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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2012–0052]

RIN 3150–AJ12

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Cask System; Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; correction and delay of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a direct final rule that appeared in the **Federal Register** on December 6, 2013, and is delaying the effective date. The direct final rule amends the NRC's spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 9 to Certificate of Compliance (CoC) No. 1014. This action is necessary to correct the NRC's Agencywide Documents Access and Management System (ADAMS) accession numbers for the CoC, the safety evaluation report (SER), and the ADAMS document package containing the CoC, SER, and the Technical Specifications (TSs) for this amendment.

DATES: The effective date of the direct final rule published December 6, 2013, at 78 FR 73379, is delayed from February 19, 2014, to March 11, 2014.

ADDRESSES: Please refer to Docket ID NRC–2012–0052 when contacting the NRC about the availability of information for this action. You may access publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0052. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library 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.*

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Corrections

The NRC is correcting the ADAMS accession numbers for the CoC, the SER, and the ADAMS document package containing the CoC, SER, and the TSs for this amendment because the documents referenced by accession numbers in the direct final rule the NRC published on December 6, 2013 (78 FR 73379; Fr. Doc. 2013–29162), do not clearly display the proposed changes to the documents.

In Fr. Doc. 2013–29162, on page 73379, in the second column, second full paragraph, in the last sentence, ''ML120530246'' is corrected to read ''ML13351A224.'' On page 73380, in the second column, first full sentence, ''ML120530246'' is corrected to read ''ML13351A224.'' On page 73380, in the second column, second full sentence, ''ML120530271'' is corrected to read ''ML13351A205.'' On page 73380, in the second column, first full paragraph, in the first full sentence, ''ML120530329'' is corrected to read ''ML13351A203.'' On page 73381, in the second column, first full paragraph, in the last sentence, ''ML120530329'' is corrected to read ''ML13351A203.''

Delay of Effective Date

The NRC is delaying the effective date of the direct final rule from February 19, 2014, to March 11, 2014. The NRC published a companion proposed rule to this direct final rule on December 6, 2013 (78 FR 73456). In the Proposed Rules section of this issue of the **Federal Register**, the NRC is publishing a document to correct and extend the public comment period of the proposed rule. Specifically, ADAMS accession numbers for the CoC, and the ADAMS document package containing the CoC, SER, and the TSs for this amendment will be corrected and the public comment period will be extended from January 6, 2014, to January 27, 2014, in order to provide the public the opportunity to review all information related to the rulemaking. As a result of the extended public comment period, the effective date of the direct final rule was delayed.

Dated at Rockville, Maryland, this 19th day of December, 2013.

For the Nuclear Regulatory Commission.

Leslie Terry,

Acting Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

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FEDERAL HOUSING FINANCE AGENCY

12 CFR Part 1238

[No. 2013–N–17]

Orders: Reporting by Regulated Entities of Stress Testing Results as of September 30, 2013; Revision and Amendments to Summary Instructions and Guidance

AGENCY: Federal Housing Finance Agency.

ACTION: Orders.

SUMMARY: In this document, the Federal Housing Finance Agency (FHFA) is issuing Orders to further supplement the final rule implementing section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), and appeared in the

Federal Register of September 26, 2013, at 78 FR 59219. FHFA also is amending the Summary Instructions and Guidance, which accompanied the Orders.

DATES: Each Order is effective November 26, 2013.

FOR FURTHER INFORMATION CONTACT: Naa Awaa Tagoe, Senior Associate Director, Office of Financial Analysis, Modeling and Simulations, (202) 649–3140, *naaawaa.tagoe@fhfa.gov;* Stefan Szilagyi, Examination Manager, FHLBank Modeling, FHLBank Risk Modeling Branch, (202) 649–3515, *stefan.szilagy@fhfa.gov;* or Mark D. Laponsky, Deputy General Counsel, Office of General Counsel, (202) 649–3054 (these are not toll-free numbers), *mark.laponsky@fhfa.gov.* The telephone number for the Telecommunications Device for the Hearing Impaired is (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

FHFA is responsible for ensuring that the regulated entities operate in a safe and sound manner, including the maintenance of adequate capital and internal controls, that their operations and activities foster liquid, efficient, competitive, and resilient national housing finance markets, and that they carry out their public policy missions through authorized activities. *See* 12 U.S.C. 4513. These Orders are being issued under 12 U.S.C. 4514(a), which authorizes the Director of FHFA to require by Order that the regulated entities submit regular or special reports to FHFA and establishes remedies and procedures for failing to make reports required by Order. The Orders prescribe for the regulated entities the scenarios to be used for stress testing. The Summary Instructions and Guidance accompanying each Order provides to the regulated entities advice concerning the content and format of reports required by the Order and rule.

These Orders communicate to the regulated entities their reporting requirements under the framework established by the final rule, and the revised and amended Summary Instructions and Guidance that accompany each Order. These Orders also advise the regulated entities of the scenarios to be used for the stress testing.

II. Order, Summary Instructions and Guidance

For the convenience of the affected parties, the text of the Orders follows below in its entirety. You may access these Orders from FHFA's Web site at *http://www.fhfa.gov/Default.aspx?Page=43.* The Orders and Summary Instructions and Guidance will be available for public inspection and copying at the Federal Housing Finance Agency, Eighth Floor, 400 Seventh St. SW., Washington, DC 20024. To make an appointment, call (202) 649–3804.

The text of the Orders and the Summary Instructions and Guidance, as amended, is as follows:

Federal Housing Finance Agency

Order Nos. 2013–OR–B–2, 2013–OR–FNMA–2, and 2013–OR–FHLMC–2

Reporting by Regulated Entities of Stress Testing Results as of September 30, 2013

Whereas, section 165(i)(2) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'') requires certain financial companies with total consolidated assets of more than $10 billion, and which are regulated by a primary Federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions;

Whereas, FHFA's rule implementing section 165(i)(2) of the Dodd-Frank Act is codified as 12 CFR part 1238 and requires that ''[e]ach regulated entity must file a report in the manner and form established by FHFA.'' 12 CFR 1238.5(b);

Whereas, The Board of Governors of the Federal Reserve System issued stress testing scenarios on November 1, 2013, corrected on November 7, 2013, and supplemented on November 14, 2013; and

Whereas, section 1314 of the Safety and Soundness Act, 12 U.S.C. 4514(a) authorizes the Director of FHFA to require regulated entities, by general or specific order, to submit such reports on their management, activities, and operation as the Director considers appropriate.

Now therefore, it is hereby ordered as follows:

Each regulated entity shall report to FHFA and to the Board of Governors of the Federal Reserve System the results of stress testing as required by 12 CFR part 1238, in the form and with the content described therein and in the Summary Instructions and Guidance accompanying this Order and dated November 26, 2013, which replaces, amends, and supersedes the Summary Instructions and Guidance issued on September 9, 2013, to this Order, and using the scenarios provided in Appendices 1 through 10 to this Order.

This Order is effective immediately.

Signed at Washington, DC, this 26th day of November, 2013.

Sandra Thompson,

Deputy Director for Housing Mission and Goals By delegation.

Dated: December 2, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

The Appendices to this order and amended Summary Instructions and Guidance are as follows:

BILLING CODE 8070–01–P

Appendix 1: Baseline Scenarios – Domestic

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2001	-1.1	1.4	3.5	6.3	4.2	3.9	4.8	4.9	5.3	7.4	7.0	8.6	10645.9	112.4	140.8	32.8
Q2 2001	2.1	5.0	-0.3	1.6	4.4	2.8	3.7	4.9	5.5	7.5	7.1	7.3	11407.2	114.5	140.0	34.7
Q3 2001	-1.2	0.1	9.8	10.1	4.8	1.1	3.2	4.6	5.3	7.3	7.0	6.6	9563.0	116.7	143.7	43.7
Q4 2001	1.0	2.2	-4.9	-4.6	5.5	-0.3	1.9	4.2	5.1	7.2	6.8	5.2	10707.7	119.1	137.9	35.3
Q1 2002	3.8	5.1	10.1	10.9	5.7	1.3	1.7	4.5	5.4	7.6	7.0	4.8	10775.7	121.3	139.7	26.1
Q2 2002	2.2	3.8	2.0	5.2	5.8	3.2	1.7	4.5	5.4	7.6	6.8	4.8	9384.0	124.3	137.4	28.4
Q3 2002	1.9	3.8	-0.5	1.5	5.7	2.2	1.6	3.4	4.5	7.3	6.3	4.8	7773.6	127.8	140.9	45.1
Q4 2002	0.2	2.4	1.9	3.8	5.9	2.4	1.3	3.1	4.3	7.0	6.1	4.5	8343.2	130.4	144.2	42.6
Q1 2003	2.0	4.6	1.2	4.1	5.9	4.2	1.2	2.9	4.2	6.5	5.8	4.3	8051.9	133.3	148.7	34.7
Q2 2003	3.8	5.1	5.9	6.3	6.1	-0.7	1.0	2.6	3.8	5.7	5.5	4.2	9342.4	136.0	151.2	29.1
Q3 2003	6.9	9.4	6.7	9.3	6.1	3.0	0.9	3.1	4.4	6.0	6.0	4.0	9649.7	139.7	152.2	22.7
Q4 2003	4.6	6.7	1.6	3.3	5.8	1.5	0.9	3.2	4.4	5.8	5.9	4.0	10799.6	144.3	150.1	21.1
Q1 2004	2.4	6.0	2.9	6.1	5.7	3.4	0.9	3.0	4.1	5.5	5.6	4.0	11039.4	149.9	155.8	21.6
Q2 2004	3.1	6.6	4.0	7.0	5.6	3.2	1.1	3.7	4.7	6.1	6.2	4.0	11144.6	156.2	162.6	20.0
Q3 2004	3.6	6.2	2.1	4.5	5.4	2.6	1.5	3.5	4.4	5.8	5.9	4.4	10893.8	161.9	173.9	19.3
Q4 2004	3.4	6.4	5.1	8.4	5.4	4.4	2.0	3.5	4.3	5.4	5.7	4.9	11951.5	167.5	178.4	16.6
Q1 2005	4.4	8.3	-3.8	-1.8	5.3	2.0	2.5	3.9	4.4	5.4	5.8	5.4	11637.3	175.7	179.6	14.6
Q2 2005	2.2	5.1	3.2	6.0	5.1	2.7	2.9	3.9	4.2	5.5	5.7	5.9	11856.7	183.3	186.5	17.7
Q3 2005	3.3	7.3	2.1	6.6	5.0	6.2	3.4	4.0	4.3	5.5	5.8	6.4	12282.9	189.5	190.8	14.2
Q4 2005	2.2	5.5	3.3	6.6	5.0	3.8	3.8	4.4	4.6	5.9	6.2	7.0	12497.2	194.4	199.6	16.5
Q1 2006	4.9	8.2	9.5	11.5	4.7	2.1	4.4	4.6	4.7	6.0	6.2	7.4	13121.6	198.9	203.0	14.6
Q2 2006	1.3	4.6	0.6	3.7	4.6	3.7	4.7	5.0	5.2	6.5	6.6	7.9	12808.9	199.0	211.9	23.8
Q3 2006	0.4	3.2	1.2	4.1	4.6	3.8	4.9	4.8	5.0	6.4	6.6	8.3	13322.5	196.9	224.2	18.6
Q4 2006	3.2	4.6	5.3	4.6	4.4	-1.6	4.9	4.6	4.7	6.1	6.2	8.3	14215.8	197.3	221.1	12.7
Q1 2007	0.3	4.8	2.7	6.5	4.5	4.0	5.0	4.6	4.8	6.1	6.2	8.3	14354.0	195.6	233.3	19.6
Q2 2007	3.1	5.4	0.8	4.0	4.5	4.6	4.7	4.7	4.9	6.3	6.4	8.3	15163.1	191.3	241.5	18.9
Q3 2007	2.7	4.1	1.0	3.3	4.7	2.6	4.3	4.5	4.8	6.5	6.6	8.2	15317.8	185.9	257.8	30.8
Q4 2007	1.5	3.3	0.3	4.4	4.8	5.0	3.4	3.8	4.4	6.4	6.2	7.5	14753.6	180.2	260.2	31.1
Q1 2008	-2.7	-0.5	2.9	6.5	5.0	4.4	2.1	2.8	3.9	6.5	5.9	6.2	13284.1	174.1	253.6	32.2
Q2 2008	2.0	4.0	8.7	13.3	5.3	5.3	1.6	3.2	4.1	6.8	6.1	5.1	13016.4	166.3	242.1	24.1
Q3 2008	-2.0	0.7	-8.8	-5.0	6.0	6.3	1.5	3.1	4.1	7.2	6.3	5.0	11826.0	159.6	246.8	46.7
Q4 2008	-8.3	-7.8	2.5	-3.2	6.9	-8.9	0.3	2.2	3.7	9.4	5.8	4.1	9056.7	152.0	231.9	80.9

