mutually agreeable solution. Those negotiations took a long time, and delayed provision of satellite services to the public. The NPRM invited comment on two alternatives for expediting the satellite application process. One alternative was to replace the processing round procedure with a ''first-come, first-served'' procedure that would allow the Bureau to issue a satellite license to the first party filing a complete, acceptable application. The other alternative was to streamline the processing round procedure by adopting one or more of the following proposals: (1) Place a time limit on negotiations; (2) establish criteria to select among competing applicants; (3) divide the available spectrum evenly among the applicants. In the First Report and Order in this proceeding, the Commission determined that different procedures were better suited for different kinds of satellite applications. For most geostationary orbit (GSO) satellite applications, the Commission adopted a first-come, first-served approach. For most non-geostationary orbit (NGSO) satellite applications, the Commission adopted a procedure in which the available spectrum is divided evenly among the qualified applicants. The Commission also adopted measures to discourage applicants from filing speculative applications, including a bond requirement, payable if a licensee misses a milestone. The bond amounts originally were $5 million for each GSO satellite, and $7.5 million for each NGSO satellite system. These were interim amounts. Concurrently with the First Report and Order, the Commission adopted a Further Notice of Proposed Rulemaking (FNPRM) to determine whether to revise the bond amounts on a long-term basis. In the Second Report and Order, the Commission adopted a streamlined procedure for certain kinds of satellite license modification requests. In the Third Report and Order, the Commission adopted a standardized application form for satellite licenses, and adopted a mandatory electronic filing requirement for certain satellite applications. In the Fourth Report and Order, the Commission revised the bond amounts based on the record developed in response to FNPRM. The bond amounts were changed to $3 million for each GSO satellite, and $5 million for each NGSO satellite system.

Timetable:

Action	Date	FR Cite
NPRM	03/19/02	67 FR 12498
NPRM Comment Period End.	07/02/02	
Second R&O	11/03/03	68 FR 62247
Second FNPRM	09/12/03	68 FR 53702
Third R&O	11/12/03	68 FR 63994
FNPRM	08/27/03	68 FR 51546
First R&O	08/27/03	68 FR 51499
FNPRM Comment Period End.	10/27/03	
Fourth R&O	08/06/04	69 FR 47790
Fifth R&O, First Order on Reconsideration.	08/20/04	69 FR 51586
2nd Order on Reconsideration.	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0803, *Email: clay.decell@fcc.gov*.

RIN: 3060–AH98

FEDERAL COMMUNICATIONS COMMISSION (FCC)

International Bureau

Long-Term Actions

488. International Settlements Policy Reform (IB Docket No. 11–80)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 201 to 205; 47 U.S.C. 208; 47 U.S.C. 211; 47 U.S.C. 214; 47 U.S.C. 303(r); 47 U.S.C. 309; 47 U.S.C. 403

Abstract: The FCC is reviewing the International Settlements Policy (ISP). It governs how U.S. carriers negotiate with foreign carriers for the exchange of international traffic, and is the structure by which the Commission has sought to respond to concerns that foreign carriers with market power are able to take advantage of the presence of multiple U.S. carriers serving a particular market. In 2011, the FCC released an NPRM which proposed to further deregulate the international telephony market and enable U.S. consumers to enjoy competitive prices when they make calls to international destinations. First, it proposed to remove the ISP from all international routes, except Cuba. Second, the FCC sought comment on a proposal to enable the Commission to better protect U.S. consumers from the effects of anticompetitive conduct by foreign carriers in instances necessitating Commission intervention. In 2012, the FCC adopted a Report and Order which eliminated the ISP on all routes, but maintained the nondiscrimination requirement of the ISP on the U.S.-Cuba route and codified it at 47 CFR 63.22(f). In the Report and Order the FCC also adopted measures to protect U.S. consumers from anticompetitive conduct by foreign carriers. In 2016, the FCC released an FNPRM proposing to remove the nondiscrimination requirement on the U.S.-Cuba route.

Timetable:

Action	Date	FR Cite
NPRM	05/13/11	76 FR 42625
NPRM Comment Period End.	09/02/11	
Report and Order	02/15/13	78 FR 11109
FNPRM	03/04/16	81 FR 11500
FNPRM Comment Period End.	04/18/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

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12th Street SW., Washington, DC 20554, *Phone:* 202 418–7443, *Fax:* 202 418–2824, *Email: david.krech@fcc.gov.*

RIN: 3060–AJ77

489. Comprehensive Review of Licensing and Operating Rules for Satellite Services (IB Docket No. 12–267)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 157(a); 47 U.S.C. 161; 47 U.S.C. 303(c); 47 U.S.C. 303(g); 47 U.S.C. 303(r)

Abstract: The Commission adopted a Notice of Proposed Rulemaking (NPRM) to initiate a comprehensive review of Part 25 of the Commission's rules, which governs the licensing and operation of space stations and earth stations. The Commission proposed amendments to modernize the rules to better reflect evolving technology, to eliminate unnecessary technical and information filing requirements, and to reorganize and simplify existing requirements. In the ensuing Report and Order, the Commission adopted most of its proposed changes and revised over 150 rule provisions. Several proposals raised by commenters in the proceeding, however, were not within the scope of the original NPRM. To address these and other issues, the Commission released a Further Notice of Proposed Rulemaking (FNPRM). The FNPRM proposed additional rule changes to facilitate international coordination of proposed satellite networks, to revise system implementation milestones and the associated bond, and to expand the applicability of routine licensing standards. Following the FNPRM, the Commission issued a Second Report and Order adopting most of its proposals in the FNPNRM. Among other changes, the Commission established a two-step licensing procedure for most geostationary satellite applicants to facilitate international coordination, simplified the satellite development milestones, adopted an escalating bond requirement to discourage speculation, and refined the two-degree orbital spacing policy for most geostationary satellites to protect existing services.

Timetable:

Action	Date	FR Cite
NPRM	11/08/12	77 FR 67172
NPRM Comment Period End.	02/13/13	
Report and Order	02/12/14	79 FR 8308
FNPRM	10/31/14	79 FR 65106
FNPRM Comment Period End.	03/02/15	
2nd R&O	08/18/16	81 FR 55316
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Clay DeCell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0803, *Email: clay.decell@fcc.gov.*

RIN: 3060–AJ98

490. Expanding Broadband and Innovation Through Air-Ground Mobile Broadband Secondary Service for Passengers Aboard Aircraft in the 14.0–14.5 GHz Band; GN Docket No. 13–114

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 301 to 303; 47 U.S.C. 324

Abstract: In this docket, the Commission establishes a secondary allocation for the Aeronautical Mobile Service in the 14.0–14.5 GHz band and establishes service, technical, and licensing rules for air-ground mobile broadband. The Notice of Proposed Rulemaking requests public comment on a secondary allocation and service, technical, and licensing rules for air-ground mobile broadband.

Timetable:

Action	Date	FR Cite
NPRM (Release Date).	05/09/13	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sean O'More, Attorney Advisor, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2453, *Email: sean.omore@fcc.gov.*

RIN: 3060–AK02

491. Terrestrial Use of the 2473–2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules of Mobile Satellite Service System; IB Docket No. 13–213

Legal Authority: Not Yet Determined

Abstract: In this docket, the Commission proposes modified rules for the operation of the Ancillary Terrestrial Component of the single Mobile-Satellite Service system operating in the Big GEO S band. The changes would allow Globalstar, Inc. to deploy a low-power broadband network using its licensed spectrum at 2483.5–2495 MHz under certain limited technical criteria, and with the same equipment utilize spectrum in the adjacent 2473–2483.5 MHz band, pursuant to technical rules for unlicensed operations in that band.

Timetable:

Action	Date	FR Cite
NPRM	02/19/14	79 FR 9445
NPRM Comment Period End.	05/05/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stephen Duall, Chief, Satellite Policy Branch, Federal Communications Commission, International Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202–418–1103, *Fax:* 202 418–0748, Email: *stephen.duall@fcc.gov.*

RIN: 3060–AK16

492. Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees Under Section 310(b)(4) of the Communications Act of 1934, as Amended (Docket No. 15–236)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 211; 47 U.S.C. 303(r); 47 U.S.C. 309 to 310; 47 U.S.C. 403

Abstract: The FCC proposes to extend its foreign ownership rules and procedures that apply to common carrier licensees to broadcast licensees, with certain modifications to tailor them to the broadcast context. The FCC also seeks comment on whether and how to revise the methodology a licensee should use to assess its compliance with the 25 percent foreign ownership benchmark in section 310(b)(4) of the Communications Act of 1934, as amended, in order to reduce regulatory burdens on applicants and licensees. Finally, the FCC makes several proposals to clarify and update existing foreign ownership policies and procedures for broadcast, common carrier and aeronautical licensees.

Timetable:

Action	Date	FR Cite
NPRM	11/06/15	80 FR 68815
NPRM Comment Period End.	01/20/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kimberly Cook, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7532, *Email: kimberly.cook@fcc.gov.*

RIN: 3060–AK47

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Media Bureau

Final Rule Stage

493. Broadcast Ownership Rules

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 309 and 310

Abstract: Section 202(h) of the Telecommunications Act of 1996 requires the Commission to review its ownership rules every four years and determine whether any such rules are necessary in the public interest as the result of competition. Accordingly, every four years, the Commission undertakes a comprehensive review of its broadcast multiple and cross-ownership limits examining: Cross-ownership of TV and radio stations; local TV ownership limits; national TV cap; and dual network rule. The last review undertaken was the 2014 review. The Commission incorporated the record of the 2010 review, and sought additional data on market conditions and competitive indicators. The Commission also sought comment on whether to eliminate restrictions on newspaper/radio combined ownership and whether to eliminate the radio/television cross-ownership rule in favor of reliance on the local radio rule and the local television rule. Ultimately, the Commission retained the existing rules with modifications to account for the digital television transition.

Timetable:

Action	Date	FR Cite
NPRM	10/05/01	66 FR 50991
R&O	08/05/03	68 FR 46286
Public Notice	02/19/04	69 FR 9216
FNPRM	08/09/06	71 FR 4511
Second FNPRM	08/08/07	72 FR 44539
R&O and Order on Reconsideration.	02/21/08	73 FR 9481
Notice of Inquiry	06/11/10	75 FR 33227
NPRM	01/19/12	77 FR 2868
NPRM Comment Period End.	03/19/12	
FNPRM	05/20/14	79 FR 29010
2nd R&O (08/26/2016).	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Holland, Chief, Industry Analysis Div., Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202–418–2757, *Email: brendan.holland@fcc.gov.*

RIN: 3060–AH97

494. Promoting Diversification of Ownership in the Broadcast Services (MB Docket No. 07–294)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(i) and (j); 47 U.S.C. 257; 47 U.S.C. 303(r); 47 U.S.C. 307 to 310; 47 U.S.C. 336; 47 U.S.C. 534 and 535

Abstract: Diversity and competition are longstanding and important Commission goals. The measures proposed, as well as those adopted in this proceeding, are intended to promote diversity of ownership of media outlets. In the Report and Order and Third FNPRM, measures are enacted to increase participation in the broadcasting industry by new entrants and small businesses, including minority- and women-owned businesses. In the Report and Order and Fourth FNPRM, the Commission adopts improvements to its data collection in order to obtain an accurate and comprehensive assessment of minority and female broadcast ownership in the United States. The Memorandum Opinion & Order addressed petitions for reconsideration of the rules, and also sought comment on a proposal to expand the reporting requirements to non-attributable interests. In 2016, the Commission made improvements to the collection of data reported on Forms 323 and 323–E.

Pursuant to a remand from the Third Circuit, the measures adopted in the 2009 Diversity Order were put forth for comment in the NPRM for the 2010 review of the Commission's Broadcast Ownership rules. The Commission sought additional comment in 2014. The Commission addressed the remand in the 2016 Second Report and Order. In the 2014 quadrennial review, the Commission reinstated the revenue-based eligible entity standard.

Timetable:

Action	Date	FR Cite
R&O	05/16/08	73 FR 28361
Third FNPRM	05/16/08	73 FR 28400
R&O	05/27/09	74 FR 25163
Fourth FNPRM	05/27/09	74 FR 25305
MO&O	10/30/09	74 FR 56131
NPRM	01/19/12	77 FR 2868
5th NPRM	01/15/13	78 FR 2934
6th FNPRM	01/15/13	78 FR 2925
FNPRM	05/20/14	79 FR 29010
7th FNPRM	02/26/15	80 FR 10442
Comment Period End.	03/30/15	
Reply Comment Period End.	04/30/15	
R&O	04/04/16	81 FR 19432
2nd R&O (08/25/2016).	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brendan Holland, Chief, Industry Analysis Div., Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202–418–2757, *Email: brendan.holland@fcc.gov.*

RIN: 3060–AJ27

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Media Bureau

Long-Term Actions

495. Establishment of Rules for Digital Low-Power Television, Television Translator, and Television Booster Stations (MB Docket No. 03–185)

Legal Authority: 47 U.S.C. 309; 47 U.S.C. 336

Abstract: This proceeding initiated the digital television conversion for low-power television (LPTV) and television translator stations. The rules and policies adopted as a result of this proceeding provide the framework for these stations' conversion from analog to digital broadcasting.

The Report and Order adopts definitions and permissible use provisions for digital TV translator and LPTV stations. The Second Report and Order takes steps to resolve the remaining issues in order to complete the low-power television digital transition. The third Notice of Proposed Rulemaking seeks comment on a number of issues related to the potential impact of the incentive auction and the repacking process.

Timetable:

Action	Date	FR Cite
NPRM	09/26/03	68 FR 55566
NPRM Comment Period End.	11/25/03	
R&O	11/29/04	69 FR 69325
FNPRM and MO&O.	10/18/10	75 FR 63766
2nd R&O	07/07/11	76 FR 44821
3rd NPRM	11/28/14	79 FR 70824
NPRM Comment Period End.	12/29/14	
NPRM Comment Period End.	12/29/14	
NPRM Reply Comment Period End.	01/12/15	
3rd R&O	02/01/16	81 FR 5041
4th NPRM	02/01/16	81 FR 5086
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaun Maher, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2324, *Fax:* 202 418–2827, *Email: shaun.maher@fcc.gov.*

RIN: 3060–AI38

496. Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010 (MB Docket No. 11–154)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 303; 47 U.S.C. 330(b); 47 U.S.C. 613; 47 U.S.C. 617

Abstract: Pursuant to the Commission's responsibilities under the Twenty-First Century Communications and Video Accessibility Act of 2010, this proceeding was initiated to adopt rules to govern the closed captioning requirements for the owners, providers, and distributors of video programming delivered using Internet protocol.

Timetable:

Action	Date	FR Cite
NPRM	09/28/11	76 FR 59963
R&O	03/20/12	77 FR 19480
Order on Recon, FNPRM.	07/02/13	78 FR 39691
2nd Order on Recon.	08/05/14	79 FR 45354
2nd FNPRM	08/05/14	79 FR 45397
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Maria Mullarkey, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1067, *Email: maria.mullarkey@fcc.gov.*

RIN: 3060–AJ67

497. Accessibility of User Interfaces and Video Programming Guides and Menus (MB Docket No. 12–108)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 303(aa); 47 U.S.C. 303(bb)

Abstract: This proceeding was initiated to implement sections 204 and 205 of the Twenty-First Century Communications and Video Accessibility Act. These sections generally require that user interfaces on digital apparatus and navigation devices used to view video programming be accessible to and usable by individuals who are blind or visually impaired.

Timetable:

Action	Date	FR Cite
NPRM	06/18/13	78 FR 36478
NPRM Comment Period End.	07/15/13	
R&O	12/20/13	78 FR 77210
FNPRM	12/20/13	78 FR 77074
2nd FNPRM	02/04/16	81 FR 5971
2nd R&O	02/04/16	81 FR 5921
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Maria Mullarkey, Attorney, Policy Division, Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1067, *Email: maria.mullarkey@fcc.gov.*

RIN: 3060–AK11

498. Network Non-Duplication and Syndicated Exclusivity Rule (MB Docket No. 14–29)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 301; 47 U.S.C. 303(r); 47 U.S.C. 307; 47 U.S.C. 339(b); 47 U.S.C. 573(b)

Abstract: In this proceeding, the Commission continues to examine whether to eliminate or modify the network no-duplication and syndicated exclusivity rules in light of changes in the video marketplace in the more than 40 years since these rules were adopted.

Timetable:

Action	Date	FR Cite
NPRM	04/10/14	79 FR 19849
NPRM Comment Period End.	05/12/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kathy Berthot, Attorney, Policy Division Media Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2120, *Email: kathy.berthot@fcc.gov.*

RIN: 3060–AK18

499. Channel Sharing by Full Power and Class A Stations Outside of the Incentive Auction Context; (MB Docket No. 15–137)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307 to 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 338; 47 U.S.C. 403; 47 U.S.C. 614 to 615

Abstract: In this proceeding, the Commission considers rules to enable full power and Class A television stations to share a channel with another licensee outside of the incentive auction context.

Timetable:

Action	Date	FR Cite
NPRM	07/14/15	80 FR 40957
NPRM Comment Period End.	08/13/15	
NPRM Reply Comment Period End.	08/28/15	
1st Order on Recon.	11/02/15	80 FR 67337
2nd Order on Recon.	11/12/15	80 FR 67344
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kim Matthews, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2154, *Fax:* 202 418–2053, *Email: kim.matthews@fcc.gov.*

RIN: 3060–AK42

500. Preserving Vacant Channels in the UHF Television Band for Unlicensed Use; (MB Docket No. 15–68)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 157; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 307; 47 U.S.C. 308; 47 U.S.C. 309; 47 U.S.C. 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 403

Abstract: In this proceeding, the Commission considers proposals to preserve vacant television channels in the UHF television band for shared use by white space devices and wireless microphones following the repacking of the band after the conclusion of the Incentive Auction. In the NPRM, the Commission proposed preserving in each area of the country at least one vacant television channel. In the Public Notice, the Commission notes that a limited number of broadcast television stations may be reassigned during the incentive auction and repacking process to channels within the duplex gap established as part of the 600 MHz Band Plan, resulting in a restriction on the ability of white space devices and wireless microphone to use this spectrum. To address this concern, the Public Notice tentatively concluded that a second available television channel should be preserved in the remaining television band in such areas for shared use by white space devices and wireless microphones, in addition to the one such channel proposed in the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	07/02/15	80 FR 38158

Action	Date	FR Cite
NPRM Comment Period End.	08/03/15	
NPRM Reply Comment Period End.	08/31/15	
Public Notice	09/01/15	80 FR 52715
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shaun Maher, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2324, *Fax:* 202 418–2827, *Email: shaun.maher@fcc.gov.*

RIN: 3060–AK43

501. • Revision to Public Inspection Requirements (MB Docket No. 16–161)

Legal Authority: 47 U.S.C. 154

Abstract: In this proceeding, the Commission proposes to remove two public inspection file requirements to reduce the regulatory burden on commercial broadcasters and cable operators.