Appendix 1: Baseline Scenarios – Domestic (Cont.)

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2009	-5.4	-4.5	-1.4	-3.6	8.3	-2.6	0.2	1.9	3.2	9.0	5.1	3.3	8044.2	144.3	211.2	56.7
Q2 2009	-0.4	-1.1	3.0	4.9	9.3	2.0	0.2	2.3	3.7	8.2	5.0	3.3	9342.8	142.3	175.4	42.3
Q3 2009	1.3	1.2	-4.0	-1.6	9.6	3.5	0.2	2.5	3.8	6.8	5.1	3.3	10812.8	143.8	158.7	31.3
Q4 2009	3.9	5.1	-0.1	2.6	9.9	3.1	0.1	2.3	3.7	6.1	4.9	3.3	11385.1	144.6	158.0	30.7
Q1 2010	1.6	3.0	0.3	1.7	9.8	0.7	0.1	2.4	3.9	5.8	5.0	3.3	12032.5	145.3	153.2	27.3
Q2 2010	3.9	5.8	5.3	5.8	9.6	-0.2	0.1	2.3	3.6	5.6	4.9	3.3	10645.8	145.3	168.8	45.8
Q3 2010	2.8	4.7	1.9	3.1	9.5	1.4	0.2	1.6	2.9	5.1	4.4	3.3	11814.0	142.3	171.1	32.9
Q4 2010	2.8	4.9	2.6	4.8	9.5	3.0	0.1	1.5	3.0	5.0	4.4	3.3	13131.5	140.2	177.8	23.5
Q1 2011	-1.3	0.3	5.0	8.2	9.0	4.4	0.1	2.1	3.5	5.4	4.8	3.3	13908.5	138.9	184.8	29.4
Q2 2011	3.2	5.9	-0.4	3.3	9.0	4.7	0.0	1.8	3.3	5.1	4.7	3.3	13843.5	137.5	181.8	22.7
Q3 2011	1.4	3.9	1.6	3.9	9.0	2.9	0.0	1.1	2.5	4.9	4.3	3.3	11676.5	137.2	182.0	48.0
Q4 2011	4.9	5.4	-0.6	0.8	8.7	1.4	0.0	1.0	2.1	5.0	4.0	3.3	13019.3	136.3	195.2	45.5
Q1 2012	3.7	5.8	4.6	6.9	8.3	2.3	0.1	0.9	2.1	4.7	3.9	3.3	14627.5	138.5	193.5	23.0
Q2 2012	1.2	3.0	1.8	2.9	8.2	1.0	0.1	0.8	1.8	4.5	3.8	3.3	14100.2	141.4	193.7	26.7
Q3 2012	2.8	4.9	-0.6	1.1	8.0	2.1	0.1	0.7	1.6	4.2	3.6	3.3	14894.7	143.9	201.1	20.5
Q4 2012	0.1	1.6	9.0	10.7	7.8	2.2	0.1	0.7	1.7	3.9	3.4	3.3	14834.9	146.8	203.2	22.7
Q1 2013	1.1	2.8	-7.9	-7.0	7.7	1.4	0.1	0.8	1.9	4.0	3.5	3.3	16396.2	152.6	205.4	19.0
Q2 2013	2.5	3.1	3.5	3.4	7.6	0.0	0.1	0.9	2.0	4.1	3.7	3.3	16771.3	157.8	214.3	20.5
Q3 2013	2.0	4.7	1.7	4.3	7.3	2.3	0.0	1.5	2.7	4.9	4.4	3.3	17718.3	158.8	217.0	17.0
Q4 2013	2.4	3.8	2.4	3.8	7.3	1.7	0.1	1.8	2.8	5.0	4.5	3.2	17169.2	159.7	219.7	19.0
Q1 2014	2.6	4.7	2.6	4.2	7.1	1.9	0.1	2.0	2.9	4.9	4.6	3.2	17386.8	160.7	222.4	17.0
Q2 2014	2.8	4.3	2.6	4.2	7.0	1.9	0.1	2.1	3.0	5.0	4.7	3.2	17594.4	161.8	225.2	18.1
Q3 2014	2.9	4.8	2.7	4.6	6.9	2.1	0.1	2.2	3.1	5.1	4.8	3.2	17822.3	162.8	228.1	18.0
Q4 2014	2.9	4.8	2.7	4.6	6.8	2.1	0.2	2.3	3.3	5.2	5.0	3.3	18054.1	163.8	230.9	18.3
Q1 2015	2.9	5.0	3.1	5.2	6.7	2.3	0.4	2.4	3.4	5.3	5.0	3.5	18298.6	165.0	232.7	18.2
Q2 2015	2.9	4.9	2.9	4.9	6.6	2.2	0.6	2.6	3.5	5.4	5.2	3.7	18540.8	166.3	234.4	18.9
Q3 2015	2.9	5.0	2.8	4.9	6.4	2.3	0.8	2.7	3.7	5.5	5.3	3.9	18790.7	167.5	236.2	19.0
Q4 2015	2.9	5.1	2.8	4.9	6.3	2.3	1.1	2.8	3.8	5.6	5.5	4.2	19045.8	168.8	238.0	19.2
Q1 2016	2.8	5.0	2.7	4.9	6.2	2.3	1.6	2.9	4.0	5.8	5.7	4.7	19301.5	170.0	239.8	19.5
Q2 2016	2.8	5.0	2.8	5.0	6.1	2.3	1.9	3.1	4.2	5.9	5.8	5.0	19560.6	171.3	241.6	19.8
Q3 2016	2.8	5.0	2.8	5.0	6.1	2.4	2.2	3.1	4.3	6.0	5.9	5.3	19825.7	172.6	243.4	20.0
Q4 2016	2.8	5.1	2.8	5.0	6.0	2.4	2.4	3.2	4.4	6.1	6.0	5.5	20096.0	173.9	245.2	20.1

Appendix 2: Baseline Scenarios – International

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2001	3.7	1.1	0.9	3.9	1.6	105.9	2.7	-1.2	125.5	3.1	0.1	1.4
Q2 2001	0.3	4.1	0.8	6.0	2.0	106.0	-0.9	-0.3	124.7	2.7	3.1	1.4
Q3 2001	0.4	1.4	0.9	4.7	1.3	106.3	-4.3	-1.1	119.2	1.9	1.0	1.5
Q4 2001	0.7	1.7	0.9	7.0	-0.2	106.7	-0.5	-1.4	131.0	0.5	0.0	1.5
Q1 2002	0.5	3.0	0.9	7.4	0.3	107.2	-0.7	-2.7	132.7	2.2	1.9	1.4
Q2 2002	2.3	2.0	1.0	9.0	0.7	104.7	4.0	1.7	119.9	3.0	0.9	1.5
Q3 2002	1.1	1.6	1.0	4.9	1.5	105.4	2.6	-0.7	121.7	3.4	1.4	1.6
Q4 2002	0.2	2.4	1.0	6.4	0.7	104.4	1.6	-0.4	118.8	4.3	1.9	1.6
Q1 2003	-0.3	3.3	1.1	7.0	3.2	105.4	-2.1	-1.6	118.1	2.1	1.6	1.6
Q2 2003	0.3	0.3	1.2	2.8	1.2	103.9	4.9	1.7	119.9	5.4	0.3	1.7
Q3 2003	1.8	2.2	1.2	13.4	0.1	102.6	1.7	-0.7	111.4	5.2	1.7	1.7
Q4 2003	2.9	2.2	1.3	11.9	5.5	103.3	4.3	-0.6	107.1	5.3	1.7	1.8
Q1 2004	2.0	2.3	1.2	4.6	4.2	101.4	4.3	-0.9	104.2	2.7	1.3	1.8
Q2 2004	2.2	2.4	1.2	6.2	3.9	102.7	-0.3	1.1	109.4	1.8	1.0	1.8
Q3 2004	1.5	2.0	1.2	8.7	4.0	102.7	0.6	0.1	110.2	0.3	1.1	1.8
Q4 2004	1.3	2.4	1.4	8.1	0.7	99.0	-1.0	1.7	102.7	2.7	2.4	1.9
Q1 2005	0.9	1.5	1.3	7.9	2.9	98.7	0.9	-2.7	107.2	3.1	2.6	1.9
Q2 2005	2.8	2.2	1.2	7.3	1.6	99.0	5.2	-1.3	110.9	5.3	1.9	1.8
Q3 2005	2.6	3.2	1.2	9.8	2.6	98.6	1.5	-1.1	113.3	3.9	2.7	1.8
Q4 2005	2.6	2.5	1.2	10.8	1.7	98.1	0.7	0.6	117.9	5.3	1.4	1.7
Q1 2006	3.7	1.7	1.2	12.0	2.4	96.8	1.8	1.3	117.5	1.5	1.9	1.7
Q2 2006	4.5	2.5	1.3	7.9	3.3	96.8	1.6	-0.1	114.5	1.4	3.0	1.8
Q3 2006	2.6	2.0	1.3	8.7	2.0	96.4	-0.2	0.5	118.0	1.0	3.3	1.9
Q4 2006	4.4	0.9	1.3	11.0	4.0	94.6	5.2	-0.4	119.0	3.1	2.6	2.0
Q1 2007	3.2	2.2	1.3	14.7	3.7	94.0	4.1	-0.2	117.6	4.0	2.6	2.0
Q2 2007	1.9	2.3	1.4	10.0	5.1	92.0	0.5	0.0	123.4	5.3	1.6	2.0
Q3 2007	2.4	2.1	1.4	8.9	7.6	90.7	-1.4	0.1	115.0	5.0	0.3	2.0
Q4 2007	1.6	4.9	1.5	10.7	5.8	89.4	3.4	2.2	111.7	0.4	4.0	2.0
Q1 2008	2.3	4.2	1.6	8.6	7.9	88.0	2.7	1.3	99.9	0.6	3.7	2.0
Q2 2008	-1.6	3.2	1.6	7.5	6.2	88.6	-4.8	1.4	106.2	-3.6	5.5	2.0
Q3 2008	-2.4	3.2	1.4	3.8	2.8	91.3	-4.0	3.8	105.9	-5.6	5.9	1.8
Q4 2008	-6.7	-1.4	1.4	0.4	-0.6	92.0	-12.4	-2.2	90.8	-8.3	0.6	1.5

Appendix 2: Baseline Scenarios – International (Cont.)