Timetable:

Action	Date	FR Cite
NPRM	06/22/16	81 FR 40617
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kim Matthews, Attorney, Policy Division, Federal Communications Commission, Media Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2154, *Fax:* 202 418–2053, *Email: kim.matthews@fcc.gov.*

RIN: 3060–AK50

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Office of Managing Director

Long-Term Actions

502. • Assessment and Collection of Regulatory Fees for Fiscal Year 2016

Legal Authority: 47 U.S.C. 159

Abstract: Section 9 of the Communications Act of 1934, as amended, 47 U.S.C. 159, requires the FCC to recover the cost of its activities by assessing and collecting annual regulatory fees from beneficiaries of the activities.

Timetable:

Action	Date	FR Cite
NPRM	05/19/16	
R&O	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roland Helvajian, Office of the Managing Director, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0444, *Email: roland.helvajian@fcc.gov.*

RIN: 3060–AK53

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Public Safety and Homeland Security Bureau

Final Rule Stage

503. 700 MHz Public Safety Broadband—First Net (PS Docket Nos. 12–94 & 06–229 and WT 06–150)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 309; Pub. L. 112–96

Abstract: This action proposes technical rules to protect against harmful radio frequency interference in the spectrum designated for public safety services under the Middle Class Tax Relief and Job Creation Act of 2012.

Timetable:

Action	Date	FR Cite
NPRM	04/24/13	78 FR 24138
NPRM Comment Period End.	05/24/13	
R&O	01/06/14	79 FR 588
R&O (08/25/2016)	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Roberto Mussenden, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1428, *Email: roberto.mussenden@fcc.gov.*

RIN: 3060–AJ99

504. Proposed Amendments to Service Rules Governing Public Safety Narrowband Operations in the 769–775 and 799–805 MHz Bands

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 303; 47 U.S.C. 337(a); 47 U.S.C. 403

Abstract: This proceeding seeks to amend the Commission's rules to promote spectrum efficiency, interoperability, and flexibility in 700 MHz public safety narrowband operations (769775/799805 MHz).

Timetable:

Action	Date	FR Cite
NPRM	04/19/13	78 FR 23529
Final Rule	12/20/14	79 FR 71321
Final Rule Effective.	01/02/15	
Order on Recon & FNPRM (08/22/2016).	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Marenco, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0838, *Email: brian.marenco@fcc.gov.*

RIN: 3060–AK19

505. New Part 4 of the Commission's Rules Concerning Disruptions to Communications; ET Docket No. 04–35

Legal Authority: 47 U.S.C. 154 to 155; 47 U.S.C. 201; 47 U.S.C. 251; 47 U.S.C. 307; 47 U.S.C. 316

Abstract: The proceeding creates a new part 4 in title 47, and amends part 63.100. The proceeding updates the Commission's communication disruptions reporting rules for wireline providers formerly found in 47 CFR 63.100, and extends these rules to other non-wireline providers. Through this proceeding, the Commission streamlines the reporting process through an electronic template. The Report and Order received several petitions for reconsideration, of which two were eventually withdrawn, and in 2015, seven are addressed in an Order on Reconsideration. Two petitions remain pending regarding NORS database sharing with states and communication disruptions at airports. The former is addressed in a separate proceeding, PS Docket 15–80. To the extent the communication disruption rules cover VoIP, the Commission studies and addresses these questions in a separate docket, PS Docket 11–82.

In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see dockets 11–82 & 15–80). The Order on Reconsideration addressed outage reporting for events at airports, and the FNPRM sought comment on database sharing.

Timetable:

Action	Date	FR Cite
NPRM	03/26/04	69 FR 15761
R&O	11/26/04	69 FR 68859
Denial for Petition for Partial Stay.	12/02/04	
Seek Comment on Petition for Recon.	02/02/10	

Action	Date	FR Cite
Reply Period End	03/19/10	
Seek Comment on Broadband and Interconnected VOIP Service Providers.	07/02/10	
Reply Period End	08/16/12	
R&O and Order on Recon.	06/16/15	80 FR 34321
FNPRM	07/12/16	81 FR 45095
R&O	07/12/16	81 FR 45055

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda Villanueva, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7005.

RIN: 3060–AK41

506. • Amendment of Part 90 of the Commission's Rules To Enable Railroad Police Officers To Access Public Safety Interoperability and Mutual Aid Channels

Legal Authority: 47 U.S.C, 151 to 152; 47 U.S.C. 154(j); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 316; 47 U.S.C. 337

Abstract: In this proceeding, we amend our rules to permit railroad police officers to use public safety interoperability channels to communicate with public safety entities already authorized to use to use those channels.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End.	11/13/15	
NPRM	11/13/15	80 FR 58421
NPRM Reply Comment Period End.	11/30/15	
R&O	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Evanoff, Attorney Advisor, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0848, *Email: john.evanoff@fcc.gov*.

RIN: 3060–AK51

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Public Safety and Homeland Security Bureau

Long-Term Actions

507. Revision of the Rules To Ensure Compatibility With Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102; PS Docket No. 07–114)

Legal Authority: 47 U.S.C. 134(i); 47 U.S.C. 151; 47 U.S.C. 201; 47 U.S.C. 208; 47 U.S.C. 215; 47 U.S.C. 303; 47 U.S.C. 309

Abstract: In a series of orders in several related proceedings issued since 1996, the Federal Communications Commission has taken action to improve the quality and reliability of 911 emergency services for wireless phone users. Rules have been adopted governing the availability of basic 911 services and the implementation of enhanced 911 (E911) for wireless services.

Timetable:

Action	Date	FR Cite
FNPRM	08/02/96	61 FR 40374
R&O	08/02/96	61 FR 40348
MO&O	01/16/98	63 FR 2631
Second R&O	06/28/99	64 FR 34564
Third R&O	11/04/99	64 FR 60126
Second MO&O	12/29/99	64 FR 72951
Fourth MO&O	10/02/00	65 FR 58657
FNPRM	06/13/01	66 FR 31878
Order	11/02/01	66 FR 55618
R&O	05/23/02	67 FR 36112
Public Notice	07/17/02	67 FR 46909
Order to Stay	07/26/02	
Order on Reconsideration.	01/22/03	68 FR 2914
FNPRM	01/23/03	68 FR 3214
R&O, Second FNPRM.	02/11/04	69 FR 6578
Second R&O	09/07/04	69 FR 54037
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End.	09/18/07	
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
Comment Period End.	10/18/08	
Public Notice	11/18/09	74 FR 59539
Comment Period End.	12/04/09	
FNPRM, NOI	11/02/10	75 FR 67321
Second R&O	11/18/10	75 FR 70604
Order, Comment Period Extension.	01/07/11	76 FR 1126
Comment Period End.	02/18/11	
Final Rule	04/28/11	76 FR 23713
NPRM	08/04/11	76 FR 47114
Second FNPRM	08/04/11	76 FR 47114
3rd R&O	09/28/11	76 FR 59916
NPRM Comment Period End.	11/02/11	
3rd FNPRM	03/28/14	79 FR 17820
Order Extending Comment Period.	06/10/14	79 FR 33163
3rd FNPRM Comment Period End.	07/14/14	
Public Notice (release date).	11/20/14	
Public Notice Comment Period End.	12/17/14	
4th R&O	03/04/15	80 FR 11806
Final Rule	08/03/15	80 FR 45897
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim May, Policy and Licensing Div., Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1463, *Email: tim.may@fcc.gov*.

RIN: 3060–AG34

508. Enhanced 911 Services for Wireline and Multi-Line Telephone Systems; PS Docket Nos. 10–255 and 07–114

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201; 47 U.S.C. 222; 47 U.S.C. 251

Abstract: The policies set forth in the Report and Order will assist State governments in drafting legislation that will ensure that multi-line telephone systems are compatible with the enhanced 911 network. The Public Notice seeks comment on whether the Commission, rather than States, should regulate multiline telephone systems, and whether part 68 of the Commission's rules should be revised.

Timetable:

Action	Date	FR Cite
NPRM	10/11/94	59 FR 54878
FNPRM	01/23/03	68 FR 3214
Second FNPRM	02/11/04	69 FR 6595
R&O	02/11/04	69 FR 6578
Public Notice	01/13/05	70 FR 2405
Comment Period End.	03/29/05	
NOI	01/13/11	76 FR 2297
NOI Comment Period End.	03/14/11	
Public Notice (Release Date).	05/21/12	
Public Notice Comment Period End.	08/06/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim May, Policy and Licensing Div., Federal

Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1463, *Email: tim.may@fcc.gov*.

RIN: 3060–AG60

509. Implementation of 911 Act (CC Docket No. 92–105, WT Docket No. 00–110)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 202; 47 U.S.C. 208; 47 U.S.C. 210; 47 U.S.C. 214; 47 U.S.C. 251(e); 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 308 to 309(j); 47 U.S.C. 310

Abstract: This proceeding was separate from the Commission's proceeding on Enhanced 911 Emergency Systems (E911) in that it intended to implement provisions of the Wireless Communications and Public Safety Act of 1999 through the promotion of public safety by the deployment of a seamless, nationwide emergency communications infrastructure that includes wireless communications services. More specifically, the chief goal of the proceeding is to ensure that all emergency calls are routed to the appropriate local emergency authority to provide assistance. The E911 proceeding goes a step further and was aimed at improving the effectiveness and reliability of wireless 911 dispatchers with additional information on wireless 911 calls.

Timetable:

Action	Date	FR Cite
Fourth R&O, Third NPRM.	09/19/00	65 FR 56752
NPRM	09/19/00	65 FR 56757
Fifth R&O, First R&O, and MO&O.	01/14/02	67 FR 1643
Final Rule	01/25/02	67 FR 3621
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim May, Policy and Licensing Div., Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1463, *Email: tim.may@fcc.gov*.

RIN: 3060–AH90

510. Commission Rules Concerning Disruptions to Communications (PS Docket No. 11–82)

Legal Authority: 47 U.S.C. 155; 47 U.S.C. 154; 47 U.S.C. 201; 47 U.S.C. 251

Abstract: The 2004 Report and Order extended the Commission's outage reporting requirements to non-wireline carriers and streamlined reporting through a new electronic template. A Further Notice of Proposed Rulemaking regarding the unique communications needs of airports also remains pending. The 2012 Report and Order extended the Commission's outage reporting requirements to interconnected Voice over Internet Protocol services where there is a complete loss of connectivity that has the potential to affect at least 900,000 user minutes. Interconnected VoIP services providers must now file outage reports through the same electronic mechanism as providers of other services. The Commission indicated that the technical issues involved in identifying and reporting significant outages of broadband Internet services require further study. In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see also dockets 04–35 and 15–80). The FNPRM proposed rules to extend Part 4 outage reporting to broadband services. Comments and replies will be received by the Commission in August and September 2016.

Timetable:

Action	Date	FR Cite
NPRM	03/26/04	69 FR 15761
FNPRM	11/26/04	69 FR 68859
R&O	12/03/04	69 FR 70316
Announcement of Effective Date and Partial Stay.	12/30/04	69 FR 78338
Petition for Reconsideration.	02/15/05	70 FR 7737
Amendment of Delegated Authority.	02/21/08	73 FR 9462
Public Notice	08/02/10	
NPRM	06/09/11	76 FR 33686
NPRM Comment Period End.	08/08/11	
R&O	04/27/12	77 FR 25088
Final Rule; Correction.	01/30/13	78 FR 6216
R&O	07/12/16	81 FR 45055
FNPRM	07/12/16	81 FR 45095
FNPRM Comment Period End.	09/12/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Shroyer, Attorney Advisor, Federal Communications Commission, Public Safety Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 201 418–1575, *Email: peter.shroyer@fcc.gov*.

RIN: 3060–AI22

511. E911 Requirements for IP-Enabled Service Providers (Dockets Nos. GN 11–117, PS 07–114, WC 05–196, WC 04–36)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 251(e); 47 U.S.C. 303(r)

Abstract: In this proceeding, the Commission adopted E911 requirements for interconnected Voice Over Internet Protocol (VOIP) service providers. The pending notices seek comment on what additional steps the Commission should take to ensure that VOIP providers interconnecting with the public switched telephone network, provide ubiquitous and reliable enhanced 911 service.

Timetable:

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16193
NPRM	06/29/05	70 FR 37307
R&O	06/29/05	70 FR 37273
NPRM Comment Period End.	09/12/05	
NPRM	06/20/07	72 FR 33948
NPRM Comment Period End.	09/18/07	
FNPRM, NOI	11/02/10	75 FR 67321
Order, Extension of Comment Period.	01/07/11	76 FR 1126
Comment Period End.	02/18/11	
2nd FNPRM, NPRM.	08/04/11	76 FR 47114
2nd FNPRM, NPRM Comment Period End.	11/02/11	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim May, Policy and Licensing Div., Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1463, *Email: tim.may@fcc.gov*.

RIN: 3060–AI62

512. Wireless E911 Location Accuracy Requirements; PS Docket No. 07–114

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 332

Abstract: This is related to the proceedings in which the FCC has previously acted to improve the quality of all emergency services. Wireless carriers must provide specific automatic location information in connection with 911 emergency calls to Public Safety Answering Points (PSAPs). Wireless licensees must satisfy Enhanced 911 location accuracy standards at either a county-based or a PSAP-based geographic level.

Timetable:

Action	Date	FR Cite
NPRM	06/20/07	72 FR 33948
R&O	02/14/08	73 FR 8617
Public Notice	09/25/08	73 FR 55473
FNPRM; NOI	11/02/10	75 FR 67321
Public Notice	11/18/09	74 FR 59539
2nd R&O	11/18/10	75 FR 70604
Second NPRM	08/04/11	76 FR 47114
Second NPRM Comment Period End.	11/02/11	
Final Rule	04/28/11	76 FR 23713
NPRM, 3rd R&O, and 2nd FNPRM.	09/28/11	76 FR 59916
3rd FNPRM	03/28/14	79 FR 17820
Order Extending Comment Period.	06/10/14	79 FR 33163
3rd FNPRM Comment Period End.	07/14/14	
Public Notice (Release Date).	11/20/14	
Public Notice Comment Period End.	12/17/14	
4th R&O	03/04/15	80 FR 11806
Final Rule	08/03/15	80 FR 45897
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim May, Policy and Licensing Div., Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1463, *Email: tim.may@fcc.gov*.

RIN: 3060–AJ52

513. Improving Outage Reporting for Submarine Cables and Enhancing Submarine Cable Outage Data; GN Docket No. 15–206

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154; 47 U.S.C. 34 to 39; 47 U.S.C. 301

Abstract: This proceeding takes steps toward assuring the reliability and resiliency of submarine cables, a critical piece of the Nation's communications infrastructure, by proposing to require submarine cable licensees to report to the Commission when outages occur and communications are disrupted. The Commission's intent is to enhance national security and emergency preparedness by these actions.

Timetable:

Action	Date	FR Cite
NPRM (Release Date).	09/17/15	
R&O	06/24/16	81 FR 52354
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Shroyer, Attorney Advisor, Federal Communications Commission, Public Safety Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 201 418–1575, *Email: peter.shroyer@fcc.gov*.

RIN: 3060–AK39

514. Amendments to Part 4 of the Commission's Rules Concerning Disruptions to Communications; PS Docket No. 15–80

Legal Authority: 47 CFR 0; 47 CFR 4; 47 CFR 63

Abstract: The 2004 Report and Order extended the Commission's communication disruptions reporting rules to non-wireline carriers and streamlined reporting through a new electronic template, see docket ET Docket 04–35. In 2015, this proceeding, PS Docket 15–80, was opened to amend the original communications disruption reporting rules from 2004 in order to reflect technology transitions observed throughout the telecommunications sector. The Commission seeks to further study the possibility to share the reporting database information and access with state and other federal entities. In May 2016, the Commission released a Report and Order, FNPRM, and Order on Reconsideration (see also dockets 11–82 & 04–35). The R&O adopted rules to update the Part 4 requirements to reflect technology transitions. The FNPRM also seeks comment on sharing information in the reporting database.

Timetable:

Action	Date	FR Cite
NPRM	06/16/15	80 FR 34321
NPRM Comment Period End.	07/31/15	
FNPRM	07/12/16	81 FR 45095
R&O	07/12/16	81 FR 45055
FNPRM Comment Period End.	09/12/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brenda Villanueva, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7005.

RIN: 3060–AK40

515. • Wireless Emergency Alerts (WEA); PS Docket No. 15–91

Legal Authority: Pub. L. 109–347, title VI; 47 U.S.C. 151; 47 U.S.C. 154(i)

Abstract: This proceeding was initiated to improve WEA messaging, to ensure that WEA alerts reach only those individuals to whom they are relevant, and to establish an end-to-end testing program based on advancements in technology.

Timetable:

Action	Date	FR Cite
NPRM	11/19/15	80 FR 77289
NPRM Comment Period End.	01/13/16	
NPRM Reply Comment Period End.	02/12/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Lisa Fowlkes, Deputy Bureau Chief, Federal Communications Commission, Public Safety and Homeland Security Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7452, *Email: lisa.fowlkes@fcc.gov*.

RIN: 3060–AK54

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau

Final Rule Stage

516. • Use of Spectrum Bands Above 24 GHz for Mobile Services—Spectrum Frontiers; WT Docket 10–112

Legal Authority: 47 U.S.C. 151 to 154; 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 301 to 302; 47 U.S.C. 302(a); 47 U.S.C. 303 to 304; 47 U.S.C. 307; 47 U.S.C. 309 to 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 332; 47 U.S.C. 336; 47 U.S.C. 1302

Abstract: In this proceeding, the Commission adopted service rules for licensing of mobile and other uses for millimeter wave (mmW) bands. These high frequencies previously have been best suited for satellite or fixed microwave applications; however, recent technological breakthroughs have newly enabled advanced mobile services in these bands, notably including very high speed and low latency services. This action will help facilitate Fifth Generation mobile services and other mobile services. In developing service rules for mmW bands, the Commission will facilitate access to spectrum, develop a flexible spectrum policy, and encourage wireless innovation.

Timetable:

Action	Date	FR Cite
NPRM	01/13/16	81 FR 1802

Action	Date	FR Cite
NPRM Comment Period End.	02/26/16	
R&O and FNPRM	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov*.

RIN: 3060–AK44

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireless Telecommunications Bureau

Long-Term Actions

517. Reexamination of Roaming Obligations of Commercial Mobile Radio Service Providers

Legal Authority: 47 U.S.C. 151; to 152(n); 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 201(b); 47 U.S.C. 251(a); 47 U.S.C. 253; 47 U.S.C. 303(r); 47 U.S.C. 332(c)(1)(B); 47 U.S.C. 309

Abstract: This rulemaking considers whether the Commission should adopt an automatic roaming rule for voice services for Commercial Mobile Radio Services and whether the Commission should adopt a roaming rule for mobile data services.

Timetable:

Action	Date	FR Cite
NPRM	11/21/00	65 FR 69891
NPRM	09/28/05	70 FR 56612
NPRM	01/19/06	71 FR 3029
FNPRM	08/30/07	72 FR 50085
Final Rule	08/30/07	72 FR 50064
Final Rule	04/28/10	75 FR 22263
FNPRM	04/28/10	75 FR 22338
2nd R&O	05/06/11	76 FR 26199
Order on Recon	06/25/14	79 FR 43956
Declaratory Ruling (release date).	12/18/14	
Comment Period End.	02/14/15	
Reply Comment Period End.	02/19/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jennifer Salhus, Attorney, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2823, *Email: jsalhus@fcc.gov*.

RIN: 3060–AH83

518. Review of Part 87 of the Commission's Rules Concerning Aviation (WT Docket No. 01–289)

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e)

Abstract: This proceeding is intended to streamline, consolidate, and revise our part 87 rules governing the Aviation Radio Service. The rule changes are designed to ensure these rules reflect current technological advances.

Timetable:

Action	Date	FR Cite
NPRM	10/16/01	66 FR 64785
NPRM Comment Period End.	03/14/02	
R&O and FNPRM	10/16/03	
FNPRM	04/12/04	69 FR 19140
FNPRM Comment Period End.	07/12/04	
R&O	06/14/04	69 FR 32577
NPRM	12/06/06	71 FR 70710
NPRM Comment Period End.	03/06/07	
Final Rule	12/06/06	71 FR 70671
3rd R&O	03/29/11	76 FR 17347
Stay Order	03/29/11	76 FR 17353
3rd FNPRM	01/30/13	78 FR 6276
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Jeff Tobias, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0680, *Email: jeff.tobias@fcc.gov*.

RIN: 3060–AI35

519. Implementation of the Commercial Spectrum Enhancement Act (CSEA) and Modernization of the Commission's Competitive Bidding Rules and Procedures (WT Docket No. 05–211)

Legal Authority: 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i) and (j); 47 U.S.C. 155; 47 U.S.C. 155(c); 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 303(r); 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 309(j); 47 U.S.C. 325(e); 47 U.S.C. 334; 47 U.S.C. 336; 47 U.S.C. 339; 47 U.S.C. 554

Abstract: This proceeding implements rules and procedures needed to comply with the Commercial Spectrum Enhancement Act (CSEA). It establishes a mechanism for reimbursing Federal agencies' out-of-spectrum auction proceeds for the cost of relocating their operations from certain ''eligible frequencies'' that have been reallocated from Federal to non-Federal use. It also seeks to improve the Commission's ability to achieve Congress' directives with regard to designated entities and to ensure that, in accordance with the intent of Congress, every recipient of its designated entity benefits is an entity that uses its licenses to directly provide facilities-based telecommunications services for the benefit of the public.

Timetable:

Action	Date	FR Cite
NPRM	06/14/05	70 FR 43372
NPRM Comment Period End.	08/26/05	
Declaratory Ruling	06/14/05	70 FR 43322
R&O	01/24/06	71 FR 6214
FNPRM	02/03/06	71 FR 6992
FNPRM Comment Period End.	02/24/06	
Second R&O	04/25/06	71 FR 26245
Order on Reconsideration of Second R&O.	06/02/06	71 FR 34272
NPRM	06/21/06	71 FR 35594
NPRM Comment Period End.	08/21/06	
Reply Comment Period End.	09/19/06	
Second Order and Reconsideration of Second R&O.	04/04/08	73 FR 18528
Order	02/01/12	77 FR 16470
3rd Order on Recon of the 2nd R&O, and 3rd R&O.	09/18/15	80 FR 56764
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Quinn, Assistant Chief, Auctions and Spectrum Access Division, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0660, *Email: kelly.quinn@fcc.gov*.

RIN: 3060–AI88

520. Facilitating the Provision of Fixed and Mobile Broadband Access, Educational, and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 301 to 303; 47 U.S.C. 307; 47 U.S.C. 309; 47 U.S.C. 332; 47 U.S.C. 336 and 337

Abstract: The Commission seeks comment on whether to assign Educational Broadband Service (EBS) spectrum in the Gulf of Mexico. It also seeks comment on how to license unassigned and available EBS spectrum. Specifically, we seek comment on whether it would be in the public interest to develop a scheme for licensing unassigned EBS spectrum that avoids mutual exclusivity; we ask whether EBS eligible entities could participate fully in a spectrum auction; we seek comment on the use of small

business size standards and bidding credits for EBS if we adopt a licensing scheme that could result in mutually exclusive applications; we seek comment on the proper market size and size of spectrum blocks for new EBS licenses; and we seek comment on issuing one license to a State agency designated by the Governor to be the spectrum manager, using frequency coordinators to avoid mutually exclusive EBS applications, as well as other alternative licensing schemes. The Commission must develop a new licensing scheme for EBS in order to achieve the Commission's goal of facilitating the development of new and innovative wireless services for the benefit of students throughout the Nation. In addition, the Commission has sought comment on a proposal intended to make it possible to use wider channel bandwidths for the provision of broadband services in these spectrum bands. The proposed changes may permit operators to use spectrum more efficiently, and to provide higher data rates to consumers, thereby advancing key goals of the National Broadband Plan.

Timetable:

Action	Date	FR Cite
NPRM	04/02/03	68 FR 34560
NPRM Comment Period End.	09/08/03	
FNPRM	07/29/04	69 FR 72048
FNPRM Comment Period End.	01/10/03	
R&O	07/29/04	69 FR 72020
MO&O	04/27/06	71 FR 35178
FNPRM	03/20/08	73 FR 26067
FNPRM Comment Period End.	07/07/08	
MO&O	03/20/08	73 FR 26032
MO&O	09/28/09	74 FR 49335
FNPRM	09/28/09	74 FR 49356
FNPRM Comment Period End.	10/13/09	
R&O	06/03/10	75 FR 33729
FNPRM	05/27/11	76 FR 32901
FNPRM Comment Period End.	07/22/11	
R&O	07/16/14	79 FR 41448
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov*.

RIN: 3060–AJ12

521. Service Rules for Advanced Wireless Services in the 2155–2175 MHz Band; WT Docket No. 13–185

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 214; 47 U.S.C. 301

Abstract: This proceeding explores the possible uses of the 2155 to 2175 MHz frequency band (AWS–3) to support the introduction of new advanced wireless services, including third generation and future generations of wireless systems. Advanced wireless systems could provide for a wide range of voice data and broadband services over a variety of mobile and fixed networks. The Notice of Proposed Rulemaking (NPRM) sought comment on what service rules should be adopted in the AWS–3 band. We requested comment on rules for licensing this spectrum in a manner that will permit it to be fully and promptly used to bring advanced wireless services to American consumers. Our objective is to allow for the most effective and efficient use of the spectrum in this band, while also encouraging development of robust wireless broadband services. We proposed to apply our flexible, market-oriented rules to the band to do so. Thereafter, the Commission released a Further Notice of Proposed Rulemaking (FNPRM), seeking comment on the Commission's proposed AWS–3 rules, which include adding 5 megahertz of spectrum (2175 to 80 MHz) to the AWS–3 band, and requiring licensees of that spectrum to provide—using up to 25 percent of its wireless network capacity—free, two-way broadband Internet service at engineered data rates of at least 768 kbps downstream.

Timetable:

Action	Date	FR Cite
NPRM	11/14/07	72 FR 64013
NPRM Comment Period End.	01/14/08	
FNPRM	06/25/08	73 FR 35995
FNPRM Comment Period End.	08/11/08	
FNPRM	08/20/13	78 FR 51559
FNPRM Comment Period End.	10/16/13	
R&O	06/04/14	79 FR 32366
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7235, *Email: peter.daronco@fcc.gov*.

RIN: 3060–AJ19

522. Amendment of the Commission's Rules To Improve Public Safety Communications in the 800 MHz Band, and To Consolidate the 800 MHz and 900 MHz Business and Industrial/Land Transportation Pool Channels

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303; 47 U.S.C. 309; 47 U.S.C. 332

Abstract: This action adopts rules that retain the current site-based licensing paradigm for the 900 MHz B/ILT ''white space''; adopts interference protection rules applicable to all licensees operating in the 900 MHz B/ILT spectrum; and lifts, on a rolling basis, the freeze placed on applications for new 900 MHz B/ILT licenses in September 2004—the lift being tied to the completion of rebanding in each 800 MHz National Public Safety Planning Advisory Committee (NPSPAC) region.

Timetable:

Action	Date	FR Cite
NPRM	03/18/05	70 FR 13143
NPRM Comment Period End.	06/12/05	70 FR 23080
Final Rule	12/16/08	73 FR 67794
Petition for Reconsideration.	03/12/09	74 FR 10739
Order on Reconsideration.	07/17/13	78 FR 42701
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Joyce Jones, Attorney Advisor, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1327, *Email: joyce.jones@fcc.gov*.

RIN: 3060–AJ22

523. Amendment of Part 101 To Accommodate 30 MHz Channels in the 6525 to 6875 MHz Band and Provide Conditional Authorization on Channels in the 21.8–22.0 and 23.0–23.2 GHz Band (WT Docket No. 04–114)

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i); 47 U.S.C. 157; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 214; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 319; 47 U.S.C. 324; 47 U.S.C. 332 and 333

Abstract: The Commission seeks comments on modifying its rules to authorize channels with bandwidths of as much as 30 MHz in the 6525 to 6875 MHz band. We also propose to allow conditional authorization on additional channels in the 21.8–22.0 and 23.0–23.2 GHz bands.

Timetable:

Action	Date	FR Cite
NPRM	06/29/09	74 FR 36134
NPRM Comment Period End.	07/22/09	
R&O	06/11/10	75 FR 41767
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

RIN: 3060–AJ28

524. Amendment of Part 90 of the Commission's Rules

Legal Authority: 47 U.S.C. 154; 47 U.S.C. 303

Abstract: This proceeding considers rule changes impacting miscellaneous part 90 Private Land Mobile Radio rules.

Timetable:

Action	Date	FR Cite
NPRM	06/13/07	72 FR 32582
FNPRM	04/14/10	75 FR 19340
Order on Reconsideration.	05/27/10	75 FR 29677
5th R&O	05/16/13	78 FR 28749
Petition for Reconsideration.	07/23/13	78 FR 44091
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rodney P Conway, Engineer, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2904, *Fax:* 202 418–1944, *Email: rodney.conway@fcc.gov.*

RIN: 3060–AJ37

525. Amendment of Part 101 of the Commission's Rules for Microwave Use and Broadcast Auxiliary Service Flexibility

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 154(i) and 157; 47 U.S.C. 160 and 201; 47 U.S.C. 214; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 319 and 324; 47 U.S.C. 332 and 333

Abstract: In this document, the Commission commences a proceeding to remove regulatory barriers to the use of spectrum for wireless backhaul and other point-to-point and point-to-multipoint communications.

Timetable:

Action	Date	FR Cite
NPRM	08/05/10	75 FR 52185
NPRM Comment Period End.	11/22/10	
R&O	09/27/11	76 FR 59559
FNPRM	09/27/11	76 FR 59614
FNPRM Comment Period End.	10/25/11	
R&O	09/05/12	77 FR 54421
FNPRM	09/05/12	77 FR 54511
FNPRM Comment Period End.	10/22/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Schauble, Deputy Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0797, *Email: john.schauble@fcc.gov.*

RIN: 3060–AJ47

526. Universal Service Reform Mobility Fund (WT Docket No. 10–208)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 155; 47 U.S.C. 160; 47 U.S.C. 201; 47 U.S.C. 205; 47 U.S.C. 225; 47 U.S.C. 254; 47 U.S.C. 301; 47 U.S.C. 303; 47 U.S.C. 303(c); 47 U.S.C. 303(f); 47 U.S.C. 303(r); 47 U.S.C. 303(y); 47 U.S.C. 309; 47 U.S.C. 310

Abstract: This proceeding establishes the Mobility Fund which provides an initial infusion of funds toward solving persistent gaps in mobile services through targeted, one-time support for the build-out of current and next-generation wireless infrastructure in areas where these services are unavailable.

Timetable:

Action	Date	FR Cite
NPRM	10/14/10	75 FR 67060
NPRM Comment Period End.	01/18/11	
R&O	11/29/11	76 FR 73830
FNPRM	12/16/11	76 FR 78384
R&O	12/28/11	76 FR 81562
2nd R&O	07/03/12	77 FR 39435
4th Order on Recon.	08/14/12	77 FR 48453
FNPRM	07/09/14	79 FR 39196
R&O, Declaratory Ruling, Order, MO&O, and 7th Order on Recon.	07/09/14	79 FR 39163
FNPRM Comment Period End.	09/08/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Audra Hale-Maddox, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2109, *Email: audra.hale-maddox@fcc.gov.*

RIN: 3060–AJ58

527. Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525–1559 MHz and 1626.5–1660.5 MHz, 1610–1626.5 MHz and 2483.5–2500 MHz, and 2000–2020 MHz and 2180–2200 MHz

Legal Authority: 47 U.S.C. 151 and 154; 47 U.S.C. 303 and 310

Abstract: The Commission proposes steps making additional spectrum available for new investment in mobile broadband networks while ensuring that the United States maintains robust mobile satellite service capabilities. Mobile broadband is emerging as one of America's most dynamic innovation and economic platforms. Yet tremendous demand growth soon will test the limits of spectrum availability. Some 90 megahertz of spectrum allocated to the Mobile Satellite Service (MSS)—in the 2 GHz band, Big LEO band, and L-band—are potentially available for terrestrial mobile broadband use. The Commission seeks to remove regulatory barriers to terrestrial use, and to promote additional investments, such as those recently made possible by a transaction between Harbinger Capital Partners and SkyTerra Communications, while retaining sufficient market-wide MSS capability. The Commission proposes to add co-primary Fixed and Mobile allocations to the 2 GHz band, consistent with the International Table of Allocations. This allocation modification is a precondition for more flexible licensing of terrestrial services within the band. Second, the Commission proposes to apply the Commission's secondary market policies and rules applicable to terrestrial services to all transactions involving the use of MSS bands for terrestrial services to create greater predictability and regulatory parity with bands licensed for terrestrial mobile broadband service. The Commission also requests comment on further steps we can take to increase the value, utilization, innovation, and investment in MSS spectrum generally.

Timetable:

Action	Date	FR Cite
NPRM	07/15/10	75 FR 49871
NPRM Comment Period End.	09/30/10	
R&O	04/06/11	76 FR 31252
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Blaise Scinto, Chief, Broadband Div., WTB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1380, *Email: blaise.scinto@fcc.gov.*

RIN: 3060–AJ59

528. Improving Spectrum Efficiency Through Flexible Channel Spacing and Bandwidth Utilization for Economic Area-Based 800 MHz Specialized Mobile Radio Licensees (WT Docket Nos. 12–64 and 11–110)

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154; 47 U.S.C. 301; 47 U.S.C. 302(a); 47 U.S.C. 303; 47 U.S.C. 307 to 308

Abstract: This proceeding was initiated to allow EA-based 800 MHz SMR licensees in 813.5–824/858.5–869 MHz to exceed the channel spacing and bandwidth limitation in section 90.209 of the Commission's rules, subject to conditions.

Timetable:

Action	Date	FR Cite
NPRM	03/29/12	77 FR 18991
NPRM Comment Period End.	04/13/12	
R&O	05/24/12	77 FR 33972
Petition for Recon Public Notice.	08/16/12	77 FR 53163
Petition for Recon PN Comment Period End.	09/27/12	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Linda Chang, Attorney, Deputy Div. Chief, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1339, *Fax:* 202 418–7447, *Email: linda.chang@fcc.gov.*

RIN: 3060–AJ71

529. Service Rules for Advanced Wireless Services in the 2000–2020 MHz and 2180–2200 MHz Bands

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 153; 47 U.S.C. 154(i); 47 U.S.C. 227; 47 U.S.C. 301 to 303; 47 U.S.C. 307 to 310; 47 U.S.C. 316; 47 U.S.C. 319; 47 U.S.C. 324; 47 U.S.C. 332 to 333

Abstract: In the Report and Order, the Commission increased the Nation's supply of spectrum for mobile broadband by removing unnecessary barriers to flexible use of spectrum currently assigned to the Mobile Satellite Service (MSS) in the 2 GHz band. This action carries out a recommendation in the National Broadband Plan that the Commission enable the provision of standalone terrestrial services in this spectrum. We do so by adopting service, technical, assignment, and licensing rules for this spectrum. These rules are designed to provide for flexible use of this spectrum, encourage innovation and investment in mobile broadband, and provide a stable regulatory environment in which broadband deployment could develop.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End.	04/17/12	
NPRM	04/17/12	77 FR 22720
R&O	05/05/13	78 FR 8229
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7235, *Email: peter.daronco@fcc.gov.*

RIN: 3060–AJ73

530. Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions; (GN Docket No. 12–268)

Legal Authority: 47 U.S.C. 309(j)(8)(G); 47 U.S.C. 1452

Abstract: In February 2012, the Middle Class Tax Relief and Job Creation Act was enacted (Pub. L. 112–96, 126 Stat. 156 (2012)). Title VI of that statute, commonly known as the Spectrum Act, provides the Commission with the authority to conduct incentive auctions to meet the growing demand for wireless broadband. Pursuant to the Spectrum Act, the Commission may conduct incentive auctions that will offer new initial spectrum licenses subject to flexible-use service rules on spectrum made available by licensees that voluntarily relinquish some or all of their spectrum usage rights in exchange for a portion, based on the value of the relinquished rights as determined by an auction, of the proceeds of bidding for the new licenses. In addition to granting the Commission general authority to conduct incentive auctions, the Spectrum Act requires the Commission to conduct an incentive auction of broadcast TV spectrum and sets forth special requirements for such an auction.