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2009	-10.9	-1.1	1.3	3.4	-1.2	94.0	-15.0	-3.6	99.2	-9.5	-0.1	1.4
Q2 2009	-1.1	0.0	1.4	15.9	2.4	92.1	6.7	-1.7	96.4	-1.7	2.0	1.6
Q3 2009	1.6	1.2	1.5	12.8	4.9	91.1	0.4	-1.2	89.5	0.0	3.7	1.6
Q4 2009	1.8	1.6	1.4	8.4	5.2	90.5	7.5	-1.5	93.1	1.7	3.1	1.6
Q1 2010	1.6	1.7	1.4	9.2	5.0	89.7	5.9	0.7	93.4	2.1	4.0	1.5
Q2 2010	3.6	2.0	1.2	9.3	3.4	90.8	3.7	-1.0	88.5	4.1	3.0	1.5
Q3 2010	1.7	1.8	1.4	8.7	3.9	88.2	6.0	-1.7	83.5	1.6	2.6	1.6
Q4 2010	2.1	2.5	1.3	8.3	7.8	87.3	-1.3	1.2	81.7	-0.8	4.0	1.5
Q1 2011	3.1	3.5	1.4	9.4	6.4	86.4	-7.6	-0.8	82.8	1.9	6.6	1.6
Q2 2011	0.3	3.2	1.5	6.8	5.9	85.2	-3.4	-0.5	80.6	0.4	4.4	1.6
Q3 2011	0.3	1.7	1.3	7.2	5.9	87.2	10.7	0.7	77.0	2.4	4.2	1.6
Q4 2011	-0.8	3.3	1.3	5.9	2.9	87.1	1.4	-0.4	77.0	-0.4	3.4	1.6
Q1 2012	-0.4	2.5	1.3	5.8	2.8	86.2	5.0	1.2	82.4	0.0	1.8	1.6
Q2 2012	-1.2	2.4	1.3	6.5	4.0	87.9	-1.2	-0.7	79.8	-1.8	1.7	1.6
Q3 2012	-0.5	2.1	1.3	6.6	2.7	86.1	-3.5	-1.5	77.9	2.5	3.0	1.6
Q4 2012	-2.0	2.2	1.3	6.8	3.5	85.8	1.1	0.0	86.6	-1.2	4.0	1.6
Q1 2013	-0.9	0.7	1.3	5.5	3.9	86.1	4.1	-0.4	94.2	1.5	2.3	1.5
Q2 2013	1.1	0.6	1.3	6.3	3.0	87.0	3.8	0.8	99.2	2.7	1.5	1.5
Q3 2013	0.6	1.9	1.4	6.5	3.9	87.2	2.6	3.1	98.3	3.2	3.1	1.6
Q4 2013	0.9	1.5	1.3	6.5	3.4	87.9	2.4	1.8	101.2	2.1	2.5	1.5
Q1 2014	1.0	1.5	1.3	6.5	3.6	88.1	2.0	2.1	103.2	2.2	2.4	1.5
Q2 2014	1.1	1.4	1.3	6.5	3.8	88.2	1.7	2.2	104.9	2.2	2.2	1.4
Q3 2014	1.2	1.4	1.3	6.5	3.8	88.1	1.4	2.2	106.4	2.2	2.1	1.5
Q4 2014	1.3	1.4	1.3	6.5	3.7	88.0	1.3	2.0	107.8	2.1	2.1	1.5
Q1 2015	1.5	1.4	1.3	6.5	3.5	86.6	1.3	1.8	107.8	2.1	2.0	1.5
Q2 2015	1.6	1.5	1.2	6.6	3.3	85.1	1.3	1.5	107.8	2.0	2.0	1.5
Q3 2015	1.6	1.5	1.2	6.6	3.2	83.7	1.4	1.4	107.8	2.0	2.0	1.5
Q4 2015	1.7	1.5	1.2	6.6	3.2	82.4	1.4	1.4	107.8	2.0	2.0	1.5
Q1 2016	1.6	1.5	1.2	6.6	3.3	82.0	1.4	1.5	107.4	2.0	2.0	1.5
Q2 2016	1.6	1.5	1.3	6.6	3.4	81.7	1.3	1.6	107.0	2.0	1.9	1.5
Q3 2016	1.6	1.5	1.3	6.6	3.4	81.4	1.3	1.7	106.5	2.1	2.0	1.5
Q4 2016	1.6	1.6	1.3	6.6	3.4	81.2	1.3	1.7	106.1	2.1	2.0	1.5

Appendix 3: Adverse Scenarios – Domestic

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2001	-1.1	1.4	3.5	6.3	4.2	3.9	4.8	4.9	5.3	7.4	7.0	8.6	10645.9	112.4	140.8	32.8
Q2 2001	2.1	5.0	-0.3	1.6	4.4	2.8	3.7	4.9	5.5	7.5	7.1	7.3	11407.2	114.5	140.0	34.7
Q3 2001	-1.2	0.1	9.8	10.1	4.8	1.1	3.2	4.6	5.3	7.3	7.0	6.6	9563.0	116.7	143.7	43.7
Q4 2001	1.0	2.2	-4.9	-4.6	5.5	-0.3	1.9	4.2	5.1	7.2	6.8	5.2	10707.7	119.1	137.9	35.3
Q1 2002	3.8	5.1	10.1	10.9	5.7	1.3	1.7	4.5	5.4	7.6	7.0	4.8	10775.7	121.3	139.7	26.1
Q2 2002	2.2	3.8	2.0	5.2	5.8	3.2	1.7	4.5	5.4	7.6	6.8	4.8	9384.0	124.3	137.4	28.4
Q3 2002	1.9	3.8	-0.5	1.5	5.7	2.2	1.6	3.4	4.5	7.3	6.3	4.8	7773.6	127.8	140.9	45.1
Q4 2002	0.2	2.4	1.9	3.8	5.9	2.4	1.3	3.1	4.3	7.0	6.1	4.5	8343.2	130.4	144.2	42.6
Q1 2003	2.0	4.6	1.2	4.1	5.9	4.2	1.2	2.9	4.2	6.5	5.8	4.3	8051.9	133.3	148.7	34.7
Q2 2003	3.8	5.1	5.9	6.3	6.1	-0.7	1.0	2.6	3.8	5.7	5.5	4.2	9342.4	136.0	151.2	29.1
Q3 2003	6.9	9.4	6.7	9.3	6.1	3.0	0.9	3.1	4.4	6.0	6.0	4.0	9649.7	139.7	152.2	22.7
Q4 2003	4.6	6.7	1.6	3.3	5.8	1.5	0.9	3.2	4.4	5.8	5.9	4.0	10799.6	144.3	150.1	21.1
Q1 2004	2.4	6.0	2.9	6.1	5.7	3.4	0.9	3.0	4.1	5.5	5.6	4.0	11039.4	149.9	155.8	21.6
Q2 2004	3.1	6.6	4.0	7.0	5.6	3.2	1.1	3.7	4.7	6.1	6.2	4.0	11144.6	156.2	162.6	20.0
Q3 2004	3.6	6.2	2.1	4.5	5.4	2.6	1.5	3.5	4.4	5.8	5.9	4.4	10893.8	161.9	173.9	19.3
Q4 2004	3.4	6.4	5.1	8.4	5.4	4.4	2.0	3.5	4.3	5.4	5.7	4.9	11951.5	167.5	178.4	16.6
Q1 2005	4.4	8.3	-3.8	-1.8	5.3	2.0	2.5	3.9	4.4	5.4	5.8	5.4	11637.3	175.7	179.6	14.6
Q2 2005	2.2	5.1	3.2	6.0	5.1	2.7	2.9	3.9	4.2	5.5	5.7	5.9	11856.7	183.3	186.5	17.7
Q3 2005	3.3	7.3	2.1	6.6	5.0	6.2	3.4	4.0	4.3	5.5	5.8	6.4	12282.9	189.5	190.8	14.2
Q4 2005	2.2	5.5	3.3	6.6	5.0	3.8	3.8	4.4	4.6	5.9	6.2	7.0	12497.2	194.4	199.6	16.5
Q1 2006	4.9	8.2	9.5	11.5	4.7	2.1	4.4	4.6	4.7	6.0	6.2	7.4	13121.6	198.9	203.0	14.6
Q2 2006	1.3	4.6	0.6	3.7	4.6	3.7	4.7	5.0	5.2	6.5	6.6	7.9	12808.9	199.0	211.9	23.8
Q3 2006	0.4	3.2	1.2	4.1	4.6	3.8	4.9	4.8	5.0	6.4	6.6	8.3	13322.5	196.9	224.2	18.6
Q4 2006	3.2	4.6	5.3	4.6	4.4	-1.6	4.9	4.6	4.7	6.1	6.2	8.3	14215.8	197.3	221.1	12.7
Q1 2007	0.3	4.8	2.7	6.5	4.5	4.0	5.0	4.6	4.8	6.1	6.2	8.3	14354.0	195.6	233.3	19.6
Q2 2007	3.1	5.4	0.8	4.0	4.5	4.6	4.7	4.7	4.9	6.3	6.4	8.3	15163.1	191.3	241.5	18.9
Q3 2007	2.7	4.1	1.0	3.3	4.7	2.6	4.3	4.5	4.8	6.5	6.6	8.2	15317.8	185.9	257.8	30.8
Q4 2007	1.5	3.3	0.3	4.4	4.8	5.0	3.4	3.8	4.4	6.4	6.2	7.5	14753.6	180.2	260.2	31.1
Q1 2008	-2.7	-0.5	2.9	6.5	5.0	4.4	2.1	2.8	3.9	6.5	5.9	6.2	13284.1	174.1	253.6	32.2
Q2 2008	2.0	4.0	8.7	13.3	5.3	5.3	1.6	3.2	4.1	6.8	6.1	5.1	13016.4	166.3	242.1	24.1
Q3 2008	-2.0	0.7	-8.8	-5.0	6.0	6.3	1.5	3.1	4.1	7.2	6.3	5.0	11826.0	159.6	246.8	46.7
Q4 2008	-8.3	-7.8	2.5	-3.2	6.9	-8.9	0.3	2.2	3.7	9.4	5.8	4.1	9056.7	152.0	231.9	80.9

Appendix 3: Adverse Scenarios – Domestic (Cont.)

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2009	-5.4	-4.5	-1.4	-3.6	8.3	-2.6	0.2	1.9	3.2	9.0	5.1	3.3	8044.2	144.3	211.2	56.7
Q2 2009	-0.4	-1.1	3.0	4.9	9.3	2.0	0.2	2.3	3.7	8.2	5.0	3.3	9342.8	142.3	175.4	42.3
Q3 2009	1.3	1.2	-4.0	-1.6	9.6	3.5	0.2	2.5	3.8	6.8	5.1	3.3	10812.8	143.8	158.7	31.3
Q4 2009	3.9	5.1	-0.1	2.6	9.9	3.1	0.1	2.3	3.7	6.1	4.9	3.3	11385.1	144.6	158.0	30.7
Q1 2010	1.6	3.0	0.3	1.7	9.8	0.7	0.1	2.4	3.9	5.8	5.0	3.3	12032.5	145.3	153.2	27.3
Q2 2010	3.9	5.8	5.3	5.8	9.6	-0.2	0.1	2.3	3.6	5.6	4.9	3.3	10645.8	145.3	168.8	45.8
Q3 2010	2.8	4.7	1.9	3.1	9.5	1.4	0.2	1.6	2.9	5.1	4.4	3.3	11814.0	142.3	171.1	32.9
Q4 2010	2.8	4.9	2.6	4.8	9.5	3.0	0.1	1.5	3.0	5.0	4.4	3.3	13131.5	140.2	177.8	23.5
Q1 2011	-1.3	0.3	5.0	8.2	9.0	4.4	0.1	2.1	3.5	5.4	4.8	3.3	13908.5	138.9	184.8	29.4
Q2 2011	3.2	5.9	-0.4	3.3	9.0	4.7	0.0	1.8	3.3	5.1	4.7	3.3	13843.5	137.5	181.8	22.7
Q3 2011	1.4	3.9	1.6	3.9	9.0	2.9	0.0	1.1	2.5	4.9	4.3	3.3	11676.5	137.2	182.0	48.0
Q4 2011	4.9	5.4	-0.6	0.8	8.7	1.4	0.0	1.0	2.1	5.0	4.0	3.3	13019.3	136.3	195.2	45.5
Q1 2012	3.7	5.8	4.6	6.9	8.3	2.3	0.1	0.9	2.1	4.7	3.9	3.3	14627.5	138.5	193.5	23.0
Q2 2012	1.2	3.0	1.8	2.9	8.2	1.0	0.1	0.8	1.8	4.5	3.8	3.3	14100.2	141.4	193.7	26.7
Q3 2012	2.8	4.9	-0.6	1.1	8.0	2.1	0.1	0.7	1.6	4.2	3.6	3.3	14894.7	143.9	201.1	20.5
Q4 2012	0.1	1.6	9.0	10.7	7.8	2.2	0.1	0.7	1.7	3.9	3.4	3.3	14834.9	146.8	203.2	22.7
Q1 2013	1.1	2.8	-7.9	-7.0	7.7	1.4	0.1	0.8	1.9	4.0	3.5	3.3	16396.2	152.6	205.4	19.0
Q2 2013	2.5	3.1	3.5	3.4	7.6	0.0	0.1	0.9	2.0	4.1	3.7	3.3	16771.3	157.8	214.3	20.5
Q3 2013	2.0	4.7	1.7	4.3	7.3	2.3	0.0	1.5	2.7	4.9	4.4	3.3	17718.3	158.8	217.0	17.0
Q4 2013	-1.0	0.7	2.7	3.7	7.7	1.1	0.1	2.7	3.5	6.5	5.4	3.3	15605.5	157.6	219.7	35.3
Q1 2014	-2.1	0.0	1.6	2.7	8.3	1.1	0.1	3.3	4.2	7.5	6.3	3.3	14216.2	155.0	216.7	31.7
Q2 2014	-0.6	0.8	2.4	3.6	8.6	1.3	0.1	3.9	5.0	8.4	7.0	3.3	12815.7	152.0	208.0	33.7
Q3 2014	-1.0	0.7	1.3	2.6	9.0	1.4	0.1	4.5	5.7	9.2	7.8	3.3	11402.7	148.7	198.5	31.4
Q4 2014	0.3	1.8	0.4	1.8	9.2	1.6	0.1	4.6	5.8	9.1	7.8	3.3	12099.4	145.5	189.5	27.2
Q1 2015	1.7	3.4	0.7	2.4	9.2	1.9	0.1	4.5	5.7	8.8	7.8	3.3	12786.4	142.5	182.2	24.6
Q2 2015	1.7	3.1	0.4	2.0	9.3	1.9	0.1	4.4	5.5	8.5	7.6	3.3	13475.9	139.9	176.4	22.6
Q3 2015	2.6	4.1	0.6	2.3	9.2	2.0	0.1	4.2	5.3	8.1	7.4	3.3	14249.3	138.4	175.2	20.2
Q4 2015	2.6	4.1	0.7	2.4	9.2	1.9	0.1	4.0	5.1	7.7	7.2	3.3	14916.7	137.3	175.3	19.2
Q1 2016	3.0	4.6	0.9	2.6	9.1	2.0	0.1	3.7	4.9	7.5	7.1	3.3	15490.6	137.1	175.9	18.7
Q2 2016	3.0	4.5	1.2	2.9	9.0	2.0	0.1	3.5	4.8	7.3	6.9	3.3	15952.9	137.3	177.3	18.8
Q3 2016	3.0	4.5	1.2	2.9	8.9	2.0	0.1	3.4	4.7	7.0	6.8	3.3	16601.7	137.9	179.0	17.5
Q4 2016	3.0	4.6	1.3	3.0	8.8	2.0	0.1	3.2	4.6	6.8	6.6	3.3	17139.0	138.7	180.9	17.4

Appendix 4: Adverse Scenarios – International

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2001	3.7	1.1	0.9	3.9	1.6	105.9	2.7	-1.2	125.5	3.1	0.1	1.4
Q2 2001	0.3	4.1	0.8	6.0	2.0	106.0	-0.9	-0.3	124.7	2.7	3.1	1.4
Q3 2001	0.4	1.4	0.9	4.7	1.3	106.3	-4.3	-1.1	119.2	1.9	1.0	1.5
Q4 2001	0.7	1.7	0.9	7.0	-0.2	106.7	-0.5	-1.4	131.0	0.5	0.0	1.5
Q1 2002	0.5	3.0	0.9	7.4	0.3	107.2	-0.7	-2.7	132.7	2.2	1.9	1.4
Q2 2002	2.3	2.0	1.0	9.0	0.7	104.7	4.0	1.7	119.9	3.0	0.9	1.5
Q3 2002	1.1	1.6	1.0	4.9	1.5	105.4	2.6	-0.7	121.7	3.4	1.4	1.6
Q4 2002	0.2	2.4	1.0	6.4	0.7	104.4	1.6	-0.4	118.8	4.3	1.9	1.6
Q1 2003	-0.3	3.3	1.1	7.0	3.2	105.4	-2.1	-1.6	118.1	2.1	1.6	1.6
Q2 2003	0.3	0.3	1.2	2.8	1.2	103.9	4.9	1.7	119.9	5.4	0.3	1.7
Q3 2003	1.8	2.2	1.2	13.4	0.1	102.6	1.7	-0.7	111.4	5.2	1.7	1.7
Q4 2003	2.9	2.2	1.3	11.9	5.5	103.3	4.3	-0.6	107.1	5.3	1.7	1.8
Q1 2004	2.0	2.3	1.2	4.6	4.2	101.4	4.3	-0.9	104.2	2.7	1.3	1.8
Q2 2004	2.2	2.4	1.2	6.2	3.9	102.7	-0.3	1.1	109.4	1.8	1.0	1.8
Q3 2004	1.5	2.0	1.2	8.7	4.0	102.7	0.6	0.1	110.2	0.3	1.1	1.8
Q4 2004	1.3	2.4	1.4	8.1	0.7	99.0	-1.0	1.7	102.7	2.7	2.4	1.9
Q1 2005	0.9	1.5	1.3	7.9	2.9	98.7	0.9	-2.7	107.2	3.1	2.6	1.9
Q2 2005	2.8	2.2	1.2	7.3	1.6	99.0	5.2	-1.3	110.9	5.3	1.9	1.8
Q3 2005	2.6	3.2	1.2	9.8	2.6	98.6	1.5	-1.1	113.3	3.9	2.7	1.8
Q4 2005	2.6	2.5	1.2	10.8	1.7	98.1	0.7	0.6	117.9	5.3	1.4	1.7
Q1 2006	3.7	1.7	1.2	12.0	2.4	96.8	1.8	1.3	117.5	1.5	1.9	1.7
Q2 2006	4.5	2.5	1.3	7.9	3.3	96.8	1.6	-0.1	114.5	1.4	3.0	1.8
Q3 2006	2.6	2.0	1.3	8.7	2.0	96.4	-0.2	0.5	118.0	1.0	3.3	1.9
Q4 2006	4.4	0.9	1.3	11.0	4.0	94.6	5.2	-0.4	119.0	3.1	2.6	2.0
Q1 2007	3.2	2.2	1.3	14.7	3.7	94.0	4.1	-0.2	117.6	4.0	2.6	2.0
Q2 2007	1.9	2.3	1.4	10.0	5.1	92.0	0.5	0.0	123.4	5.3	1.6	2.0
Q3 2007	2.4	2.1	1.4	8.9	7.6	90.7	-1.4	0.1	115.0	5.0	0.3	2.0
Q4 2007	1.6	4.9	1.5	10.7	5.8	89.4	3.4	2.2	111.7	0.4	4.0	2.0
Q1 2008	2.3	4.2	1.6	8.6	7.9	88.0	2.7	1.3	99.9	0.6	3.7	2.0
Q2 2008	-1.6	3.2	1.6	7.5	6.2	88.6	-4.8	1.4	106.2	-3.6	5.5	2.0
Q3 2008	-2.4	3.2	1.4	3.8	2.8	91.3	-4.0	3.8	105.9	-5.6	5.9	1.8
Q4 2008	-6.7	-1.4	1.4	0.4	-0.6	92.0	-12.4	-2.2	90.8	-8.3	0.6	1.5

Appendix 4: Adverse Scenarios – International (Cont.)