The incentive auction will consist of a ''reverse auction'' to determine the amount of compensation that each broadcast television licensee would accept in return for voluntarily relinquishing some or all of its spectrum usage rights and a ''forward auction'' that will allow mobile broadband providers to bid for licenses in the reallocated spectrum. Broadcast television licensees who elect voluntarily to participate in the auction have three basic options: Voluntarily go off the air, share their spectrum, or move channels in exchange for receiving part of the proceeds from auctioning that spectrum to wireless providers.

In June 2014, the Commission adopted a Report and Order that laid out the broad rules for the incentive auction. Consistent with past practice, in December 2014, a public notice was issued asking for comment specific key components related to implementing the June 2014 Report and Order. Public Notices in August and October 2015 announced the specific procedures about how to participate in the incentive auction. The start of the Incentive Auction is planned for March 29, 2016, with the submission of initial commitments by eligible broadcast TV licensees.

Timetable:

Action	Date	FR Cite
NPRM	11/21/12	77 FR 69933
NPRM Comment Period End.	03/02/13	
R&O	08/15/14	79 FR 48441
Notice	01/29/15	80 FR 4816
Notice Comment Period End.	03/13/15	
Public Notice	08/11/15	80 FR 61918
Public Notice	10/29/15	80 FR 66429
Public Notice	11/20/15	80 FR 72721
Public Notice	12/30/15	80 FR 81545
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Rachel Kazan, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1500, *Email: rachel.kazan@fcc.gov.*

RIN: 3060–AJ82

531. Service Rules for Advanced Wireless Services of the Middle Class Tax Relief and Job Creation Act of 2012 Related to the 1915–1920 MHz and 1995–2000 MHz Bands (WT Docket No. 12–357)

Legal Authority: 47 U.S.C. 301; to 303; 47 U.S.C. 307 to 310

Abstract: The Commission proposes rules for the Advanced Wireless Services (AWS) H Block that would

make available 10 megahertz of flexible use. The proposal would extend the widely deployed Personal Communications Services (PCS) band, which is used by the four national providers as well as regional and rural providers to offer mobile service across the nation. The additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the Nation's wireless networks keeps pace with the skyrocketing demand for mobile services.

Today's action is a first step to implement the congressional directive in the Middle Class Tax Relief and Job Creation Act of 2012 (Spectrum Act) to grant new initial licenses for the 1915–1920 MHz and 1995–2000 MHz bands (the Lower H Block and Upper H Block, respectively) through a system of competitive bidding,Â– unless doing so would cause harmful interference to commercial mobile service licenses in the 1930–1985 MHz (PCS downlink) band. The potential for harmful interference to the PCS downlink band relates only to the Lower H Block transmissions, and may be addressed by appropriate technical rules, including reduced power limits on H Block devices. We, therefore, propose to pair and license the Lower H Block and the Upper H Block for flexible use, including mobile broadband, aiming to assign the licenses through competitive bidding in 2013. In the event that we conclude that the Lower H Block cannot be used without causing harmful interference to PCS, we propose to license the Upper H Block for full power, and seek comment on appropriate use for the Lower H Block, including Unlicensed PCS.

Timetable:

Action	Date	FR Cite
NPRM	01/08/13	78 FR 1166
NPRM Comment Period End.	03/06/13	
R&O	08/16/13	78 FR 50213
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Peter Daronco, Deputy Division Chief, Broadband Division, Federal Communications Commission, Wireless Telecommunications Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7235, *Email: peter.daronco@fcc.gov*.

RIN: 3060–AJ86

532. Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules To Improve Wireless Coverage Through the Use of Signal Boosters (WT Docket No. 10–4)

Legal Authority: 15 U.S.C. 79; 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 155; 47 U.S.C. 157; 47 U.S.C. 225; 47 U.S.C. 227; 47 U.S.C. 303(r)

Abstract: This action adopts new technical, operational, and registration requirements for signal boosters. It creates two classes of signal boosters—consumer and industrial—with distinct regulatory requirements for each, thereby establishing a two-step transition process for equipment certification for both consumer and industrial signal boosters sold and marketed in the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/10/11	76 FR 26983
R&O	04/11/13	78 FR 21555
Petition for Reconsideration.	06/06/13	78 FR 34015
Order on Reconsideration.	11/08/14	79 FR 70790
FNPRM	11/28/14	79 FR 70837
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Amanda Huetinck, Attorney Advisor, WTB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7090, *Email: amanda.huetinck@fcc.gov*.

RIN: 3060–AJ87

533. Amendment of the Commission's Rules Governing Certain Aviation Ground Station Equipment (Squitter) (WT Docket Nos. 10–61 and 09–42)

Legal Authority: 48 Stat 1066, 1082 as amended; 47 U.S.C. 154; 47 U.S.C. 303; 47 U.S.C. 307(e); 47 U.S.C. 151 to 156; 47 U.S.C. 301

Abstract: This action amends part 87 rules to authorize new ground station technologies to promote safety and allow use of frequency 1090 MHz by aeronautical utility mobile stations for airport surface detection equipment (commonly referred to as ''squitters'') to help reduce collisions between aircraft and airport ground vehicles.

Timetable:

Action	Date	FR Cite
NPRM	04/28/10	75 FR 22352
R&O	03/01/13	78 FR 61023
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2155, *Fax:* 202 418–7247, *Email: tim.maguire@fcc.gov*.

RIN: 3060–AJ88

534. Amendment of the Commission's Rules Concerning Commercial Radio Operators (WT Docket No. 10–177)

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 332(a)2

Abstract: This action amends parts 0, 1, 13, 80, and 87 of the Commission's rules concerning commercial radio operator licenses for maritime and aviation radio stations in order to reduce administrative burdens on the telecom industry.

Timetable:

Action	Date	FR Cite
NPRM	10/29/10	75 FR 66709
R&O	05/29/13	78 FR 32165
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Stanislava Kimball, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1306, *Email: stanislava.kimball@fcc.gov*.

RIN: 3060–AJ91

535. Amendment of Part 90 of the Commission's Rules To Permit Terrestrial Trunked Radio (TETRA) Technology; WT Docket No. 11–6

Legal Authority: 47 U.S.C. 154(i); 47 U.S.C. 161; 47 U.S.C. 303(g); 47 U.S.C. 303(r); 47 U.S.C. 332(c)(7)

Abstract: We modify our rules to permit the certification and use of Terrestrial Trunked Radio (TETRA) equipment under part 90 of our rules. TETRA is a spectrally efficient digital technology with the potential to provide valuable benefits to land mobile radio users, such as higher security and lower latency than comparable technologies. It does not, however, conform to all of our current part 90 technical rules. In the Notice of Proposed Rule Making and Order (NPRM) in this proceeding, the Commission proposed to amend part 90 to accommodate TETRA technology. We conclude that modifying the part 90 rules to permit the certification and use of TETRA equipment in two bands—the 450–470 MHz portion of the UHF band (421–512 MHz) and Business/Industrial Land Transportation 800 MHz band channels (809–824/854–869 MHz) that

are not in the National Public Safety Planning Advisory Committee (NPSPAC) portion of the band—will give private land mobile radio (PLMR) licensees additional equipment alternatives without increasing the potential for interference or other adverse effects on other licensees.

Timetable:

Action	Date	FR Cite
NPRM	05/11/11	76 FR 27296
R&O	10/10/12	77 FR 61535
Order on Reconsideration.	08/09/13	78 FR 48627
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Tim Maguire, Electronics Engineer, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2155, *Fax:* 202 418–7247, *Email: tim.maguire@fcc.gov*.

RIN: 3060–AK05

536. Promoting Technological Solutions To Combat Wireless Contraband Device Use in Correctional Facilities

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 301; 47 U.S.C. 303(a); 47 U.S.C. 303(b); 47 U.S.C. 307 to 310; 47 U.S.C. 332

Abstract: In this proceeding, the Commission proposes rules to encourage development of multiple technological solutions to combat the use of contraband wireless devices in correctional facilities nationwide. The Commission proposes to streamline rules governing lease agreement modifications between wireless providers and managed access system operators. It also proposes to require wireless providers to terminate service to a contraband wireless device.

Timetable:

Action	Date	FR Cite
NPRM	06/18/13	78 FR 36469
NPRM Comment Period End.	08/08/13	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Conway, Attorney Advisor, Wireless Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2887, *Email: melissa.conway@fcc.gov*.

RIN: 3060–AK06

537. Enabling Small Cell Use in the 3.5 GHz Band

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 154(j) ; 47 U.S.C. 302(a); 47 U.S.C. 303 to 304; 47 U.S.C. 307(e); 47 U.S.C. 316

Abstract: The NPRM proposed to create a Citizens Broadband Service, licensed-by-rule pursuant to section 307(e) of the Communications Act and classified as a Citizens Band Service under part 95 of the Commission's rules. Access to and use of the 3.5 GHz band would be managed by a spectrum access system (SAS), incorporating a geo-location enabled dynamic database (similar to TVWS).

The Further Notice of Proposed Rulemaking proposes to create a new Citizens Broadband Radio Service in the 3550 to 3650 MHz band to be governed by a new part 96 of the Commission's rules. Access to and use of the 3550 to 3650 MHz band would be managed by a spectrum access system, incorporating a geo-location enabled dynamic database.

The Report and Order and Second Further Notice of Proposed Rulemaking adopted by the Commission established a new Citizens Broadband Radio Service for shared wireless broadband use of the 3550 to 3700 MHz band. The Citizens Broadband Radio Service is governed by a three-tiered spectrum authorization framework to accommodate a variety of commercial uses on a shared basis with incumbent federal and non-federal users of the band. Access and operations will be managed by a dynamic spectrum access system. The three tiers are: Incumbent Access, Priority Access, and General Authorized Access. Rules governing the Citizens Broadband Radio Service are found in Part 96 of the Commission's rules.

Timetable:

Action	Date	FR Cite
NPRM	01/08/13	78 FR 1188
NPRM Comment Period End.	03/19/13	
FNPRM	06/02/14	79 FR 31247
FNPRM Comment Period End.	08/15/14	
R&O and 2nd FNPRM.	06/15/15	80 FR 34119
2nd FNPRM Comment Period End.	08/14/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Paul Powell, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1613, *Email: paul.powell@fcc.gov*.

RIN: 3060–AK12

538. 800 MHz Cellular Telecommunications Licensing Reform; Docket No. 12–40

Legal Authority: 47 U.S.C. 151 to 152; 47 U.S.C. 154(i); 47 U.S.C. 301 to 303; 47 U.S.C. 308; 47 U.S.C. 309(j); 47 U.S.C. 332

Abstract: The proceeding was launched to revisit and update various rules governing licensing for the 800 MHz cellular radiotelephone service. Most notably, the current site-based model for issuing licenses is under review, mindful of the evolution of this commercial wireless mobile service since its inception more than 30 years ago and the licensing models used for newer wireless telecommunications services.

On November 10, 2014, the FCC released a Report and Order (R&O) and a companion Further Notice of Proposed Rulemaking (FNPRM) to revise rules governing the 800 MHz Cellular Service. In the R&O, the FCC eliminated various regulatory requirements and streamlined requirements remaining in place, while retaining Cellular Service licensees' ability to expand into an area that is not yet licensed. In the FNPRM, the FCC proposes and seeks comment on additional Cellular Service reforms of licensing rules and the radiated power rules, to promote flexibility and help foster the deployment of newer technologies such as LTE.

Timetable:

Action	Date	FR Cite
NPRM	03/16/12	77 FR 15665
NPRM Comment Period End.	05/15/12	
NPRM Reply Comment Period End.	06/14/12	
R&O	12/05/14	79 FR 72143
FNPRM	12/22/14	79 FR 76268
Final Rule Effective (with 3 exceptions).	01/05/15	
FNPRM Comment Period End.	01/21/15	
FNPRM Reply Comment Period End.	02/20/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nina Shafran, Attorney Advisor, Wireless Bureau, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2781, *Email: nina.shafran@fcc.gov*.

RIN: 3060–AK13

539. Updating Part 1 Competitive Bidding Rules (WT Docket No. 14–170)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 303(r); 47 U.S.C. 309(j); 47 U.S.C. 316

Abstract: This proceeding was initiated to revise some of the Commission's general part 1 rules governing competitive bidding for spectrum licenses to reflect changes in the marketplace, including the challenges faced by new entrants, as well as to advance the statutory directive to ensure that small businesses, rural telephone companies, and businesses owned by members of minority groups and women are given the opportunity to participate in the provision of spectrum-based services. In July 2015, the Commission revised its competitive bidding rules, specifically adopting revised requirements for eligibility for bidding credits, a new rural service provider bidding credit, a prohibition on joint bidding agreements and other changes.

Timetable:

Action	Date	FR Cite
NPRM	11/14/14	79 FR 68172
NPRM Comment Period End.	03/06/15	
Public Notice	03/16/15	80 FR 15715
Public Notice	04/23/15	80 FR 22690
Public Notice Comment Period End.	05/21/15	
R&O	09/18/15	80 FR 56764
Public Notice on Petitions for Reconsideration.	11/10/15	80 FR 69630
Public Notice Comment Period End.	12/07/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Kelly Quinn, Assistant Chief, Auctions and Spectrum Access Division, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0660, *Email: kelly.quinn@fcc.gov*.

RIN: 3060–AK28

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireline Competition Bureau

Final Rule Stage

540. Technology Transitions; GN Docket No. 13–5, WC Docket No. 05–25

Legal Authority: 47 U.S.C. 214; 47 U.S.C. 251

Abstract: This proceeding seeks to strengthen public safety, pro-consumer and pro-competition policies and protections in a manner appropriate for technology transitions that are underway and for networks and services that emerge from those transitions.The Notice of Proposed Rulemaking proposed new rules to ensure reliable backup power for consumers of IP-based voice and data services across networks that provide residential fixed service that substitutes for and improves upon the kind of traditional telephony used by people to dial 911. It also proposed new and revised rules to protect consumers by ensuring they are informed about their choices and the services provided to them when carriers retire legacy facilities (*e.g.,* copper networks) and seek to discontinue legacy services (*e.g.,* basic voice service). Finally, it proposed revised rules to protect competition where it exists today, so that the mere change of a network facility or discontinuance of a legacy service does not deprive small- and medium-size business, schools, libraries, and other enterprises of the ability to choose the kinds of innovative services that best suit their needs.

The Report and Order, Order on Reconsideration and Further Notice of Proposed Rulemaking: (i) Adopted rules updating the process by which incumbent LECs notify interconnecting entities of planned copper retirements; (ii) clarified that a carrier must obtain Commission approval before discontinuing, reducing, or impairing a service used as a wholesale input, but only when the carrier's actions will discontinue, reduce, or impair service to end users, including a carrier-customer's retail end users; (iii) adopted an interim rule requiring that to receive authority to discontinue, reduce, or impair a legacy TDM-based service special access service or commercial wholesale platform service that is used as a wholesale input by competitive providers, an incumbent LEC must as a condition to obtaining discontinuance authority commit to providing competitive carriers wholesale access on reasonably comparable rates, terms, and conditions; (iv) proposed specific criteria for the Commission to consider in determining whether to authorize carriers to discontinue a legacy retail service in favor of a retail service based on a newer technology; (v) sought comment on updating the rules governing the discontinuance process, including regarding the timing of notice to consumers, the method for providing that notice, and providing notice to Tribal governments; (vi) sought comment on extending the end point of the interim rule adopted in the Report and Order as it applies to the commercial wholesale platform service; and (vii) sought comment on whether to adopt objective criteria to measure an ILEC's good faith in responding to competitive LEC requests for additional information in connection with a copper retirement notice and whether a planned copper retirement should be postponed when an ILEC has failed to fulfill the new good faith communication requirement adopted in the Report and Order.

The Second Report and Order and Order on Reconsideration: (i) Adopted rules updating the process by which carriers seek Commission authorization for the discontinuance of legacy services in favor of services based on newer technologies; (ii) set forth consumer education requirements for carriers seeking to discontinue legacy services in favor of services based on newer technologies; (iii) revised rules to authorize carriers to provide notice to customers of discontinuance applications by email; (iv) revised rules to require carriers to provide notice of discontinuance applications to Tribal entities; (v) revised rules to provide new titles for copper retirement notices and certifications; (vi) revised rules to provide that if a competitive LEC files a Section 214(a) discontinuance application based on an incumbent LEC's copper retirement notice without an accompanying discontinuance of TDM-based service, the competitive LEC's application will be automatically granted on the effective date of the copper retirement as long as (1) the competitive LEC submits its discontinuance application to the Commission at least 40 days before the incumbent LEC's copper retirement effective date, and (2) the competitive LEC's discontinuance application contains a certification that the basis for the application is the incumbent LEC's planned copper retirement.

Timetable:

Action	Date	FR Cite
NPRM	01/06/15	80 FR 450
NPRM Comment Period End.	02/05/15	

Action	Date	FR Cite
NPRM Reply Comment Period End.	03/09/15	
FNPRM	09/25/15	80 FR 57768
R&O	09/25/15	80 FR 57768
FNPRM Comment Period End.	10/26/15	
FNPRM Reply Comment Period End.	11/24/15	
2nd R&O	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michele Levy Berlove, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1477, *Email: michele.berlove@fcc.gov*.

RIN: 3060–AK32

FEDERAL COMMUNICATIONS COMMISSION (FCC)

Wireline Competition Bureau

Long-Term Actions

541. Implementation of the Universal Service Portions of the 1996 Telecommunications Act

Legal Authority: 47 U.S.C. 151 *et seq.*

Abstract: The Telecommunications Act of 1996 expanded the traditional goal of universal service to include increased access to both telecommunications and advanced services such as high-speed Internet for all consumers at just, reasonable and affordable rates. The Act established principles for universal service that specifically focused on increasing access to evolving services for consumers living in rural and insular areas, and for consumers with low incomes. Additional principles called for increased access to high-speed Internet in the Nation's schools, libraries and rural health care facilities. The FCC established four programs within the Universal Service Fund to implement the statute. The four programs are: Connect America Fund (formally known as High-Cost Support) for rural areas; Lifeline (for low-income consumers), including initiatives to expand phone service for Native Americans; Schools and Libraries (E-rate); and Rural Health Care.

The Universal Service Fund is paid for by contributions from telecommunications carriers, including wireline and wireless companies, and interconnected Voice over Internet Protocol (VoIP) providers, including cable companies that provide voice service, based on an assessment on their interstate and international end-user revenues. The Universal Service Administrative Company, or USAC, administers the four programs and collects monies for the Universal Service Fund under the direction of the FCC.

On October 16, 2014, the Commission released a Public Notice seeking comments on proposed methodology for Connect America Fund recipients to measure and report speed and latency performance to fixed locations.

On December 18, 2014, the Commission released a Report and Order finalizing decisions necessary to proceed to Phase II of the Connect America Fund.

On December 19, 2014, the Commission released a Second E-rate Modernization Order adjusting program rules and support levels in order to meet long-term program goals for high-speed connectivity.

On January 30, 2015, the Commission released a Public Notice seeking comment on the Alliance of Rural Broadband applicants petition for limited waiver of certain RBE letter of credit requirements.

On February 4, 2015, the Commission released a Public Notice seeking comments on NTCA's emergency petition for limited waiver of RBE letter of credit bank eligibility requirements.

Timetable:

Action	Date	FR Cite
Recommended Decision Federal-State Joint Board, Universal Service.	11/08/96	61 FR 63778
First R&O	05/08/97	62 FR 32862
Second R&O	05/08/97	62 FR 32862
Order on Reconsideration.	07/10/97	62 FR 40742
R&O and Second Order on Reconsideration.	07/18/97	62 FR 41294
Second R&O, and FNPRM.	08/15/97	62 FR 47404
Third R&O	10/14/97	62 FR 56118
Second Order on Reconsideration.	11/26/97	62 FR 65036
Fourth Order on Reconsideration.	12/30/97	62 FR 2093
Fifth Order on Reconsideration.	06/22/98	63 FR 43088
Fifth R&O	10/28/98	63 FR 63993
Eighth Order on Reconsideration.	11/21/98	
Second Recommended Decision.	11/25/98	63 FR 67837
Thirteenth Order on Reconsideration.	06/09/99	64 FR 30917
FNPRM	06/14/99	64 FR 31780
FNPRM	09/30/99	64 FR 52738
Fourteenth Order on Reconsideration.	11/16/99	64 FR 62120
Fifteenth Order on Reconsideration.	11/30/99	64 FR 66778
Tenth R&O	12/01/99	64 FR 67372
Ninth R&O and Eighteenth Order on Reconsideration.	12/01/99	64 FR 67416
Nineteenth Order on Reconsideration.	12/30/99	64 FR 73427
Twentieth Order on Reconsideration.	05/08/00	65 FR 26513
Public Notice	07/18/00	65 FR 44507
Twelfth R&O, MO&O and FNPRM.	08/04/00	65 FR 47883
FNPRM and Order.	11/09/00	65 FR 67322
FNPRM	01/26/01	66 FR 7867
R&O and Order on Reconsideration.	03/14/01	66 FR 16144
NPRM	05/08/01	66 FR 28718
Order	05/22/01	66 FR 35107
Fourteenth R&O and FNPRM.	05/23/01	66 FR 30080
FNPRM and Order.	01/25/02	67 FR 7327
NPRM	02/15/02	67 FR 9232
NPRM and Order	02/15/02	67 FR 10846
FNPRM and R&O	02/26/02	67 FR 11254
NPRM	04/19/02	67 FR 34653
Order and Second FNPRM.	12/13/02	67 FR 79543
NPRM	02/25/03	68 FR 12020
Public Notice	02/26/03	68 FR 10724
Second R&O and FNPRM.	06/20/03	68 FR 36961
Twenty-Fifth Order on Reconsideration, R&O, Order, and FNPRM.	07/16/03	68 FR 41996
NPRM	07/17/03	68 FR 42333
Order	07/24/03	68 FR 47453
Order	08/06/03	68 FR 46500
Order and Order on Reconsideration.	08/19/03	68 FR 49707
Order on Remand, MO&O, FNPRM.	10/27/03	68 FR 69641
R&O, Order on Reconsideration, FNPRM.	11/17/03	68 FR 74492
R&O, FNPRM	02/26/04	69 FR 13794
R&O, FNPRM	04/29/04	
NPRM	05/14/04	69 FR 3130
NPRM	06/08/04	69 FR 40839
Order	06/28/04	69 FR 48232
Order on Reconsideration & Fourth R&O.	07/30/04	69 FR 55983
Fifth R&O and Order.	08/13/04	69 FR 55097
Order	08/26/04	69 FR 57289
Second FNPRM	09/16/04	69 FR 61334
Order & Order on Reconsideration.	01/10/05	70 FR 10057
Sixth R&O	03/14/05	70 FR 19321

Action	Date	FR Cite
R&O	03/17/05	70 FR 29960
MO&O	03/30/05	70 FR 21779
NPRM & FNPRM	06/14/05	70 FR 41658
Order	10/14/05	70 FR 65850
Order	10/27/05	
NPRM	01/11/06	71 FR 1721
Report Number 2747.	01/12/06	71 FR 2042
Order	02/08/06	71 FR 6485
FNPRM	03/15/06	71 FR 13393
R&O and NPRM	07/10/06	71 FR 38781
Order	01/01/06	71 FR 6485
Order	05/16/06	71 FR 30298
MO&O and FNPRM.	05/16/06	71 FR 29843
R&O	06/27/06	71 FR 38781
Public Notice	08/11/06	71 FR 50420
Order	09/29/06	71 FR 65517
Public Notice	03/12/07	72 FR 36706
Public Notice	03/13/07	72 FR 40816
Public Notice	03/16/07	72 FR 39421
Notice of Inquiry	04/16/07	
NPRM	05/14/07	72 FR 28936
Recommended Decision.	11/20/07	
Order	02/14/08	73 FR 8670
NPRM	03/04/08	73 FR 11580
NPRM	03/04/08	73 FR 11591
R&O	05/05/08	73 FR 11837
Public Notice	07/02/08	73 FR 37882
NPRM	08/19/08	73 FR 48352
Notice of Inquiry	10/14/08	73 FR 60689
Order on Remand, R&O, FNPRM.	11/12/08	73 FR 66821
R&O	05/22/09	74 FR 2395
Order & NPRM	03/24/10	75 FR 10199
R&O and MO&O	04/08/10	75 FR 17872
NOI and NPRM	05/13/10	75 FR 26906
Order and NPRM	05/28/10	75 FR 30024
NPRM	06/09/10	75 FR 32699
NPRM	08/09/10	75 FR 48236
NPRM	09/21/10	75 FR 56494
R&O	12/03/10	75 FR 75393
Order	01/27/11	76 FR 4827
NPRM	03/02/11	76 FR 11407
NPRM	03/02/11	76 FR 11632
NPRM	03/23/11	76 FR 16482
Order and NPRM	06/27/11	76 FR 37307
R&O	12/28/11	76 FR 81562
Order	03/09/12	77 FR 14297
R&O	03/30/12	77 FR 19125
Order	05/23/12	77 FR 30411
3rd Order on Reconsideration.	05/24/12	77 FR 30904
Public Notice	05/31/12	77 FR 32113
FNPRM	06/07/12	77 FR 33896
Public Notice	07/26/12	77 FR 43773
Order	08/30/12	77 FR 52616
Public Notice	02/28/12	77 FR 76345
Public Notice	08/29/12	77 FR 52279
Public Notice	12/12/12	77 FR 74010
5th Order on Reconsideration.	01/17/13	78 FR 3837
Public Notice	02/07/13	78 FR 9020
Public Notice	02/21/13	78 FR 12006
Public Notice	02/22/13	78 FR 12269
Public Notice	03/15/13	78 FR 16456
6th Order on Reconsideration and MO&O.	03/19/13	78 FR 16808
MO&O	05/08/13	78 FR 26705
R&O	05/06/13	78 FR 26269
R&O	06/03/13	78 FR 32991
Public Notice	06/13/13	78 FR 35632
R&O	06/26/13	78 FR 38227
Order on Reconsideration.	08/08/13	78 FR 48622
Order	03/01/13	78 FR 13935
Public Notice	12/19/13	78 FR 76789
Order	02/28/14	79 FR 11366
Public Notice	03/11/14	79 FR 13599
Public Notice	03/17/14	79 FR 17070
Public Notice	04/18/14	79 FR 21924
R&O	05/21/14	79 FR 29111
Order	05/23/14	79 FR 33705
FNPRM	07/09/14	79 FR 39163
R&O	07/31/14	79 FR 44352
R&O	08/19/14	79 FR 49160
Public Notice	11/20/14	79 FR 69091
R&O	01/27/15	80 FR 4446
2nd R&O	02/04/15	80 FR 5961
Public Notice	02/27/15	80 FR 10658
2nd FNPRM	06/22/15	80 FR 40923
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nakesha Woodward, Program Support Assistant, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1502, *Email: kesha.woodward@fcc.gov*.

RIN: 3060–AF85

542. 2000 Biennial Regulatory Review—Telecommunications Service Quality Reporting Requirements

Legal Authority: 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 201(b); 47 U.S.C. 303(r); 47 U.S.C. 403

Abstract: The notice of proposed rulemaking (NPRM) proposed to eliminate our current service quality reports (Automated Reporting Management Information System (ARMIS) Report 43–05 and 43–06) and replace them with a more consumer-oriented report. The NPRM proposed to reduce the reporting categories from more than 30 to 6, and addressed the needs of carriers, consumers, State public utility commissions, and other interested parties. On February 15, 2005, the Commission adopted an Order that extended the Federal-State Joint Conference on Accounting Issues until March 1, 2007. On September 6, 2008, the Commission adopted a Memorandum Opinion and Order granting conditional forbearance from the ARMIS 43–05 and 43–06 reporting requirements to all carriers that are required to file these reports.

Timetable:

Action	Date	FR Cite
NPRM	12/04/00	65 FR 75657
Order	02/06/02	67 FR 5670
Order	03/22/05	70 FR 14466
MO&O	10/15/08	73 FR 60997
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cathy Zima, Deputy Chief, Industry Analysis Division, WCB, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7380, *Fax:* 202 418–6768, *Email: cathy.zima@fcc.gov*.

RIN: 3060–AH72

543. National Exchange Carrier Association Petition

Legal Authority: 47 U.S.C. 151 and 152; 47 U.S.C. 201 and 202; . . .

Abstract: In a Notice of Proposed Rulemaking (NPRM) released on July 19, 2004, the Commission initiated a rulemaking proceeding to examine the proper number of end user common line charges (commonly referred to as subscriber line charges or SLCs) that carriers may assess upon customers that obtain derived channel T–1 service where the customer provides the terminating channelization equipment and upon customers that obtain Primary Rate Interface (PRI) Integrated Service Digital Network (ISDN) service.

Timetable:

Action	Date	FR Cite
NPRM	08/13/04	69 FR 50141
NPRM Comment Period End.	11/12/04	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Douglas Slotten, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1572, *Email: douglas.slotten@fcc.gov*.

RIN: 3060–AI47

544. IP-Enabled Services; WC Docket No. 04–36

Legal Authority: 47 U.S.C. 151 and 152; . . .

Abstract: The notice seeks comment on ways in which the Commission might categorize or regulate IP-enabled services. It poses questions regarding the proper allocation of jurisdiction over each category of IP-enabled service. The notice then requests comment on whether the services comprising each category constitute ''telecommunications services'' or ''information services'' under the

definitions set forth in the Act. Finally, noting the Commission's statutory forbearance authority and title I ancillary jurisdiction, the notice describes a number of central regulatory requirements (including, for example, those relating to access charges, universal service, E911, and disability accessibility), and asks which, if any, should apply to each category of IP-enabled services.

Timetable:

Action	Date	FR Cite
NPRM	03/29/04	69 FR 16193
NPRM Comment Period End.	07/14/04	
First R&O	06/03/05	70 FR 37273
Public Notice	06/16/05	70 FR 37403
First R&O Effective.	07/29/05	70 FR 43323
Public Notice	08/31/05	70 FR 51815
R&O	07/10/06	71 FR 38781
R&O and FNPRM	06/08/07	72 FR 31948
FNPRM Comment Period End.	07/09/07	72 FR 31782
R&O	08/06/07	72 FR 43546
Public Notice	08/07/07	72 FR 44136
R&O	08/16/07	72 FR 45908
Public Notice	11/01/07	72 FR 61813
Public Notice	11/01/07	72 FR 61882
Public Notice	12/13/07	72 FR 70808
Public Notice	12/20/07	72 FR 72358
R&O	02/21/08	73 FR 9463
NPRM	02/21/08	73 FR 9507
Order	05/15/08	73 FR 28057
Order	07/29/09	74 FR 37624
R&O	08/07/09	74 FR 39551
Public Notice	10/14/09	74 FR 52808
Announcement of Effective Date.	03/19/10	75 FR 13235
Public Notice	05/20/10	75 FR 28249
Public Notice	06/11/10	75 FR 33303
NPRM, Order, & NOI.	06/19/13	78 FR 36679
R&O (release date).	06/22/15	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Kirkel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7958, *Fax:* 202 418–1413, *Email: melissa.kirkel@fcc.gov*.

RIN: 3060–AI48

545. Jurisdictional Separations

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) and 154(j); 47 U.S.C. 205; 47 U.S.C. 221(c); 47 U.S.C. 254; 47 U.S.C. 403; 47 U.S.C. 410

Abstract: Jurisdictional separations is the process, pursuant to part 36 of the Commission's rules, by which incumbent local exchange carriers apportion regulated costs between the intrastate and interstate jurisdictions. In 1997, the Commission initiated a proceeding seeking comment on the extent to which legislative changes, technological changes, and market changes warrant comprehensive reform of the separations process. In 2001, the Commission adopted the Federal-State Joint Board on Jurisdictional Separations' recommendation to impose an interim freeze on the part 36 category relationships and jurisdictional cost allocation factors for a period of five years, pending comprehensive reform of the part 36 separations rules. In 2006, the Commission adopted an Order and Further Notice of Proposed Rulemaking, which extended the separations freeze for a period of three years and sought comment on comprehensive reform. In 2009, the Commission adopted a Report and Order extending the separations freeze an additional year to June 2010. In 2010, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2011. In 2011, the Commission adopted a Report and Order extending the separations freeze for an additional year to June 2012. In 2012, the Commission adopted a Report and Order extending the separations freeze for an additional two years to June 2014. In 2014, the Commission adopted a Report and Order extending the separations freeze for an additional three years to June 2017.

Timetable:

Action	Date	FR Cite
NPRM	11/05/97	62 FR 59842
NPRM Comment Period End.	12/10/97	
Order	06/21/01	66 FR 33202
Order and FNPRM.	05/26/06	71 FR 29882
Order and FNPRM Comment Period End.	08/22/06	
R&O	05/15/09	74 FR 23955
R&O	05/25/10	75 FR 30301
R&O	05/27/11	76 FR 30840
R&O	05/23/12	77 FR 30410
R&O	06/13/14	79 FR 36232
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Hunter, Attorney-Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1520, *Email: john.hunter@fcc.gov*.

RIN: 3060–AJ06

546. Service Quality, Customer Satisfaction, Infrastructure and Operating Data Gathering (WC Docket Nos. 08–190, 07–139, 07–204, 07–273, 07–21)

Legal Authority: 47 U.S.C. 151 to 155; 47 U.S.C. 160 and 161; 47 U.S.C. 20 to 205; 47 U.S.C. 215; 47 U.S.C. 218 to 220; 47 U.S.C. 251 to 271; 47 U.S.C. 303(r) and 332; 47 U.S.C. 403; 47 U.S.C. 502 and 503

Abstract: This notice of proposed rulemaking (NPRM) tentatively proposes to collect infrastructure and operating data that is tailored in scope to be consistent with Commission objectives from all facilities-based providers of broadband and telecommunications. Similarly, the NPRM also tentatively proposes to collect data concerning service quality and customer satisfaction from all facilities-based providers of broadband and telecommunications. The NPRM seeks comment on the proposals, on the specific information to be collected, and on the mechanisms for collecting information. On June 27, 2013, the Commission adopted a Report and Order addressing collection of broadband deployment data from facilities-based providers.

Timetable:

Action	Date	FR Cite
NPRM	10/15/08	73 FR 60997
NPRM Comment Period End.	11/14/08	
Reply Comment Period End.	12/15/08	
NPRM	02/28/11	76 FR 12308
NPRM Comment Period End.	03/30/11	
Reply Comment Period End.	04/14/11	
R&O	08/13/13	78 FR 49126
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Cathy Zima, Deputy Chief, Industry Analysis Division, WCB, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7380, *Fax:* 202 418–6768, *Email: cathy.zima@fcc.gov*.

RIN: 3060–AJ14

547. Development of Nationwide Broadband Data To Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans

Legal Authority: 15 U.S.C. 251; 47 U.S.C. 252; 47 U.S.C. 257; 47 U.S.C. 271; 47 U.S.C. 1302; 47 U.S.C. 160(b); 47 U.S.C. 161(a)(2)

Abstract: The Report and Order streamlined and reformed the Commission's Form 477 Data Program, which is the Commission's primary tool to collect data on broadband and telephone services.

Timetable:

Action	Date	FR Cite
NPRM	05/16/07	72 FR 27519
Order	07/02/08	73 FR 37861
Order	10/15/08	73 FR 60997
NPRM	02/08/11	76 FR 10827
Order	06/27/13	78 FR 49126
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ms Chelsea Fallon, Assistant Division Chief, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7991, *Email: chelsea.fallon@fcc.gov*.

RIN: 3060–AJ15

548. Local Number Portability Porting Interval and Validation Requirements (WC Docket No. 07–244)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 251; 47 U.S.C. 303(r)

Abstract: In 2007, the Commission released a Notice of Proposed Rulemaking in WC Docket No. 07–244. The Notice sought comment on whether the Commission should adopt rules specifying the length of the porting intervals or other details of the porting process. It also tentatively concluded that the Commission should adopt rules reducing the porting interval for wireline-to-wireline and intermodal simple port requests, specifically, to a 48-hour porting interval.

In the Local Number Portability Porting Interval and Validation Requirements First Report and Order and Further Notice of Proposed Rulemaking, released on May 13, 2009, the Commission reduced the porting interval for simple wireline and simple intermodal port requests, requiring all entities subject to its local number portability (LNP) rules to complete simple wireline-to-wireline and simple intermodal port requests within one business day. In a related Further Notice of Proposed Rulemaking (FNPRM), the Commission sought comment on what further steps, if any, the Commission should take to improve the process of changing providers.