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2009	-10.9	-1.1	1.3	3.4	1.2	94.0	-15.0	-3.6	99.2	-9.5	0.1	1.4
Q2 2009	-1.1	0.0	1.4	15.9	2.4	92.1	6.7	-1.7	96.4	-1.7	2.0	1.6
Q3 2009	1.6	1.2	1.5	12.8	4.9	91.1	0.4	-1.2	89.5	0.0	3.7	1.6
Q4 2009	1.8	1.6	1.4	8.4	5.2	90.5	7.5	-1.5	93.1	1.7	3.1	1.6
Q1 2010	1.6	1.7	1.4	9.2	5.0	89.7	5.9	0.7	93.4	2.1	4.0	1.5
Q2 2010	3.6	2.0	1.2	9.3	3.4	90.8	3.7	-1.0	88.5	4.1	3.0	1.5
Q3 2010	1.7	1.8	1.4	8.7	3.9	88.2	6.0	-1.7	83.5	1.6	2.6	1.6
Q4 2010	2.1	2.5	1.3	8.3	7.8	87.3	1.3	1.2	81.7	-0.8	4.0	1.5
Q1 2011	3.1	3.5	1.4	9.4	6.4	86.4	-7.6	-0.8	82.8	1.9	6.6	1.6
Q2 2011	0.3	3.2	1.5	6.8	5.9	85.2	3.4	-0.5	80.6	0.4	4.4	1.6
Q3 2011	0.3	1.7	1.3	7.2	5.9	87.2	10.7	0.7	77.0	2.4	4.2	1.6
Q4 2011	0.8	3.3	1.3	5.9	2.9	87.1	1.4	-0.4	77.0	-0.4	3.4	1.6
Q1 2012	-0.4	2.5	1.3	5.8	2.8	86.2	5.0	1.2	82.4	0.0	1.8	1.6
Q2 2012	-1.2	2.4	1.3	6.5	4.0	87.9	-1.2	-0.7	79.8	-1.8	1.7	1.6
Q3 2012	-0.5	2.1	1.3	6.6	2.7	86.1	-3.5	-1.5	77.9	2.5	3.0	1.6
Q4 2012	-2.0	2.2	1.3	6.8	3.5	85.8	1.1	0.0	86.6	-1.2	4.0	1.6
Q1 2013	0.9	0.7	1.3	5.5	3.9	86.1	4.1	-0.4	94.2	1.5	2.3	1.5
Q2 2013	1.1	0.6	1.3	6.3	3.0	87.0	3.8	0.8	99.2	2.7	1.5	1.5
Q3 2013	0.6	1.9	1.4	6.5	3.9	87.2	2.6	3.1	98.3	3.2	3.1	1.6
Q4 2013	-4.2	0.1	1.2	1.4	2.3	96.9	-3.3	-1.9	97.9	-0.8	0.9	1.4
Q1 2014	-3.4	0.0	1.2	3.8	1.9	96.9	-5.0	-1.2	99.7	-1.0	0.7	1.4
Q2 2014	-2.0	-0.1	1.2	5.6	1.8	96.5	-4.3	-1.2	101.2	-0.5	0.6	1.4
Q3 2014	-0.8	0.1	1.2	6.4	1.8	96.0	-3.3	-1.0	102.5	0.1	0.7	1.4
Q4 2014	0.1	0.3	1.2	6.7	1.8	95.2	-2.2	-0.8	103.7	0.6	0.8	1.4
Q1 2015	0.9	0.5	1.2	6.8	1.7	93.1	-1.2	-0.7	103.6	1.1	1.0	1.4
Q2 2015	1.4	0.7	1.2	6.8	1.7	91.0	-0.3	-0.6	103.5	1.5	1.2	1.4
Q3 2015	1.8	0.9	1.2	6.8	1.7	88.9	0.4	-0.4	103.4	1.9	1.4	1.4
Q4 2015	1.9	1.0	1.2	6.8	1.9	87.1	0.9	-0.1	103.4	2.1	1.5	1.4
Q1 2016	2.0	1.1	1.2	6.9	2.1	86.2	1.3	0.2	103.0	2.3	1.6	1.4
Q2 2016	2.0	1.1	1.2	6.9	2.3	85.5	1.5	0.5	102.7	2.4	1.7	1.4
Q3 2016	1.9	1.2	1.2	7.0	2.5	85.0	1.7	0.7	102.4	2.5	1.7	1.4
Q4 2016	1.9	1.3	1.2	7.1	2.6	84.5	1.8	0.9	102.1	2.5	1.8	1.4

Appendix 5: Severely Adverse Scenarios – Domestic

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2001	-1.1	1.4	3.5	6.3	4.2	3.9	4.8	4.9	5.3	7.4	7.0	8.6	10645.9	112.4	140.8	32.8
Q2 2001	2.1	5.0	-0.3	1.6	4.4	2.8	3.7	4.9	5.5	7.5	7.1	7.3	11407.2	114.5	140.0	34.7
Q3 2001	-1.2	0.1	9.8	10.1	4.8	1.1	3.2	4.6	5.3	7.3	7.0	6.6	9563.0	116.7	143.7	43.7
Q4 2001	1.0	2.2	-4.9	-4.6	5.5	-0.3	1.9	4.2	5.1	7.2	6.8	5.2	10707.7	119.1	137.9	35.3
Q1 2002	3.8	5.1	10.1	10.9	5.7	1.3	1.7	4.5	5.4	7.6	7.0	4.8	10775.7	121.3	139.7	26.1
Q2 2002	2.2	3.8	2.0	5.2	5.8	3.2	1.7	4.5	5.4	7.6	6.8	4.8	9384.0	124.3	137.4	28.4
Q3 2002	1.9	3.8	-0.5	1.5	5.7	2.2	1.6	3.4	4.5	7.3	6.3	4.8	7773.6	127.8	140.9	45.1
Q4 2002	0.2	2.4	1.9	3.8	5.9	2.4	1.3	3.1	4.3	7.0	6.1	4.5	8343.2	130.4	144.2	42.6
Q1 2003	2.0	4.6	1.2	4.1	5.9	4.2	1.2	2.9	4.2	6.5	5.8	4.3	8051.9	133.3	148.7	34.7
Q2 2003	3.8	5.1	5.9	6.3	6.1	-0.7	1.0	2.6	3.8	5.7	5.5	4.2	9342.4	136.0	151.2	29.1
Q3 2003	6.9	9.4	6.7	9.3	6.1	3.0	0.9	3.1	4.4	6.0	6.0	4.0	9649.7	139.7	152.2	22.7
Q4 2003	4.6	6.7	1.6	3.3	5.8	1.5	0.9	3.2	4.4	5.8	5.9	4.0	10799.6	144.3	150.1	21.1
Q1 2004	2.4	6.0	2.9	6.1	5.7	3.4	0.9	3.0	4.1	5.5	5.6	4.0	11039.4	149.9	155.8	21.6
Q2 2004	3.1	6.6	4.0	7.0	5.6	3.2	1.1	3.7	4.7	6.1	6.2	4.0	11144.6	156.2	162.6	20.0
Q3 2004	3.6	6.2	2.1	4.5	5.4	2.6	1.5	3.5	4.4	5.8	5.9	4.4	10893.8	161.9	173.9	19.3
Q4 2004	3.4	6.4	5.1	8.4	5.4	4.4	2.0	3.5	4.3	5.4	5.7	4.9	11951.5	167.5	178.4	16.6
Q1 2005	4.4	8.3	-3.8	-1.8	5.3	2.0	2.5	3.9	4.4	5.4	5.8	5.4	11637.3	175.7	179.6	14.6
Q2 2005	2.2	5.1	3.2	6.0	5.1	2.7	2.9	3.9	4.2	5.5	5.7	5.9	11856.7	183.3	186.5	17.7
Q3 2005	3.3	7.3	2.1	6.6	5.0	6.2	3.4	4.0	4.3	5.5	5.8	6.4	12282.9	189.5	190.8	14.2
Q4 2005	2.2	5.5	3.3	6.6	5.0	3.8	3.8	4.4	4.6	5.9	6.2	7.0	12497.2	194.4	199.6	16.5
Q1 2006	4.9	8.2	9.5	11.5	4.7	2.1	4.4	4.6	4.7	6.0	6.2	7.4	13121.6	198.9	203.0	14.6
Q2 2006	1.3	4.6	0.6	3.7	4.6	3.7	4.7	5.0	5.2	6.5	6.6	7.9	12808.9	199.0	211.9	23.8
Q3 2006	0.4	3.2	1.2	4.1	4.6	3.8	4.9	4.8	5.0	6.4	6.6	8.3	13322.5	196.9	224.2	18.6
Q4 2006	3.2	4.6	5.3	4.6	4.4	-1.6	4.9	4.6	4.7	6.1	6.2	8.3	14215.8	197.3	221.1	12.7
Q1 2007	0.3	4.8	2.7	6.5	4.5	4.0	5.0	4.6	4.8	6.1	6.2	8.3	14354.0	195.6	233.3	19.6
Q2 2007	3.1	5.4	0.8	4.0	4.5	4.6	4.7	4.7	4.9	6.3	6.4	8.3	15163.1	191.3	241.5	18.9
Q3 2007	2.7	4.1	1.0	3.3	4.7	2.6	4.3	4.5	4.8	6.5	6.6	8.2	15317.8	185.9	257.8	30.8
Q4 2007	1.5	3.3	0.3	4.4	4.8	5.0	3.4	3.8	4.4	6.4	6.2	7.5	14753.6	180.2	260.2	31.1
Q1 2008	-2.7	-0.5	2.9	6.5	5.0	4.4	2.1	2.8	3.9	6.5	5.9	6.2	13284.1	174.1	253.6	32.2
Q2 2008	2.0	4.0	8.7	13.3	5.3	5.3	1.6	3.2	4.1	6.8	6.1	5.1	13016.4	166.3	242.1	24.1
Q3 2008	-2.0	0.7	-8.8	-5.0	6.0	6.3	1.5	3.1	4.1	7.2	6.3	5.0	11826.0	159.6	246.8	46.7
Q4 2008	-8.3	-7.8	2.5	-3.2	6.9	-8.9	0.3	2.2	3.7	9.4	5.8	4.1	9056.7	152.0	231.9	80.9

Appendix 5: Severely Adverse Scenarios – Domestic (Cont.)