In the LNP Standard Fields Order, released on May 20, 2010, the Commission adopted standardized data fields for simple wireline and intermodal ports. The Order also adopts the NANC's recommendations for porting process provisioning flows and for counting a business day in the context of number porting.

Timetable:

Action	Date	FR Cite
NPRM	02/21/08	73 FR 9507
R&O and FNPRM	07/02/09	74 FR 31630
R&O	06/22/10	75 FR 35305
Public Notice	12/21/11	76 FR 79607
Public Notice	06/06/13	78 FR 34015
R&O	05/26/15	80 FR 29978
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Melissa Kirkel, Attorney Advisor, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7958, *Fax:* 202 418–1413, *Email: melissa.kirkel@fcc.gov*.

RIN: 3060–AJ32

549. Implementation of Section 224 of the ACT; a National Broadband Plan for Our Future (WC Docket No. 07–245, GN Docket No. 09–51)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 154(j); 47 U.S.C. 224

Abstract: In 2010, the Commission released an Order and Further Notice of Proposed Rulemaking that implemented certain pole attachment recommendations of the National Broadband Plan and sought comment regarding others. On April 7, 2011, the Commission adopted a Report and Order and Order on Reconsideration that sets forth a comprehensive regulatory scheme for access to poles, and modifies existing rules for pole attachment rates and enforcement. In 2015, the Commission issued an Order on Reconsideration that further harmonized the pole attachment rates paid by telecommunications and cable providers.

Timetable:

Action	Date	FR Cite
NPRM	02/06/08	73 FR 6879
FNPRM	07/15/10	75 FR 41338
Declaratory Ruling	08/03/10	75 FR 45494
R&O	05/09/11	76 FR 26620
Order on Recon	02/03/16	81 FR 5605
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Ray, Attorney, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–0357.

RIN: 3060–AJ64

550. Rural Call Completion; WC Docket No. 13–39

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 202(a); 47 U.S.C. 218; 47 U.S.C. 220(a); 47 U.S.C. 257(a); 47 U.S.C. 403

Abstract: The recordkeeping, retention, and reporting requirements in the Report and Order improve the Commission's ability to monitor problems with completing calls to rural areas, and enforce restrictions against blocking, choking, reducing, or restricting calls. The Further Notice of Proposed Rulemaking sought comment on additional measures intended to further ensure reasonable and nondiscriminatory service to rural areas. The Report and Order applies new recordkeeping, retention, and reporting requirements to providers of long-distance voice service that make the initial long-distance call path choice for more than 100,000 domestic retail subscriber lines which, in most cases, is the calling party's long-distance provider. Covered providers are required to file quarterly reports and retain the call detail records for at least six calendar months. Qualifying providers may certify that they meet a Safe Harbor which reduces their reporting and retention obligations, or seek a waiver of these rules from the Wireline Competition Bureau, in consultation with the Enforcement Bureau. The Report and Order also adopts a rule prohibiting all originating and intermediate providers from causing audible ringing to be sent to the caller before the terminating provider has signaled that the called party is being alerted.

On February 13, 2015, the Wireline Competition Bureau provided additional guidance regarding how providers must categorize information. The Commission also adopted an Order on Reconsideration addressing petitions for reconsideration. Reports have been due quarterly beginning with the second quarter of 2015.

Timetable:

Action	Date	FR Cite
NPRM	04/12/13	78 FR 21891
Public Notice	05/07/13	78 FR 26572
NPRM Comment Period End.	05/28/13	
R&O and FNPRM	12/17/13	78 FR 76218
PRA 60 Day Notice.	12/30/13	78 FR 79448
FNPRM Comment Period End.	02/18/14	

Action	Date	FR Cite
PRA Comments Due.	03/11/14	
Public Notice	05/06/14	79 FR 25682
Order on Reconsideration.	12/10/14	79 FR 73227
Erratum	01/08/15	80 FR 1007
Public Notice	03/04/15	80 FR 11954
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Ben Childers, Economist, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1418, *Fax:* 202 418–1413, *Email: ben.childers@fcc.gov*.

RIN: 3060–AJ89

551. Rates for Inmate Calling Services; WC Docket No. 12–375

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) to (j); 47 U.S.C. 225; 47 U.S.C. 276; 47 U.S.C. 303(r); 47 CFR 64

Abstract: In the Report and Order portion of this document, the Federal Communications Commission adopts rule changes to ensure that rates for both interstate and intrastate inmate calling services (ICS) are fair, just, and reasonable, as required by statute, and limits ancillary service charges imposed by ICS providers. In the Report and Order, the Commission sets caps on all interstate and intrastate calling rates for ICS, establishes a tiered rate structure based on the size and type of facility being served, limits the types of ancillary services that ICS providers may charge for and caps the charges for permitted fees, bans flat-rate calling, facilitates access to ICS by people with disabilities by requiring providers to offer free or steeply discounted rates for calls using TTY, and imposes reporting and certification requirements to facilitate continued oversight of the ICS market. In the Further Notice portion of the item, the Commission seeks comment on ways to promote competition for ICS, video visitation, rates for international calls, and considers an array of solutions to further address areas of concern in the ICS industry.

Timetable:

Action	Date	FR Cite
NPRM	01/22/13	78 FR 4369
FNPRM	11/13/13	78 FR 68005
R&O	11/13/13	78 FR 67956
FNPRM Comment Period End.	12/20/13	
Announcement of Effective Date.	06/20/14	79 FR 33709
2nd FNPRM	11/21/14	79 FR 69682
2nd FNPRM Comment Period End.	01/15/15	
2nd FNPRM Reply Comment Period End.	01/20/15	
3rd FNPRM	12/18/15	80 FR 79020
2nd R&O	12/18/15	80 FR 79136
3rd FNPRM Comment Period End.	01/19/16	
3rd FNPRM Reply Comment Period End.	02/08/16	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Gil Strobel, Deputy Pricing Policy Div. Chief, WCB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–7084.

RIN: 3060–AK08

552. Comprehensive Review of the Part 32 Uniform System of Accounts (WC Docket No. 14–130)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i); 47 U.S.C. 201(b); 47 U.S.C. 219; 47 U.S.C. 220

Abstract: The Commission initiates a rulemaking proceeding to review the Uniform System of Accounts (USOA) to consider ways to minimize the compliance burdens on incumbent local exchange carriers while ensuring that the agency retains access to the information it needs to fulfill its regulatory duties. In light of the Commission's actions in areas of price cap regulation, universal service reform, and intercarrier compensation reform, the Commission stated that it is likely appropriate to streamline the existing rules even though those reforms may not have eliminated the need for accounting data for some purposes. The Commission's analysis and proposals are divided into three parts. First, the Commission proposes to streamline the USOA accounting rules while preserving their existing structure. Second, the Commission seeks more focused comment on the accounting requirements needed for price cap carriers to address our statutory and regulatory obligations. Third, the Commission seeks comment on several related issues, including state requirements, rate effects, implementation, continuing property records, and legal authority.

Timetable:

Action	Date	FR Cite
NPRM	09/15/14	79 FR 54942
NPRM Comment Period End.	11/14/14	
NPRM Reply Comment Period End.	12/15/14	
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Robin Cohn, Attorney Advisor, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2747, *Email: robin.cohn@fcc.gov*.

RIN: 3060–AK20

553. Protecting and Promoting the Open Internet (WC Docket No. 14–28)

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 154(i) to (j); 47 U.S.C. 201(b)

Abstract: In January of 2014, the D.C. Circuit in *Verizon* v. *FCC* struck down the no-blocking and no-unreasonable discrimination rules contained in the *2010 Open Internet Order,* invalidating the Commission's attempt to create legally enforceable standards to preserve the open Internet. In response to *Verizon,* in May 2014, the Commission released a Notice of Proposed Rulemaking (*2014 Open Internet NPRM*) that sought comment on a fundamental question: what is the right public policy to ensure that the Internet remains open? After careful review of the record generated by the *2014 Open Internet NPRM,* the Commission issued a combined Report and Order on Remand, Declaratory Ruling, and Order in this proceeding. The Report and Order established bright-line rules banning three specific practices that invariably harm the open Internet: Blocking, Throttling, and Paid Prioritization, and applied those rules to both fixed and mobile broadband Internet access service. In addition, the Report and Order put in place a general conduct standard to prevent a broadband service provider from unreasonably interfering with or disadvantaging the ability of end users to access content, applications, services or devices offered by edge providers. The Report and Order also strengthened the transparency rules that remained in place following *Verizon*.

In order to provide the best possible legal foundation for these rules, the Commission's Declaratory Ruling reclassified broadband Internet access service as a telecommunications service subject to title II of the Communications Act. Finally, in order to tailor title II to the 21st century broadband ecosystem, the Commission issued an Order

forbearing from the majority of title II provisions, leaving in place a light-touch regime that will support regulatory action while simultaneously encouraging broadband investment, innovation, and deployment.

Timetable:

Action	Date	FR Cite
NPRM	07/01/14	79 FR 37448
NPRM Comment Period End.	07/18/14	
NPRM Reply Comment Period End.	09/15/14	
R&O on Remand, Declaratory Ruling, and Order.	04/13/15	80 FR 19737
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Zachary Ross, Attorney Advisor, Competiton Policy Division, WCB, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1033, *Email: zachary.ross@fcc.gov*.

RIN: 3060–AK21

554. Modernizing Common Carrier Rules, WC Docket No. 15–33

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 152(a); 47 U.S.C. 154(j); 47 U.S.C. 154(i); 47 U.S.C. 160 to 161; 47 U.S.C. 201 to 205; 47 U.S.C. 214; 47 U.S.C. 218 to 221; 47 U.S.C. 225 to 228; 47 U.S.C. 254; 47 U.S.C. 303; 47 U.S.C. 308; 47 U.S.C. 403; 47 U.S.C. 410; 47 U.S.C. 571; 47 U.S.C. 1302; 52 U.S.C. 30141

Abstract: The Notice of Proposed Rulemaking (Notice) seeks to update our rules to better reflect current requirements and technology by removing outmoded regulations from the Code of Federal Regulations (CFR). The Notice proposes to update the CFR by (1) eliminating certain rules from which the Commission has forborn, and (2) eliminating references to telegraph service in certain rules. We propose to eliminate several rules from which the Commission has granted unconditional forbearance for all carriers. These are: (1) Section 64.804(c)–(g), which governs a carrier's recordkeeping and other obligations when it extends to federal candidates unsecured credit for communications service; (2) sections 42.4, 42.5, and 42.7, which require carriers to preserve certain records; (3) section 64.301, which requires carriers to provide communications service to foreign governments for international communications; (4) section 64.501, governing telephone companies' obligations when recording telephone conversations; (5) section 64.5001(a)–(c)(2), and (c)(4), which imposes certain reporting and certification requirements for prepaid calling card providers; and (6) section 64.1, governing traffic damage claims for carriers engaged in radio-telegraph, wire-telegraph, or ocean-cable service. We also propose to remove references to telegraph from certain sections of the Commission's rules. This proposal is consistent with Recommendation 5.38 of the Process Reform Report. Specifically, we propose to remove telegraph from: (1) Section 36.126 (separations); (2) section 54.706(a)(13) (universal service contributions); and (3) sections 63.60(c), 63.61, 63.62, 63.65(a)(4), 63.500(g), 63.501(g), and 63.504(k) (discontinuance).

Timetable:

Action	Date	FR Cite
NPRM	05/06/15	80 FR 25989
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Daniel Kahn, Deputy Division Chief, Competition Policy, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–1407, *Email: daniel.kahn@fcc.gov*.

RIN: 3060–AK33

555. Numbering Policies for Modern Communications, WC Docket No. 13–97

Legal Authority: 47 U.S.C. 151; 47 U.S.C. 153 to 154; 47 U.S.C. 201 to 205; 47 U.S.C. 251; 47 U.S.C. 303(r)

Abstract: This Order establishes a process to authorize interconnected VoIP providers to obtain North American Numbering Plan (NANP) telephone numbers directly from the Numbering Administrators, rather than through intermediaries. Section 52.15(g)(2)(i) of the Commission's rules limits access to telephone numbers to entities that demonstrate they are authorized to provide service in the area for which the numbers are being requested. The Commission has interpreted this rule as requiring evidence of either a state certificate of public convenience and necessity (CPCN) or a Commission license. Neither authorization is typically available in practice to interconnected VoIP providers. Thus, as a practical matter, generally only telecommunications carriers are able to provide the proof of authorization required under our rules, and thus able to obtain numbers directly from the Numbering Administrators. This Order establishes an authorization process to enable interconnected VoIP providers that choose direct access to request numbers directly from the Numbering Administrators. Next, the Order sets forth several conditions designed to minimize number exhaust and preserve the integrity of the numbering system.

The Order requires interconnected VoIP providers obtaining numbers to comply with the same requirements applicable to carriers seeking to obtain numbers. These requirements include any state requirements pursuant to numbering authority delegated to the states by the Commission, as well as industry guidelines and practices, among others. The Order also requires interconnected VoIP providers to comply with facilities readiness requirements adapted to this context, and with numbering utilization and optimization requirements. As conditions to requesting and obtaining numbers directly from the Numbering Administrators, interconnected VoIP providers are also required to: (1) Provide the relevant state commissions with regulatory and numbering contacts when requesting numbers in those states, (2) request numbers from the Numbering Administrators under their own unique OCN, (3) file any requests for numbers with the relevant state commissions at least 30 days prior to requesting numbers from the Numbering Administrators, and (4) provide customers with the opportunity to access all abbreviated dialing codes (N11 numbers) in use in a geographic area.

Finally, the Order also modifies Commission's rules in order to permit VoIP Positioning Center (VPC) providers to obtain pseudo-Automatic Number Identification (p-ANI) codes directly from the Numbering Administrators for purposes of providing E911 services.

Timetable:

Action	Date	FR Cite
NPRM	06/19/13	78 FR 36725
NPRM Comment Period End.	07/19/13	
R&O	10/29/15	80 FR 66454
Next Action Undetermined.		

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Marilyn Jones, Attorney, Federal Communications Commission, Wireline Competition Bureau, 445 12th Street SW., Washington, DC 20554, *Phone:* 202 418–2357, *Fax:* 202 418–2345, *Email: marilyn.jones@fcc.gov*.

RIN: 3060–AK36

[FR Doc. 2016–29927 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XXVI

Federal Reserve System

Semiannual Regulatory Agenda

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Board is issuing this agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period November 1, 2016 through April 30, 2017. The next agenda will be published in spring 2017.

DATES: Comments about the form or content of the agenda may be submitted any time during the next 6 months.

ADDRESSES: Comments should be addressed to Robert deV. Frierson, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its fall 2016 agenda as part of the Fall 2016 Unified Agenda of Federal Regulatory and Deregulatory Actions, which is coordinated by the Office of Management and Budget under Executive Order 12866. The agenda also identifies rules the Board has selected for review under section 610(c) of the Regulatory Flexibility Act, and public comment is invited on those entries. The complete Unified Agenda will be available to the public at the following Web site: *www.reginfo.gov*. Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next 6 months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. And a third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further. A dot (•) preceding an entry indicates a new matter that was not a part of the Board's previous agenda.

Yao-Chin Chao,

Assistant Secretary of the Board.

FEDERAL RESERVE SYSTEM—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
556	Regulation CC—Availability of Funds and Collection of Checks (Docket No: R–1409)	7100–AD68

FEDERAL RESERVE SYSTEM—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
557	Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R–1429).	7100–AD80

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

556. Regulation CC—Availability of Funds and Collection of Checks (Docket No: R–1409)

Legal Authority: 12 U.S.C. 4001 to 4010; 12 U.S.C. 5001 to 5018

Abstract: The Board of Governors of the Federal Reserve System (the Board) proposed amendments to Regulation CC to facilitate the banking industry's ongoing transition to fully electronic interbank check collection and return, including proposed amendments to subpart C to condition a depositary bank's right of expeditious return on the depositary bank agreeing to accept returned checks electronically, either directly or indirectly, from the paying bank. The Board also proposed amendments to subpart B, the funds availability schedule provisions to reflect the fact that there are no longer any non-local checks. The Board proposed to revise the model forms in appendix C that banks may use in disclosing their funds availability policies to their customers and to update the preemption determinations in appendix F. Finally, the Board requested comment on whether it should consider future changes to the regulation to improve the check collection system, such as decreasing the time afforded to a paying bank to decide whether to pay a check in order to reduce the risk to a depositary bank of needing to make funds available for withdrawal before learning whether a deposited check has been returned unpaid.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	03/25/11	76 FR 16862
Board Requested Comment on Revised Proposal.	02/04/14	79 FR 6673
Board Expects Further Action on Subpart C.	11/00/16	
Board Expects Further Action on Subpart B.	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Clinton Chen, Attorney, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–3952.

RIN: 7100–AD68

FEDERAL RESERVE SYSTEM (FRS)

Final Rule Stage

557. Regulation LL—Savings and Loan Holding Companies and Regulation MM—Mutual Holding Companies (Docket No: R–1429)

Legal Authority: 5 U.S.C. 552; 5 U.S.C. 559; 5 U.S.C. 1813; 5 U.S.C. 1817; 5 U.S.C. 1828

Abstract: The Dodd-Frank Act Wall Street Reform and Consumer Protection Act (the Act) transferred responsibility for supervision of Savings and Loan Holding Companies (SLHCs) and their non-depository subsidiaries from the Office of Thrift Supervision (OTS) to the Board of Governors of the Federal Reserve System (the Board), on July 21, 2011. The Act also transferred

supervisory functions related to Federal savings associations and State savings associations to the Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC), respectively. The Board on August 12, 2011, approved an interim final rule for SLHCs, including a request for public comment. The interim final rule transferred from the OTS to the Board the regulations necessary for the Board to supervise SLHCs, with certain technical and substantive modifications. The interim final rule has three components: (1) New Regulation LL (part 238), which sets forth regulations generally governing SLHCs; (2) new Regulation MM (part 239), which sets forth regulations governing SLHCs in mutual form; and (3) technical amendments to existing Board regulations necessary to accommodate the transfer of supervisory authority for SLHCs from the OTS to the Board. The structure of interim final Regulation LL closely follows that of the Board's Regulation Y, which governs bank holding companies, in order to provide an overall structure to rules that were previously found in disparate locations. In many instances, interim final Regulation LL incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation LL also reflects statutory changes made by the Dodd-Frank Act with respect to SLHCs, and incorporates Board precedent and practices with respect to applications processing procedures and control issues, among other matters. Interim final Regulation MM organized existing OTS regulations governing SLHCs in mutual form (MHCs) and their subsidiary holding companies into a single part of the Board's regulations. In many instances, interim final Regulation MM incorporated OTS regulations with only technical modifications to account for the shift in supervisory responsibility from the OTS to the Board. Interim final Regulation MM also reflects statutory changes made by the Dodd-Frank Act with respect to MHCs. The interim final rule also made technical amendments to Board rules to facilitate supervision of SLHCs, including to rules implementing Community Reinvestment Act requirements and to Board procedural and administrative rules. In addition, the Board made technical amendments to implement section 312(b)(2)(A) of the Act, which transfers to the Board all rulemaking authority under section 11 of the Home Owner's Loan Act relating to transactions with affiliates and extensions of credit to executive officers, directors, and principal shareholders. These amendments include revisions to parts 215 (Insider Transactions) and part 223 (Transactions with Affiliates) of Board regulations.