OBS	Real GDP growth	Nominal GDP growth	Real disposable income growth	Nominal disposable income growth	Unemployment rate	CPI inflation rate	3-month Treasury yield	5-year Treasury yield	10-year Treasury yield	BBB corporate yield	Mortgage rate	Prime rate	Dow Jones Total Stock Market Index	House Price Index	Commercial Real Estate Price Index	Market Volatility Index (VIX)
Q1 2009	-5.4	-4.5	-1.4	-3.6	8.3	-2.6	0.2	1.9	3.2	9.0	5.1	3.3	8044.2	144.3	211.2	56.7
Q2 2009	-0.4	-1.1	3.0	4.9	9.3	2.0	0.2	2.3	3.7	8.2	5.0	3.3	9342.8	142.3	175.4	42.3
Q3 2009	1.3	1.2	-4.0	-1.6	9.6	3.5	0.2	2.5	3.8	6.8	5.1	3.3	10812.8	143.8	158.7	31.3
Q4 2009	3.9	5.1	-0.1	2.6	9.9	3.1	0.1	2.3	3.7	6.1	4.9	3.3	11385.1	144.6	158.0	30.7
Q1 2010	1.6	3.0	0.3	1.7	9.8	0.7	0.1	2.4	3.9	5.8	5.0	3.3	12032.5	145.3	153.2	27.3
Q2 2010	3.9	5.8	5.3	5.8	9.6	-0.2	0.1	2.3	3.6	5.6	4.9	3.3	10645.8	145.3	168.8	45.8
Q3 2010	2.8	4.7	1.9	3.1	9.5	1.4	0.2	1.6	2.9	5.1	4.4	3.3	11814.0	142.3	171.1	32.9
Q4 2010	2.8	4.9	2.6	4.8	9.5	3.0	0.1	1.5	3.0	5.0	4.4	3.3	13131.5	140.2	177.8	23.5
Q1 2011	-1.3	0.3	5.0	8.2	9.0	4.4	0.1	2.1	3.5	5.4	4.8	3.3	13908.5	138.9	184.8	29.4
Q2 2011	3.2	5.9	-0.4	3.3	9.0	4.7	0.0	1.8	3.3	5.1	4.7	3.3	13843.5	137.5	181.8	22.7
Q3 2011	1.4	3.9	1.6	3.9	9.0	2.9	0.0	1.1	2.5	4.9	4.3	3.3	11676.5	137.2	182.0	48.0
Q4 2011	4.9	5.4	-0.6	0.8	8.7	1.4	0.0	1.0	2.1	5.0	4.0	3.3	13019.3	136.3	195.2	45.5
Q1 2012	3.7	5.8	4.6	6.9	8.3	2.3	0.1	0.9	2.1	4.7	3.9	3.3	14627.5	138.5	193.5	23.0
Q2 2012	1.2	3.0	1.8	2.9	8.2	1.0	0.1	0.8	1.8	4.5	3.8	3.3	14100.2	141.4	193.7	26.7
Q3 2012	2.8	4.9	-0.6	1.1	8.0	2.1	0.1	0.7	1.6	4.2	3.6	3.3	14894.7	143.9	201.1	20.5
Q4 2012	0.1	1.6	9.0	10.7	7.8	2.2	0.1	0.7	1.7	3.9	3.4	3.3	14834.9	146.8	203.2	22.7
Q1 2013	1.1	2.8	-7.9	-7.0	7.7	1.4	0.1	0.8	1.9	4.0	3.5	3.3	16396.2	152.6	205.4	19.0
Q2 2013	2.5	3.1	3.5	3.4	7.6	0.0	0.1	0.9	2.0	4.1	3.7	3.3	16771.3	157.8	214.3	20.5
Q3 2013	2.0	4.7	1.7	4.3	7.3	2.3	0.0	1.5	2.7	4.9	4.4	3.3	17718.3	158.8	217.0	17.0
Q4 2013	-3.9	-2.0	-0.5	0.1	8.1	0.5	0.1	0.8	1.0	5.0	4.4	3.3	13016.5	156.4	219.7	67.9
Q1 2014	-6.1	-4.0	-2.4	-1.9	9.2	0.4	0.1	0.6	1.0	5.8	4.4	3.3	11402.6	151.3	211.2	61.3
Q2 2014	-3.2	-1.9	0.1	0.8	9.9	0.8	0.1	0.6	1.1	6.1	4.4	3.3	9769.1	145.4	194.5	65.7
Q3 2014	-4.0	-2.6	-1.1	-0.2	10.7	0.8	0.1	0.6	1.1	6.2	4.4	3.3	8943.3	139.1	175.5	57.9
Q4 2014	-1.5	-0.3	-0.5	0.5	11.1	1.1	0.1	0.6	1.3	6.1	4.4	3.3	9616.9	133.2	161.3	42.1
Q1 2015	1.2	2.5	1.2	2.5	11.2	1.5	0.1	0.6	1.3	5.8	4.3	3.3	10314.4	127.7	150.3	34.1
Q2 2015	1.1	2.2	1.0	2.2	11.3	1.4	0.1	0.6	1.4	5.6	4.3	3.3	11061.2	123.0	143.9	27.7
Q3 2015	3.0	4.1	1.4	2.8	11.2	1.6	0.1	0.6	1.5	5.3	4.2	3.3	11987.2	120.3	141.6	21.8
Q4 2015	3.0	4.0	1.6	2.9	11.1	1.6	0.1	0.6	1.6	5.1	4.2	3.3	12775.4	118.5	141.5	19.3
Q1 2016	3.9	4.9	2.0	3.2	10.9	1.6	0.1	0.6	1.7	5.1	4.3	3.3	13434.8	118.0	142.3	17.9
Q2 2016	3.9	4.8	2.2	3.4	10.8	1.6	0.1	0.6	1.8	5.1	4.3	3.3	13927.1	118.5	144.5	17.8
Q3 2016	3.9	4.8	1.8	3.0	10.6	1.6	0.1	0.6	1.9	4.9	4.3	3.3	14769.2	119.5	147.2	15.2
Q4 2016	3.9	4.7	2.0	3.1	10.4	1.5	0.1	0.6	2.0	4.8	4.3	3.3	15436.8	120.8	150.2	14.9

Appendix 6: Severely Adverse Scenarios – International

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2001	3.7	1.1	0.9	3.9	1.6	105.9	2.7	-1.2	125.5	3.1	0.1	1.4
Q2 2001	0.3	4.1	0.8	6.0	2.0	106.0	-0.9	-0.3	124.7	2.7	3.1	1.4
Q3 2001	0.4	1.4	0.9	4.7	1.3	106.3	-4.3	-1.1	119.2	1.9	1.0	1.5
Q4 2001	0.7	1.7	0.9	7.0	-0.2	106.7	-0.5	-1.4	131.0	0.5	0.0	1.5
Q1 2002	0.5	3.0	0.9	7.4	0.3	107.2	-0.7	-2.7	132.7	2.2	1.9	1.4
Q2 2002	2.3	2.0	1.0	9.0	0.7	104.7	4.0	1.7	119.9	3.0	0.9	1.5
Q3 2002	1.1	1.6	1.0	4.9	1.5	105.4	2.6	-0.7	121.7	3.4	1.4	1.6
Q4 2002	0.2	2.4	1.0	6.4	0.7	104.4	1.6	-0.4	118.8	4.3	1.9	1.6
Q1 2003	-0.3	3.3	1.1	7.0	3.2	105.4	-2.1	-1.6	118.1	2.1	1.6	1.6
Q2 2003	0.3	0.3	1.2	2.8	1.2	103.9	4.9	1.7	119.9	5.4	0.3	1.7
Q3 2003	1.8	2.2	1.2	13.4	0.1	102.6	1.7	-0.7	111.4	5.2	1.7	1.7
Q4 2003	2.9	2.2	1.3	11.9	5.5	103.3	4.3	-0.6	107.1	5.3	1.7	1.8
Q1 2004	2.0	2.3	1.2	4.6	4.2	101.4	4.3	-0.9	104.2	2.7	1.3	1.8
Q2 2004	2.2	2.4	1.2	6.2	3.9	102.7	0.3	1.1	109.4	1.8	1.0	1.8
Q3 2004	1.5	2.0	1.2	8.7	4.0	102.7	0.6	0.1	110.2	0.3	1.1	1.8
Q4 2004	1.3	2.4	1.4	8.1	0.7	99.0	-1.0	1.7	102.7	2.7	2.4	1.9
Q1 2005	0.9	1.5	1.3	7.9	2.9	98.7	0.9	-2.7	107.2	3.1	2.6	1.9
Q2 2005	2.8	2.2	1.2	7.3	1.6	99.0	5.2	-1.3	110.9	5.3	1.9	1.8
Q3 2005	2.6	3.2	1.2	9.8	2.6	98.6	1.5	-1.1	113.3	3.9	2.7	1.8
Q4 2005	2.6	2.5	1.2	10.8	1.7	98.1	0.7	0.6	117.9	5.3	1.4	1.7
Q1 2006	3.7	1.7	1.2	12.0	2.4	96.8	1.8	1.3	117.5	1.5	1.9	1.7
Q2 2006	4.5	2.5	1.3	7.9	3.3	96.8	1.6	-0.1	114.5	1.4	3.0	1.8
Q3 2006	2.6	2.0	1.3	8.7	2.0	96.4	-0.2	0.5	118.0	1.0	3.3	1.9
Q4 2006	4.4	0.9	1.3	11.0	4.0	94.6	5.2	-0.4	119.0	3.1	2.6	2.0
Q1 2007	3.2	2.2	1.3	14.7	3.7	94.0	4.1	-0.2	117.6	4.0	2.6	2.0
Q2 2007	1.9	2.3	1.4	10.0	5.1	92.0	0.5	0.0	123.4	5.3	1.6	2.0
Q3 2007	2.4	2.1	1.4	8.9	7.6	90.7	-1.4	0.1	115.0	5.0	0.3	2.0
Q4 2007	1.6	4.9	1.5	10.7	5.8	89.4	3.4	2.2	111.7	0.4	4.0	2.0
Q1 2008	2.3	4.2	1.6	8.6	7.9	88.0	2.7	1.3	99.9	0.6	3.7	2.0
Q2 2008	-1.6	3.2	1.6	7.5	6.2	88.6	-4.8	1.4	106.2	-3.6	5.5	2.0
Q3 2008	-2.4	3.2	1.4	3.8	2.8	91.3	-4.0	3.8	105.9	-5.6	5.9	1.8
Q4 2008	-6.7	-1.4	1.4	0.4	-0.6	92.0	-12.4	-2.2	90.8	-8.3	0.6	1.5

Appendix 6: Severely Adverse Scenarios – International (Cont.)

OBS	Euro Area Real GDP Growth	Euro Area Inflation	Euro Area Bilateral Dollar Exchange Rate (USD/Euro)	Developing Asia Real GDP Growth	Developing Asia Inflation	Developing Asia Bilateral Dollar Exchange Rate (F/USD, Index, Base = 2000 Q1)	Japan Real GDP Growth	Japan Inflation	Japan Bilateral Dollar Exchange Rate (Yen/USD)	UK Real GDP Growth	UK Inflation	UK Bilateral Dollar Exchange Rate (USD/Pound)
Q1 2009	-10.9	-1.1	1.3	3.4	-1.2	94.0	-15.0	-3.6	99.2	-9.5	-0.1	1.4
Q2 2009	-1.1	0.0	1.4	15.9	2.4	92.1	6.7	-1.7	96.4	-1.7	2.0	1.6
Q3 2009	1.6	1.2	1.5	12.8	4.9	91.1	0.4	-1.2	89.5	0.0	3.7	1.6
Q4 2009	1.8	1.6	1.4	8.4	5.2	90.5	7.5	-1.5	93.1	1.7	3.1	1.6
Q1 2010	1.6	1.7	1.4	9.2	5.0	89.7	5.9	0.7	93.4	2.1	4.0	1.5
Q2 2010	3.6	2.0	1.2	9.3	3.4	90.8	3.7	-1.0	88.5	4.1	3.0	1.5
Q3 2010	1.7	1.8	1.4	8.7	3.9	88.2	6.0	-1.7	83.5	1.6	2.6	1.6
Q4 2010	2.1	2.5	1.3	8.3	7.8	87.3	-1.3	1.2	81.7	-0.8	4.0	1.5
Q1 2011	3.1	3.5	1.4	9.4	6.4	86.4	-7.6	-0.8	82.8	1.9	6.6	1.6
Q2 2011	0.3	3.2	1.5	6.8	5.9	85.2	-3.4	-0.5	80.6	0.4	4.4	1.6
Q3 2011	0.3	1.7	1.3	7.2	5.9	87.2	10.7	0.7	77.0	2.4	4.2	1.6
Q4 2011	-0.8	3.3	1.3	5.9	2.9	87.1	1.4	-0.4	77.0	-0.4	3.4	1.6
Q1 2012	-0.4	2.5	1.3	5.8	2.8	86.2	5.0	1.2	82.4	0.0	1.8	1.6
Q2 2012	-1.2	2.4	1.3	6.5	4.0	87.9	-1.2	-0.7	79.8	-1.8	1.7	1.6
Q3 2012	-0.5	2.1	1.3	6.6	2.7	86.1	-3.5	-1.5	77.9	2.5	3.0	1.6
Q4 2012	-2.0	2.2	1.3	6.8	3.5	85.8	1.1	0.0	86.6	-1.2	4.0	1.6
Q1 2013	-0.9	0.7	1.3	5.5	3.9	86.1	4.1	-0.4	94.2	1.5	2.3	1.5
Q2 2013	1.1	0.6	1.3	6.3	3.0	87.0	3.8	0.8	99.2	2.7	1.5	1.5
Q3 2013	0.6	1.9	1.4	6.5	3.9	87.2	2.6	3.1	98.3	3.2	3.1	1.6
Q4 2013	-8.3	-1.0	1.2	-2.8	1.4	105.0	-8.0	-4.9	95.3	-3.2	-0.4	1.4
Q1 2014	-7.0	-1.2	1.1	1.6	0.5	104.7	-10.8	-3.9	96.9	-3.6	-0.6	1.4
Q2 2014	-4.5	-1.3	1.1	4.9	0.2	103.9	-9.1	-3.9	98.2	-2.6	-0.7	1.4
Q3 2014	-2.5	-1.0	1.1	6.4	0.2	102.9	-7.1	-3.5	99.4	-1.6	-0.5	1.4
Q4 2014	-0.9	-0.6	1.1	6.8	0.2	101.6	-5.1	-3.1	100.5	-0.6	-0.2	1.4
Q1 2015	0.4	-0.3	1.1	7.0	0.2	98.8	-3.2	-2.7	100.3	0.4	0.2	1.4
Q2 2015	1.3	0.1	1.1	7.0	0.3	96.1	-1.6	-2.4	100.1	1.1	0.5	1.4
Q3 2015	1.9	0.3	1.1	7.0	0.5	93.5	-0.4	-1.9	100.0	1.7	0.8	1.4
Q4 2015	2.2	0.5	1.1	7.0	0.8	91.1	0.5	-1.4	99.9	2.2	1.1	1.4
Q1 2016	2.3	0.7	1.1	7.1	1.2	89.8	1.2	-0.9	99.6	2.5	1.3	1.4
Q2 2016	2.3	0.8	1.2	7.2	1.5	88.8	1.7	-0.4	99.4	2.7	1.4	1.4
Q3 2016	2.2	0.9	1.2	7.3	1.8	88.0	2.0	-0.1	99.2	2.8	1.5	1.4
Q4 2016	2.2	1.0	1.2	7.4	2.0	87.3	2.2	0.2	99.0	2.9	1.7	1.4

Appendix 7: Global Market Shock – Securitized Products (Adverse)

	RMBS														
	Non-Agency Prime	Sub-prime	Option ARMS	Other AltA	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified
Relative MV Shock Based on Current Rating (%)															
AAA Total															
Pre 2006	-7.8%	-7.1%	-19.3%	-7.8%	-19.3%	-9.7%	-9.7%	-14.3%	-19.3%	-14.3%	-9.7%	-7.8%	-7.1%	-8.4%	-19.3%
2006	-10.5%	-8.9%	-23.7%	-10.5%	-23.7%	-15.7%	-9.7%	-19.2%	-23.7%	-19.2%	-9.7%	-10.5%	-8.9%	-8.4%	-23.7%
2007	-13.8%	-11.2%	-23.7%	-13.8%	-14.7%	-14.7%	-9.7%	-19.2%	-14.7%	-19.2%	-9.7%	-13.8%	-11.2%	-8.4%	-14.7%
Post 2007	-7.8%	-7.1%	-19.3%	-7.8%	-19.3%	-9.7%	-9.7%	-14.3%	-19.3%	-14.3%	-9.7%	-7.8%	-7.1%	-8.4%	-19.3%
Unspecified Vintage	-13.8%	-11.2%	-23.7%	-13.8%	-14.7%	-14.7%	-9.7%	-19.2%	-14.7%	-19.2%	-9.7%	-13.8%	-11.2%	-8.4%	-14.7%
AA Total															
Pre 2006	-29.5%	-19.1%	-35.3%	-29.5%	-35.3%	-20.1%	-18.9%	-14.3%	-35.3%	-14.3%	-18.9%	-29.5%	-19.1%	-17.3%	-35.3%
2006	-35.2%	-18.1%	-42.3%	-35.2%	-42.3%	-39.8%	-18.9%	-19.2%	-42.3%	-19.2%	-18.9%	-35.2%	-18.1%	-17.3%	-42.3%
2007	-35.2%	-18.1%	-42.3%	-35.2%	-39.8%	-39.8%	-18.9%	-19.2%	-39.8%	-19.2%	-18.9%	-35.2%	-18.1%	-17.3%	-39.8%
Post 2007	-29.5%	-19.1%	-35.3%	-29.5%	-35.3%	-20.1%	-18.9%	-14.3%	-35.3%	-14.3%	-18.9%	-29.5%	-19.1%	-17.3%	-35.3%
Unspecified Vintage	-35.2%	-18.1%	-42.3%	-35.2%	-39.8%	-39.8%	-18.9%	-19.2%	-39.8%	-19.2%	-18.9%	-35.2%	-18.1%	-17.3%	-39.8%
A Total															
Pre 2006	-34.7%	-20.6%	-41.7%	-34.7%	-41.7%	-24.3%	-23.9%	-14.3%	-41.7%	-14.3%	-23.9%	-34.7%	-20.6%	-24.1%	-41.7%
2006	-37.5%	-20.0%	-45.0%	-37.5%	-45.0%	-39.8%	-23.9%	-19.2%	-45.0%	-19.2%	-23.9%	-37.5%	-20.0%	-24.1%	-45.0%
2007	-37.5%	-19.7%	-45.0%	-37.5%	-39.8%	-39.8%	-23.9%	-19.2%	-39.8%	-19.2%	-23.9%	-37.5%	-19.7%	-24.1%	-39.8%
Post 2007	-34.7%	-20.6%	-41.7%	-34.7%	-41.7%	-24.3%	-23.9%	-14.3%	-41.7%	-14.3%	-23.9%	-34.7%	-20.6%	-24.1%	-41.7%
Unspecified Vintage	-37.5%	-19.7%	-45.0%	-37.5%	-39.8%	-39.8%	-23.9%	-19.2%	-39.8%	-19.2%	-23.9%	-37.5%	-19.7%	-24.1%	-39.8%
BBB Total															
Pre 2006	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.9%	-14.3%	-41.5%	-14.3%	-20.9%	-34.5%	-27.3%	-21.2%	-41.5%
2006	-38.1%	-26.7%	-45.7%	-38.1%	-45.7%	-39.8%	-20.9%	-19.2%	-45.7%	-19.2%	-20.9%	-38.1%	-27.3%	-21.2%	-45.7%
2007	-38.1%	-26.7%	-45.7%	-38.1%	-39.8%	-39.8%	-20.9%	-19.2%	-39.8%	-19.2%	-20.9%	-38.1%	-26.7%	-21.2%	-39.8%
Post 2007	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.9%	-14.3%	-41.5%	-14.3%	-20.9%	-34.5%	-27.3%	-21.2%	-41.5%
Unspecified Vintage	-38.1%	-26.7%	-45.7%	-38.1%	-39.8%	-39.8%	-20.9%	-19.2%	-39.8%	-19.2%	-20.9%	-38.1%	-27.3%	-21.2%	-39.8%
BB Total															
Pre 2006	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
2006	-38.1%	-27.3%	-45.7%	-38.1%	-45.7%	-39.8%	-20.2%	-19.2%	-45.7%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-45.7%
2007	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
Post 2007	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
Unspecified Vintage	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
B Total															
Pre 2006	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
2006	-38.1%	-27.3%	-45.7%	-38.1%	-45.7%	-39.8%	-20.2%	-19.2%	-45.7%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-45.7%
2007	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
Post 2007	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
Unspecified Vintage	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
<B Total															
Pre 2006	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
2006	-38.1%	-27.3%	-45.7%	-38.1%	-45.7%	-39.8%	-20.2%	-19.2%	-45.7%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-45.7%
2007	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
Post 2007	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
Unspecified Vintage	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
NR Total															
Pre 2006	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
2006	-38.1%	-27.3%	-45.7%	-38.1%	-45.7%	-39.8%	-20.2%	-19.2%	-45.7%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-45.7%
2007	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%
Post 2007	-34.5%	-27.3%	-41.5%	-34.5%	-41.5%	-28.4%	-20.2%	-14.3%	-41.5%	-14.3%	-20.2%	-34.5%	-27.3%	-21.2%	-41.5%
Unspecified Vintage	-38.1%	-27.3%	-45.7%	-38.1%	-39.8%	-39.8%	-20.2%	-19.2%	-39.8%	-19.2%	-20.2%	-38.1%	-27.3%	-21.2%	-39.8%

Appendix 7: Global Market Shock – Securitized Products (Adverse) (Cont.)