Timetable:

Action	Date	FR Cite
Board Requested Comment.	09/13/11	76 FR 56508
Board Expects Further Action.	12/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: C. Tate Wilson, Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–3696, Claudia Von Pervieux, Counsel, Federal Reserve System, Legal Division, Washington, DC 20551, *Phone:* 202 452–2552.

RIN: 7100–AD80

[FR Doc. 2016–29929 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XXVII

Nuclear Regulatory Commission

Semiannual Regulatory Agenda

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0186]

10 CFR Chapter I

Unified Agenda of Federal Regulatory and Deregulatory Actions

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: We are publishing our semiannual regulatory agenda (the Agenda) in accordance with Public Law 96–354, ''The Regulatory Flexibility Act,'' and Executive Order 12866, ''Regulatory Planning and Review.'' The Agenda is a compilation of all rulemaking activities on which we have recently completed action or have proposed or are considering action. We have completed 13 rulemaking activities since publication of our last Agenda on June 9, 2016 (81 FR 37465). This issuance of our Agenda contains 26 active and 23 long-term rulemaking activities: 1 is Economically Significant; 7 represent Other Significant agency priorities; 39 are Substantive, Nonsignificant rulemaking activities; and 2 are Administrative rulemaking activities. Two of the NRC's rulemaking activities impact small entities. This issuance also contains our annual regulatory plan, which contains information on some of our most important regulatory actions that we are considering issuing in proposed or final form during Fiscal Year 2017. Our regulatory plan was submitted to OMB in June 2016; updates have been reflected in the Agenda abstract for each rulemaking. We are requesting comment on the rulemaking activities as identified in this Agenda.

DATES: Submit comments on rulemaking activities as identified in this Agenda by January 23, 2017.

ADDRESSES: Submit comments on any rulemaking activity in the Agenda by the date and methods specified in any **Federal Register** notice on the rulemaking activity. Comments received on rulemaking activities for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the **Federal Register** notice. You may submit comments on this Agenda through the Federal Rulemaking Web site by going to *http://www.regulations.gov* and searching for Docket ID NRC–2016–0186. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions on any rulemaking activity listed in the Agenda, contact the individual listed under the heading ''Agency Contact'' for that rulemaking activity.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Cindy Bladey, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, *telephone:* 301–415–3280; *email: Cindy.Bladey@nrc.gov.* Persons outside the Washington, DC, metropolitan area may call, toll-free: 1–800–368–5642. For further information on the substantive content of any rulemaking activity listed in the Agenda, contact the individual listed under the heading ''Agency Contact'' for that rulemaking activity.

SUPPLEMENTARY INFORMATION:

Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0186 when contacting the NRC about the availability of information for this document. You may obtain publically-available information related to this document by any of the following methods:

- *Reginfo.gov:*
  - For completed rulemaking activities go to *http://www.reginfo.gov/public/do/eAgendaHistory?showStage=completed,* select ''fall 2016 The Regulatory Plan and the Unified Agenda of Federal Regulatory and Deregulatory Actions'' from drop down menu, and select ''Nuclear Regulatory Commission'' from drop down menu.
  - For active rulemaking activities go to *http://www.reginfo.gov/public/do/eAgendaMain* and select ''Nuclear Regulatory Commission'' from drop down menu.
  - For long-term rulemaking activities go to *http://www.reginfo.gov/public/do/eAgendaMain,* select ''Current Long Term Actions'' link, and select ''Nuclear Regulatory Commission'' from drop down menu.
- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0186.
- *NRC's Public Web site:* Go to *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/unified-agenda.html* and select fall 2016.
- *NRC's Public Document Room:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2016–0186 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into the Agencywide Documents Access and Management System (ADAMS). The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

Introduction

The Agenda is a compilation of all rulemaking activities on which an agency has recently completed action or has proposed or is considering action. The Agenda reports rulemaking activities in three major categories: Completed, active, and long-term. Completed rulemaking activities are those that were completed since publication of an agency's last Agenda; active rulemaking activities are those that an agency currently plans to have an Advance Notice of Proposed Rulemaking, a Proposed Rule, or a Final Rule issued within the next 12 months; and long-term rulemaking activities are rulemaking activities under development but for which an agency does not expect to have a regulatory action within the 12 months after publication of the current edition of the Unified Agenda.

We assign a ''Regulation Identifier Number'' (RIN) to a rulemaking activity when our Commission initiates a rulemaking and approves a rulemaking plan, or when the NRC staff begins work on a Commission delegated

rulemaking [1] that does not require a rulemaking plan. The Office of Management and Budget uses this number to track all relevant documents throughout the entire ''lifecycle'' of a particular rulemaking activity. We report all rulemaking activities in the Agenda that have been assigned a RIN and meet the definition for a completed, an active, or a long-term rulemaking activity.

The information contained in this Agenda is updated to reflect any action that has occurred on a rulemaking activity since publication of our last Agenda on June 9, 2016 (81 FR 37465). Specifically, the information in this Agenda has been updated through September 2, 2016.

The date for the next scheduled action under the heading ''Timetable'' is the date the next regulatory action for the rulemaking activity is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. The Agenda is intended to provide the public early notice and opportunity to participate in our rulemaking process. However, we may consider or act on any rulemaking activity even though it is not included in the Agenda.

Common Prioritization of Rulemaking

A key part of our regulatory program is an annual review of all ongoing and potential rulemaking activities. In conjunction with our budget and long-term planning process, we develop program budget estimates and determine the relative priority of rulemaking activities using our Common Prioritization of Rulemaking (CPR) methodology (ADAMS Accession No. ML15086A074). The results of the most current annual review is available on the NRC's Rulemaking Priorities Web page at *http://www.nrc.gov/reading-rm/doc-collections/rulemaking-ruleforum/rule-priorities.html.* The CPR methodology considers four factors and assigns a score to each factor. Factor A includes activities that support the NRC's Strategic Plan goals of ensuring the safe and secure use of radioactive materials. Factor B includes activities that support the Strategic Plan cross-cutting strategies of Regulatory Effectiveness and Openness. Specifically, this factor considers whether the rulemaking activity enhances regulatory effectiveness and/or openness in the way that the NRC conducts regulatory activities. Factor C is a governmental factor representing interest to the NRC, Congress, or other governmental bodies. Factor D is an external factor representing interest to members of the public, non-governmental organizations, the nuclear industry, vendors, and suppliers. The overall priority is determined by adding the factor scores together for each rulemaking activity.

Section 610 Periodic Reviews Under the Regulatory Flexibility Act

Section 610 of the Regulatory Flexibility Act (RFA) requires agencies to conduct a review within 10 years of promulgation of those regulations that have or will have a *significant* economic impact on a *substantial* number of small entities. We undertake these reviews to decide whether the rules should be unchanged, amended, or withdrawn. At this time, we do not have any rules that have a *significant* economic impact on a *substantial* number of small entities; therefore, we have not included any RFA Section 610 periodic reviews in this edition of the Agenda. A complete listing of our regulations that impact small entities and related Small Entity Compliance Guides are available from the NRC's Web site at *http://www.nrc.gov/about-nrc/regulatory/rulemaking/flexibility-act/small-entities.html.*

Public Comments Received on the NRC's Unified Agenda

The NRC did not receive any written public comments on its last Agenda that published on June 9, 2016 (81 FR 37465).

Dated at Rockville, Maryland, this 2nd day of September 2016.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

NUCLEAR REGULATORY COMMISSION—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
558	Revision of Fee Schedules; Fee Recovery for FY 2017 [NRC–2016–0081]	3150–AJ73

NUCLEAR REGULATORY COMMISSION—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
559	Controlling the Disposition of Solid Materials [NRC–1999–0002]	3150–AH18
560	Variable Annual Fee Structure for Small Modular Power Reactors [NRC–2008–0664]	3150–AI54
561	Revision of Fee Schedules: Fee Recovery for FY 2016 [NRC–2015–0223]	3150–AJ66

NUCLEAR REGULATORY COMMISSION (NRC)

Proposed Rule Stage

558. • Revision of Fee Schedules; Fee Recovery for FY 2017 [NRC–2016–0081]

Legal Authority: 31 U.S.C. 483; 42 U.S.C. 2201 ; 42 U.S.C. 2214; 42 U.S.C. 5841

Abstract: This rule would implement the Omnibus Budget Reconciliation Act of 1990 (OBRA–90), as amended, which requires the Nuclear Regulatory Commission to recover approximately 90 percent of its budget authority in a given fiscal year, less the amounts appropriated from the Waste Incidental to Reprocessing and generic homeland security activities, through fees assessed to licensees. This rulemaking would amend the Commission's fee schedules for licensing, inspection, and annual fees charged to its applicants and licensees. The licensing and inspection fees are established under 10 CFR part 170 and recover the Nuclear Regulatory Commission's cost of providing services to identifiable applicants and licensees. Examples of services provided by the

[1] For information on delegated rulemakings see ADAMS Accession No. ML16040A011.

Nuclear Regulatory Commission for which 10 CFR part 170 fees are assessed include license application reviews, license renewals, license amendment reviews, and inspections. The annual fees established under 10 CFR part 171 recover budgeted costs for generic (*e.g.,* research and rulemaking) and other regulatory activities not recovered under 10 CFR part 170 fees.

Timetable:

Action	Date	FR Cite
NPRM	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michele D. Kaplan, Nuclear Regulatory Commission, Office of the Chief Financial Officer, Washington, DC 20555–0001, *Phone:* 301 415–5256, *Email: michele.kaplan@nrc.gov.*

RIN: 3150–AJ73

NUCLEAR REGULATORY COMMISSION (NRC)

Completed Actions

559. Controlling the Disposition of Solid Materials [NRC–1999–0002]

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

Abstract: This rule would add radiological criteria for controlling the disposition of solid materials that have no, or very small amounts of, residual radioactivity resulting from licensed operations, and which originate in restricted or impacted areas of NRC-licensed facilities. The NRC staff provided a draft proposed rule package on Controlling the Disposition of Solid Materials to the Commission on March 31, 2005, which the Commission disapproved (ADAMS Accession No. ML051520285). The rulemaking package included a summary of stakeholder comments (NUREG/CR–6682), Supplement 1 (ADAMS Accession No. ML003754410). The Commission's decision was based on the fact that the Agency is currently faced with several high priority and complex tasks, that the current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the immediate need for this rule has changed due to the shift in timing for reactor decommissioning. The Commission has discontinued action on this rulemaking.

Completed:

Reason	Date	FR Cite
Discontinued	07/29/16	81 FR 49863

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Torre Taylor, *Phone:* 301 415–7900, *Email: torre.taylor@nrc.gov.*

RIN: 3150–AH18

560. Variable Annual Fee Structure for Small Modular Power Reactors [NRC–2008–0664]

Legal Authority: 42 U.S.C. 2201; 42 U.S.C. 5841

Abstract: This rule would amend the Nuclear Regulatory Commission's regulations governing annual fees to establish a variable annual fee structure for power reactors based on licensed power limits.

Completed:

Reason	Date	FR Cite
Final Rule	05/24/16	81 FR 32617
Final Rule Effective.	06/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michele D. Kaplan, *Phone:* 301 415–5256, *Email: michele.kaplan@nrc.gov.*

RIN: 3150–AI54

561. Revision of Fee Schedules: Fee Recovery for FY 2016 [NRC–2015–0223]

Legal Authority: 31 U.S.C. 483; 42 U.S.C. 2201; 42 U.S.C. 2214; 42 U.S.C. 5841

Abstract: This rule amends the Nuclear Regulatory Commission licensing, inspection, special project, and annual fees charged to its applicants and licensees and, for the first time, the NRC is proposing to recover its costs when it responds to third-party demands for information in litigation where the United States is not a party (''Touhy requests''). These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990 as amended (OBRA–90), which requires the NRC to recover approximately 90 percent of its annual budget through fees.

Completed:

Reason	Date	FR Cite
Final Rule Published.	06/24/16	81 FR 41171
Final Rule Effective.	08/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michele D. Kaplan, *Phone:* 301 415–5256, *Email: michele.kaplan@nrc.gov.*

RIN: 3150–AJ66

[FR Doc. 2016–29930 Filed 12–22–16; 8:45 am]

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Part XXVIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release Nos. 33–10203, 34–78769, IA–4521, IC–32251, File No. S7–20–16]

Regulatory Flexibility Agenda

AGENCY: Securities and Exchange Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Securities and Exchange Commission is publishing the Chair's agenda of rulemaking actions pursuant to the Regulatory Flexibility Act (RFA) (Pub. L. 96–354, 94 Stat. 1164) (Sep. 19, 1980). The items listed in the Regulatory Flexibility Agenda for autumn 2016 reflect only the priorities of the Chair of the U.S. Securities and Exchange Commission, and do not necessarily reflect the view and priorities of any individual Commissioner.

Information in the agenda was accurate on September 2, 2016, the date on which the Commission's staff completed compilation of the data. To the extent possible, rulemaking actions by the Commission since that date have been reflected in the agenda. The Commission invites questions and public comment on the agenda and on the individual agenda entries.

The Commission is now printing in the **Federal Register**, along with our preamble, only those agenda entries for which we have indicated that preparation of an RFA analysis is required.

The Commission's complete RFA agenda will be available online at *www.reginfo.gov.*

DATES: Comments should be received on or before January 23, 2017.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number S7–20–16 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. S7–20–16. This file number should be included on the subject line if email is used. To help us 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/other.shtml*). Comments are also 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; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Anne Sullivan, Office of the General Counsel, 202–551–5019.

SUPPLEMENTARY INFORMATION: The RFA requires each Federal agency, twice each year, to publish in the **Federal Register** an agenda identifying rules that the agency expects to consider in the next 12 months that are likely to have a significant economic impact on a substantial number of small entities (5 U.S.C. 602(a)). The RFA specifically provides that publication of the agenda does not preclude an agency from considering or acting on any matter not included in the agenda and that an agency is not required to consider or act on any matter that is included in the agenda (5 U.S.C. 602(d)). The Commission may consider or act on any matter earlier or later than the estimated date provided on the agenda. While the agenda reflects the current intent to complete a number of rulemakings in the next year, the precise dates for each rulemaking at this point are uncertain. Actions that do not have an estimated date are placed in the long-term category; the Commission may nevertheless act on items in that category within the next 12 months. The agenda includes new entries, entries carried over from prior publications, and rulemaking actions that have been completed (or withdrawn) since publication of the last agenda.

The following abbreviations for the acts administered by the Commission are used in the agenda:

''Securities Act''—Securities Act of 1933
''Exchange Act''—Securities Exchange Act of 1934
''Investment Company Act''—Investment Company Act of 1940
''Investment Advisers Act''—Investment Advisers Act of 1940
''Dodd Frank Act''—Dodd-Frank Wall Street Reform and Consumer Protection Act
''JOBS Act''—Jumpstart Our Business Startups Act'

The Commission invites public comment on the agenda and on the individual agenda entries.

By the Commission.

Dated: September 2, 2016.

Brent J. Fields,

Secretary.

DIVISION OF CORPORATION FINANCE—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
562	Disclosure Update and Simplification	3235–AL82

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
563	Pay Versus Performance	3235–AL00
564	Amendments to Regulation D, Form D and Rule 156 Under the Securities Act	3235–AL46
565	Disclosure of Hedging by Employees, Officers and Directors	3235–AL49
566	Exhibit Hyperlinks and HTML Format	3235–AL95
567	Listing Standards for Recovery of Erroneously Awarded Compensation	3235–AK99
568	Modernization of Property Disclosures for Mining Registrants	3235–AL81
569	Form 10–K Summary	3235–AL89

DIVISION OF CORPORATION FINANCE—FINAL RULE STAGE—Continued

Sequence No.	Title	Regulation Identifier No.
570	Amendments to Smaller Reporting Company Definition	3235–AL90
571	Proposed Rule Amendments To Facilitate Intrastate and Regional Securities Offerings	3235–AL80

DIVISION OF CORPORATION FINANCE—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
572	Disclosure of Payments by Resource Extraction Issuers	3235–AL53
573	Changes to Exchange Act Registration Requirements To Implement Title V and Title VI of the JOBS Act	3235–AL40

DIVISION OF INVESTMENT MANAGEMENT—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
574	Reporting of Proxy Votes on Executive Compensation and Other Matters	3235–AK67

DIVISION OF INVESTMENT MANAGEMENT—FINAL RULE STAGE

Sequence No.	Title	Regulation Identifier No.
575	Adviser Business Continuity and Transition Plans	3235–AL62
576	Investment Company Reporting Modernization	3235–AL42
577	Use of Derivatives by Registered Investment Companies and Business Development Companies	3235–AL60
578	Investment Company Liquidity Risk Management Programs; Investment Company Swing Pricing	3235–AL61

DIVISION OF INVESTMENT MANAGEMENT—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
579	Form ADV and Investment Advisers Act Rules	3235–AL75

DIVISION OF TRADING AND MARKETS—LONG-TERM ACTIONS

Sequence No.	Title	Regulation Identifier No.
580	Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934	3235–AL14

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Proposed Rule Stage

562. Disclosure Update and Simplification

Legal Authority: 15 U.S.C. 77a *et seq.;* 15 U.S.C. 78a *et seq.;* 15 U.S.C. 80a–1 *et seq.;* Pub. L. 114–94

Abstract: The Commission proposed rules to update certain disclosure requirements in Regulations S–X and S–K that may have become redundant, duplicative, overlapping, outdated or superseded in light of other Commission disclosure requirements, U.S. Generally Accepted Accounting Principles, International Financial Reporting Standards, or changes in the information environment.

Timetable:

Action	Date	FR Cite
NPRM	08/04/16	81 FR 51607
NPRM Comment Period Extended.	09/29/16	81 FR 66898
NPRM Comment Period End.	10/03/16	
NPRM Comment Period Extended End.	11/02/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Nili Shah, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3255.

RIN: 3235–AL82

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Final Rule Stage

563. Pay Versus Performance

Legal Authority: Pub. L. 111–203, sec. 955; 15 U.S.C. 78n

Abstract: The Commission proposed rules to implement section 953(a) of the Dodd-Frank Act, which added section 14(i) to the Exchange Act to require issuers to disclose information that shows the relationship between

executive compensation actually paid and the financial performance of the issuer.

Timetable:

Action	Date	FR Cite
NPRM	05/07/15	80 FR 26330
NPRM Comment Period End.	07/06/15	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Eduardo Aleman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430, *Fax:* 202 772–9207.

RIN: 3235–AL00

564. Amendments to Regulation D, Form D and Rule 156 Under the Securities Act

Legal Authority: 15 U.S.C. 77a *et seq.*

Abstract: The Commission proposed rule and form amendments to enhance the Commission's ability to evaluate the development of market practices in offerings under Rule 506 of Regulation D and address concerns that may arise in connection with permitting issuers to engage in general solicitation and general advertising under new paragraph (c) of Rule 506.

Timetable:

Action	Date	FR Cite
NPRM	07/24/13	78 FR 44806
NPRM Comment Period End.	09/23/13	
NPRM Comment Period Reopened.	10/03/13	78 FR 61222
NPRM Comment Period Reopened End.	11/04/13	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Mark Vilardo, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500.

RIN: 3235–AL46

565. Disclosure of Hedging by Employees, Officers and Directors

Legal Authority: Pub. L. 111–203

Abstract: The Commission proposed rules to implement section 955 of the Dodd-Frank Act, which added section 14(j) to the Exchange Act to require annual meeting proxy statement disclosure of whether employees or members of the board of directors are permitted to engage in transactions to hedge or offset any decrease in the market value of equity securities granted to the employee or board member as compensation, or held directly or indirectly by the employee or board member.

Timetable:

Action	Date	FR Cite
NPRM	02/17/15	80 FR 8486
NPRM Comment Period End.	04/20/15	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Carolyn Sherman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500.

RIN: 3235–AL49

566. • Exhibit Hyperlinks and HTML Format

Legal Authority: 15 U.S.C. 77f; 15 U.S.C. 77g; 15 U.S.C. 77h; 15 U.S.C. 77j; 15 U.S.C. 77s(a); 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o(d); 15 U.S.C. 78w(a); 15 U.S.C. 78ll

Abstract: The Commission proposed rules to facilitate access to exhibits identified in the exhibit index of certain filings through the use of hyperlinks.

Timetable:

Action	Date	FR Cite
NPRM	09/12/16	81 FR 62689
NPRM Comment Period End.	10/22/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430.

RIN: 3235–AL95

567. Listing Standards for Recovery of Erroneously Awarded Compensation

Legal Authority: Pub. L. 111–203, sec. 954; 15 U.S.C. 78j–4

Abstract: The Commission proposed rules to implement section 954 of the Dodd-Frank Act, which requires the Commission to adopt rules to direct national securities exchanges to prohibit the listing of securities of issuers that have not developed and implemented a policy providing for disclosure of the issuer's policy on incentive-based compensation and mandating the clawback of such compensation in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	07/14/15	80 FR 41144
NPRM Comment Period End.	09/14/15	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anne M. Krauskopf, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3500.

RIN: 3235–AK99

568. Modernization of Property Disclosures for Mining Registrants

Legal Authority: Not Yet Determined

Abstract: The Commission proposed rules to modernize and clarify the disclosure requirements for companies engaged in mining operations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/16	81 FR 41652
NPRM Comment Period End.	08/22/16	
NPRM Comment Period Extended End.	08/26/16	81 FR 58877
NPRM Comment Period Extended End.	09/26/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Elliot Staffin, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3450.

RIN: 3235–AL81

569. Form 10–K Summary

Legal Authority: Pub. L. 114–94; 15 U.S.C. 78c; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o; 15 U.S.C. 78w; 15 U.S.C. 78ll

Abstract: The Commission adopted an interim final amendment to implement section 72001 of the FAST Act by permitting issuers to submit a summary page on Form 10–K and also requested comment on an interim final rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/16	81 FR 37132
Interim Final Rule Effective.	06/09/16	
Interim Final Rule Comment Period End.	07/11/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sean Harrison, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430, *Fax:* 202 772–9207.

RIN: 3235–AL89

570. Amendments to Smaller Reporting Company Definition

Legal Authority: Not Yet Determined

Abstract: The Commission proposed revisions to the ''smaller reporting company'' definitions and related provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/01/16	81 FR 43130
NPRM Comment Period End.	08/03/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Michael Seaman, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3460.

RIN: 3235–AL90

571. Proposed Rule Amendments To Facilitate Intrastate and Regional Securities Offerings

Legal Authority: 15 U.S.C. 77c; 15 U.S.C. 77s; 15 U.S.C. 77z–3; 15 U.S.C. 78l; 15 U.S.C. 78m; 15 U.S.C. 78o; 15 U.S.C. 78w; 15 U.S.C. 78mm; 15 U.S.C. 80a–37; 15 U.S.C. 80b–11

Abstract: The Commission adopted rules to modernize Rules 147 and 504 under the Securities Act to facilitate intrastate and regional securities offerings.

Timetable:

Action	Date	FR Cite
NPRM	11/10/15	80 FR 69786
NPRM Comment Period End.	01/11/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Anthony G. Barone, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3460.

RIN: 3235–AL80

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Corporation Finance

Completed Actions

572. Disclosure of Payments by Resource Extraction Issuers

Legal Authority: Pub. L. 111–203, 124 Stat 1376 (July 21, 2010); 15 U.S.C. 78c(b); 15 U.S.C. 78m; 15 U.S.C. 78w(a)

Abstract: The Commission adopted rules to implement section 1504 of the Dodd-Frank Act, which added section 13(q) to the Exchange Act. Section 13(q) requires the Commission to adopt rules requiring resource extraction issuers to disclose in an annual report of the resource extraction issuer payments made to foreign governments or the Federal Government for the purpose of commercial development of oil, natural gas or minerals. The Commission had previously adopted a rule implementing section 1504 of the Dodd-Frank Act that was vacated and remanded to the Commission by the District Court for the District of Columbia in July 2013.

Timetable:

Action	Date	FR Cite
NPRM	12/23/15	80 FR 80058
NPRM Comment Period End.	01/25/16	
Final Action	07/27/16	81 FR 49360
Final Action Effective.	09/26/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Shehzad Niazi, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430.

RIN: 3235–AL53

573. Changes to Exchange Act Registration Requirements To Implement Title V and Title VI of the Jobs Act

Legal Authority: Pub. L. 112–106

Abstract: The Commission adopted amendments to rules to implement titles V (Private Company Flexibility and Growth) and VI (Capital Expansion) of the JOBS Act.

Timetable:

Action	Date	FR Cite
NPRM	12/30/14	79 FR 78343
NPRM Comment Period End.	03/03/15	
Final Action	05/10/16	81 FR 28689
Final Action Effective.	06/09/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Steven G. Hearne, Division of Corporation Finance, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–3430.

RIN: 3235–AL40

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Proposed Rule Stage

574. Reporting of Proxy Votes on Executive Compensation and Other Matters

Legal Authority: 15 U.S.C. 78m; 15 U.S.C. 78w(a); 15 U.S.C. 78mm; 15 U.S.C. 78x; 15 U.S.C. 80a–8; 15 U.S.C. 80a–29; 15 U.S.C. 80a–30; 15 U.S.C. 80a–37; 15 U.S.C. 80a–44; Pub. L. 111–203, sec. 951

Abstract: The Division is considering recommending that the Commission repropose rule amendments to implement section 951 of the Dodd-Frank Act. The Commission previously proposed amendments to rules and Form N–PX that would require institutional investment managers subject to section 13(f) of the Exchange Act to report how they voted on any shareholder vote on executive compensation or golden parachutes pursuant to sections 14A(a) and (b) of the Exchange Act.

Timetable:

Action	Date	FR Cite
NPRM	10/28/10	75 FR 66622
NPRM Comment Period End.	11/18/10	
Second NPRM	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Matthew DeLesDernier, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6792, *Email: delesdernierj@sec.gov.*

RIN: 3235–AK67

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Final Rule Stage

575. Adviser Business Continuity and Transition Plans

Legal Authority: 15 U.S.C. 80b–4; 15 U.S.C. 80b–6(4); 15 U.S.C. 80b–11(a)

Abstract: The Commission proposed a new rule that would require investment

advisers registered with the Commission to adopt and implement written business continuity and transition plans.

Timetable:

Action	Date	FR Cite
NPRM	07/05/16	81 FR 43530
NPRM Comment Period End.	09/06/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Alpa Patel, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6797, *Email: patelalp@sec.gov*.

RIN: 3235–AL62

576. Investment Company Reporting Modernization

Legal Authority: 15 U.S.C. 77 *et seq.;* 15 U.S.C. 77aaa *et seq.;* 15 U.S.C. 78a *et seq.;* 15 U.S.C. 80a *et seq.;* 44 U.S.C. 3506; 44 U.S.C. 3507

Abstract: The Commission adopted new rules and forms as well as amendments to its rules and forms to modernize the reporting and disclosure of information by registered investment companies.

Timetable:

Action	Date	FR Cite
NPRM	06/12/15	80 FR 33590
NPRM Comment Period End.	08/11/15	
NPRM Comment Period Re-opened.	10/12/15	80 FR 62274
NPRM Comment Period Re-opened End.	01/13/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sara Cortes, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5137, *Email: cortess@sec.gov*.

RIN: 3235–AL42

577. Use of Derivatives by Registered Investment Companies and Business Development Companies

Legal Authority: 15 U.S.C. 80a–6(c); 15 U.S.C. 80a–31(a); 15 U.S.C. 80a–12(a); 15 U.S.C. 80a–38(a); 15 U.S.C. 80a–8; 15 U.S.C. 80a–30; 15 U.S.C. 80a–38

Abstract: The Commission proposed a new rule designed to enhance the regulation of the use of derivatives by registered investment companies, including mutual funds, exchange-traded funds, closed-end funds and business development companies. The proposed rule would regulate registered investment companies' use of derivatives and require enhanced risk management measures.

Timetable:

Action	Date	FR Cite
NPRM	12/28/15	80 FR 80884
NPRM Comment Period End.	03/28/16	
Final Action	10/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Brian Johnson, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6740, *Email: johnsonbm@sec.gov*.

RIN: 3235–AL60

578. Investment Company Liquidity Risk Management Programs; Investment Company Swing Pricing

Legal Authority: 15 U.S.C. 80a–37(a); 15 U.S.C. 80a–22(c); 15 U.S.C. 80a–31(a); 15 U.S.C. 77a *et seq.;* 15 U.S.C. 77aaa *et seq.;* 15 U.S.C. 78a *et seq.;* 15 U.S.C 80a *et seq.*

Abstract: The Commission adopted a new rule requiring open-end funds to adopt and implement liquidity management programs. The Commission also adopted rule amendments that permit open-end funds to use ''swing pricing'' and form amendments that enhance disclosure regarding fund liquidity and redemption practices.

Timetable:

Action	Date	FR Cite
NPRM	10/15/15	80 FR 62274
NPRM Comment Period End.	01/13/16	
Final Action	11/00/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sarah ten Siethoff, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6729, *Email: tensiethoffs@sec.gov*.

RIN: 3235–AL61

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Investment Management

Completed Actions

579. Form ADV and Investment Advisers Act Rules

Legal Authority: 15 U.S.C. 77s(a); 15 U.S.C. 77sss(a); 15 U.S.C. 78bb(e)(2); 15 U.S.C. 78w(a); 15 U.S.C. 80a–37(a); 15 U.S.C. 80b–3(c)(1)

Abstract: The Commission adopted amendments to Form ADV that are designed to provide additional information regarding advisers, including information about their separately managed account business; incorporate a method for private fund adviser entities operating a single advisory business to register using a single Form ADV; and make clarifying, technical and other amendments to certain Form ADV items and instructions. The Commission also adopted amendments to the Investment Advisers Act books and records rule and technical amendments to several Investment Advisers Act rules to remove transition provisions that are no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/12/15	80 FR 33718
NPRM Comment Period End.	08/11/15	
Final Action	09/01/16	81 FR 60418
Final Action Effective.	10/31/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Sara Cortes, Division of Investment Management, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–5137, *Email: cortess@sec.gov*.

RIN: 3235–AL75

SECURITIES AND EXCHANGE COMMISSION (SEC)

Division of Trading and Markets

Long-Term Actions

580. Removal of Certain References to Credit Ratings Under the Securities Exchange Act of 1934

Legal Authority: Pub. L. 111–203, sec. 939A

Abstract: Section 939A of the Dodd-Frank Act requires the Commission to remove certain references to credit ratings from its regulations and to substitute such standards of creditworthiness as the Commission

determines to be appropriate. The Commission amended certain rules and one form under the Exchange Act applicable to broker-dealer financial responsibility, and confirmation of transactions. The Commission has not yet finalized amendments to certain rules regarding the distribution of securities.

Timetable:

Action	Date	FR Cite
NPRM	05/06/11	76 FR 26550
NPRM Comment Period End.	07/05/11	
Final Action	01/08/14	79 FR 1522
Final Action Effective.	07/07/14	
Next Action Undetermined.	To Be Determined	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: John Guidroz, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549, *Phone:* 202 551–6439, *Email: guidrozj@sec.gov*.

RIN: 3235–AL14

[FR Doc. 2016–29931 Filed 12–22–16; 8:45 am]

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FEDERAL REGISTER

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Part XXIX

Surface Transportation Board

Semiannual Regulatory Agenda

SURFACE TRANSPORTATION BOARD

Surface Transportation Board

49 CFR Ch. X

[STB Ex Parte No. 536 (Sub-No. 41)]

Semiannual Regulatory Agenda

AGENCY: Surface Transportation Board.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Surface Transportation Board (the Board), in accordance with the requirements of the Regulatory Flexibility Act (RFA), is publishing a semiannual agenda of: (1) Current and projected rulemakings; and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule, including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that, semiannually, each agency shall publish in the **Federal Register** a regulatory flexibility agenda, which shall contain:

(1) A brief description of the subject area of any rule that the agency expects to propose or promulgate, which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable about the items listed in paragraph (1).

Accordingly, a list of proceedings appears below containing information about subject areas in which the Board is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda represents the Board's best estimate of rules that will be considered over the next 12 months. However, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: ''Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda or requires an agency to consider or act on any matter listed in such agenda.''

The Board is publishing its fall 2016 regulatory flexibility agenda as part of the Unified Agenda of Federal Regulatory and Deregulatory Actions (Unified Agenda). The Unified Agenda is coordinated by the Office of Management and Budget (OMB), pursuant to Executive Orders 12866 and 13563. The Board is participating voluntarily in the program to assist OMB.

Dated: September 7, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Andrea Pope-Matheson,

Clearance Clerk.

SURFACE TRANSPORTATION BOARD—PROPOSED RULE STAGE

Sequence No.	Title	Regulation Identifier No.
581	Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1)	2140–AB29

SURFACE TRANSPORTATION BOARD—COMPLETED ACTIONS

Sequence No.	Title	Regulation Identifier No.
582	Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Docket No. EP 704	2140–AB28

SURFACE TRANSPORTATION BOARD (STB)

Proposed Rule Stage

581. • Review of Commodity, Boxcar, and TOFC/COFC Exemptions, EP 704 (Sub-No. 1)

Legal Authority: 49 U.S.C. 10502; 49 U.S.C. 13301

Abstract: In this proceeding, the Board is proposing to revoke the class exemptions for the rail transporation of (1) crushed or broken stone or rip-rap; (2) hydraulic cement; and (3) coke produced from coal, primary iron or steel products, and iron or steel scrap, wastes, or tailings.

Timetable:

Action	Date	FR Cite
NPRM	03/28/16	81 FR 17125
NPRM Comment Period End.	07/26/16	
NPRM Reply Comment Period End.	08/26/16	
Next Action	01/00/17	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott M. Zimmerman, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, *Phone:* 202 245–0386, *Fax:* 202 245–0464, *Email: zimmermans@stb.dot.gov.*

Francis O'Connor, Section Chief, Chemical & Agricultural Transportation, Surface Transportation Board, 395 E Street SW., Washington, DC 20423, *Phone:* 202 245–0331, *Fax:* 202 245–0454, *Email: francis.o'connor@stb.dot.gov.*

RIN: 2140–AB29

SURFACE TRANSPORTATION BOARD (STB)

Completed Actions

582. Review of Commodity, Boxcar, and TOFC/COFC Exemptions, Docket No. EP 704

Legal Authority: 49 U.S.C. 10502; 49 U.S.C. 13301

Abstract: The Board requested public comment and held a public hearing in February 2011 to explore the continued utility of, and the issues surrounding,

the commodity exemptions under 49 CFR 1039.10 and 1039.11, the boxcar exemption under 49 CFR 1039.14, and the trailer-on-flatcar/container-on-flatcar exemption under 49 CFR part 1090. The Board encouraged interested parties to address the effectiveness of the exemptions in the marketplace, whether the rationale behind any of these exemptions should be revisited, and whether the exemptions should be subject to periodic review. Comments and exhibits were received through February 24, 2011. The Board opened a new sub-docket to propose the revocation of certain exemptions.

Timetable:

Action	Date	FR Cite
Notice of Public Hearing.	10/27/10	75 FR 66187
Withdrawn	03/23/16	

Regulatory Flexibility Analysis Required: Yes.

Agency Contact: Scott M. Zimmerman, Deputy Director, Office of Proceedings, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, *Phone:* 202 245–0386, *Fax:* 202 245–0464, *Email: zimmermans@stb.dot.gov.*

RIN: 2140–AB28

[FR Doc. 2016–29935 Filed 12–22–16; 8:45 am]

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