	ABS							CMBS						
	Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified	Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified
Relative MV Shock Based on Current Rating (%)														
AAA Total														
Pre 2006	-3.7%	-6.9%	-8.9%	-8.9%	-8.9%	-4.0%	-8.9%	-9.4%	-13.2%	-17.1%	-13.2%	-13.2%	-9.2%	-17.1%
2006	-3.7%	-6.9%	-9.3%	-9.3%	-9.3%	-4.0%	-9.3%	-9.4%	-13.2%	-17.1%	-13.2%	-13.2%	-11.0%	-17.1%
2007	-3.9%	-9.2%	-9.9%	-9.9%	-9.9%	-4.0%	-9.9%	-9.4%	-13.2%	-17.1%	-13.2%	-13.2%	-11.0%	-17.1%
Post 2007	-3.7%	-6.9%	-8.9%	-8.9%	-8.9%	-4.0%	-8.9%	-9.4%	-13.2%	-17.1%	-13.2%	-13.2%	-9.2%	-17.1%
Unspecified Vintage	-3.9%	-9.2%	-9.9%	-9.9%	-9.9%	-4.0%	-9.9%	-9.4%	-13.2%	-17.1%	-13.2%	-13.2%	-11.0%	-17.1%
AA Total														
Pre 2006	-8.9%	-16.6%	-14.5%	-16.6%	-16.6%	-4.0%	-16.6%	-24.0%	-29.2%	-38.0%	-29.2%	-29.2%	-9.2%	-38.0%
2006	-8.9%	-16.6%	-19.0%	-19.0%	-19.0%	-4.0%	-19.0%	-24.0%	-29.2%	-38.0%	-29.2%	-29.2%	-11.0%	-38.0%
2007	-9.5%	-19.7%	-19.1%	-19.7%	-19.7%	-4.0%	-19.7%	-24.0%	-29.2%	-38.0%	-29.2%	-29.2%	-11.0%	-38.0%
Post 2007	-8.9%	-16.6%	-14.5%	-16.6%	-16.6%	-4.0%	-16.6%	-24.0%	-29.2%	-38.0%	-29.2%	-29.2%	-9.2%	-38.0%
Unspecified Vintage	-9.5%	-19.7%	-19.1%	-19.7%	-19.7%	-4.0%	-19.7%	-24.0%	-29.2%	-38.0%	-29.2%	-29.2%	-11.0%	-38.0%
A Total														
Pre 2006	-9.7%	-16.8%	-17.7%	-17.7%	-17.7%	-4.0%	-17.7%	-29.8%	-29.0%	-37.8%	-29.0%	-29.0%	-9.2%	-37.8%
2006	-9.7%	-16.8%	-18.7%	-18.7%	-18.7%	-4.0%	-18.7%	-29.8%	-29.0%	-37.8%	-29.0%	-29.0%	-11.0%	-37.8%
2007	-10.4%	-20.0%	-22.8%	-22.8%	-22.8%	-4.0%	-22.8%	-29.8%	-29.0%	-37.8%	-29.0%	-29.0%	-11.0%	-37.8%
Post 2007	-9.7%	-16.8%	-17.7%	-17.7%	-17.7%	-4.0%	-17.7%	-29.8%	-29.0%	-37.8%	-29.0%	-29.0%	-9.2%	-37.8%
Unspecified Vintage	-10.4%	-20.0%	-22.8%	-22.8%	-22.8%	-4.0%	-22.8%	-29.8%	-29.0%	-37.8%	-29.0%	-29.0%	-11.0%	-37.8%
BBB Total														
Pre 2006	-9.3%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
2006	-9.3%	-23.2%	-18.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
2007	-10.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
Post 2007	-9.3%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
Unspecified Vintage	-10.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
BB Total														
Pre 2006	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
2006	-13.1%	-23.2%	-18.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
2007	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
Post 2007	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
Unspecified Vintage	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
B Total														
Pre 2006	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
2006	-13.1%	-23.2%	-18.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
2007	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
Post 2007	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
Unspecified Vintage	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
<B Total														
Pre 2006	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
2006	-13.1%	-23.2%	-18.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
2007	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
Post 2007	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
Unspecified Vintage	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
NR Total														
Pre 2006	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
2006	-13.1%	-23.2%	-18.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
2007	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%
Post 2007	-13.1%	-23.2%	-17.7%	-23.2%	-23.2%	-4.0%	-23.2%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-9.2%	-38.8%
Unspecified Vintage	-14.0%	-27.5%	-22.8%	-27.5%	-27.5%	-4.0%	-27.5%	-32.6%	-29.8%	-38.8%	-29.8%	-29.8%	-11.0%	-38.8%

Appendix 7: Global Market Shock – Securitized Products (Adverse) (Cont.)

	Corporate CDO / CLO		Warehouse		
	CLO	Other / Unspecified	Total Size	Total Protection	Other / Unspecified
Relative MV Shock Based on Current Rating (%)					
AAA Total					
Pre 2006	-8.9%	-1.3%	-9.2%	9.2%	-1.3%
2006	-8.9%	-1.3%	-11.0%	11.0%	-1.3%
2007	-8.9%	-1.3%	-11.0%	11.0%	-1.3%
Post 2007	-8.9%	-1.3%	-9.2%	9.2%	-1.3%
Unspecified Vintage	-8.9%	-1.3%	-11.0%	11.0%	-1.3%
AA Total					
Pre 2006	-28.0%	-1.3%	-9.2%	9.2%	-1.3%
2006	-28.0%	-1.3%	-11.0%	11.0%	-1.3%
2007	-28.0%	-1.3%	-11.0%	11.0%	-1.3%
Post 2007	-28.0%	-1.3%	-9.2%	9.2%	-1.3%
Unspecified Vintage	-28.0%	-1.3%	-11.0%	11.0%	-1.3%
A Total					
Pre 2006	-41.2%	-1.3%	-9.2%	9.2%	-1.3%
2006	-41.2%	-1.3%	-11.0%	11.0%	-1.3%
2007	-41.2%	-1.3%	-11.0%	11.0%	-1.3%
Post 2007	-41.2%	-1.3%	-9.2%	9.2%	-1.3%
Unspecified Vintage	-41.2%	-1.3%	-11.0%	11.0%	-1.3%
BBB Total					
Pre 2006	-43.0%	-22.0%	-9.2%	9.2%	-22.0%
2006	-43.0%	-22.0%	-11.0%	11.0%	-22.0%
2007	-43.0%	-22.0%	-11.0%	11.0%	-22.0%
Post 2007	-43.0%	-22.0%	-9.2%	9.2%	-22.0%
Unspecified Vintage	-43.0%	-22.0%	-11.0%	11.0%	-22.0%
BB Total					
Pre 2006	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
2006	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
2007	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
Post 2007	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
Unspecified Vintage	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
B Total					
Pre 2006	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
2006	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
2007	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
Post 2007	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
Unspecified Vintage	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
<B Total					
Pre 2006	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
2006	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
2007	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
Post 2007	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
Unspecified Vintage	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
NR Total					
Pre 2006	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
2006	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
2007	-43.7%	-22.0%	-11.0%	11.0%	-22.0%
Post 2007	-43.7%	-22.0%	-9.2%	9.2%	-22.0%
Unspecified Vintage	-43.7%	-22.0%	-11.0%	11.0%	-22.0%

Appendix 7: Global Market Shock – Municipals (Adverse)

	Spread Widening (bps)
Bonds	
AAA	1.5
AA	11.5
A	53.5
BBB	138.5
BB	138.5
B	138.5
<B	138.5
NR	138.5
Loans	
AAA	1.5
AA	11.5
A	53.5
BBB	138.5
BB	138.5
B	138.5
<B	138.5
NR	138.5
CDS	
AAA	1.5
AA	11.5
A	53.5
BBB	138.5
BB	138.5
B	138.5
<B	138.5
NR	138.5
Indices	
AAA	92.8
AA	92.8
A	92.8
BBB	92.8
BB	92.8
B	92.8
<B	92.8
NR	92.8
Other / Unspecified Munis	
AAA	1.5
AA	11.5
A	53.5
BBB	138.5
BB	138.5
B	138.5
<B	138.5
NR	138.5

Appendix 7: Global Market Shock – Agencies (Adverse)

	OAS Widening (bps)
US Residential Agency Products	
IOs	80.0
POs	10.0
Other CMOs	25.0
Pass-Throughs	20.0
Agency Debt/Debentures	10.0
IOS Index	80.0
POS Index	10.0
MBX Index	20.0
Other Agency Derivatives	25.0
TBA's	20.0
Reverse Mortgages	40.0
Residential Other / Unspecified	25.0
US Commercial Agency Products	
Cash Agency CMBS	25.0
Agency CMBS Derivatives	25.0
Commercial Other / Unspecified	25.0
Non-US Agency Products	
AAA	25.0
AA	32.5
A	37.5
BBB	62.5
BB	75.0
B	125.0
<B	150.0
NR	150.0

Appendix 8: Global Market Shock – Securitized Products (Severe)

	RMBS														
	Non-Agency Prime	Sub-prime	Option ARMS	Other AltA	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified
Relative MV Shock Based on Current Rating (%)															
AAA Total															
Pre 2006	-15.5%	-14.2%	-38.7%	-15.5%	-38.7%	-19.5%	-19.5%	-28.6%	-38.7%	-28.6%	-19.5%	-15.5%	-14.2%	-16.8%	-38.7%
2006	-21.1%	-17.7%	-47.5%	-21.1%	-47.5%	-31.4%	-19.5%	-38.5%	-47.5%	-38.5%	-19.5%	-21.1%	-17.7%	-16.8%	-47.5%
2007	-27.6%	-22.5%	-47.5%	-27.6%	-29.5%	-29.5%	-19.5%	-38.5%	-29.5%	-38.5%	-19.5%	-27.6%	-22.5%	-16.8%	-29.5%
Post 2007	-15.5%	-14.2%	-38.7%	-15.5%	-38.7%	-19.5%	-19.5%	-28.6%	-38.7%	-28.6%	-19.5%	-15.5%	-14.2%	-16.8%	-38.7%
Unspecified Vintage	-27.6%	-22.5%	-47.5%	-27.6%	-29.5%	-29.5%	-19.5%	-38.5%	-29.5%	-38.5%	-19.5%	-27.6%	-22.5%	-16.8%	-29.5%
AA Total															
Pre 2006	-58.9%	-38.2%	-70.7%	-58.9%	-70.7%	-40.3%	-37.9%	-28.6%	-70.7%	-28.6%	-37.9%	-58.9%	-38.2%	-34.5%	-70.7%
2006	-70.5%	-36.1%	-84.6%	-70.5%	-84.6%	-79.6%	-37.9%	-38.5%	-84.6%	-38.5%	-37.9%	-70.5%	-36.1%	-34.5%	-84.6%
2007	-70.5%	-36.1%	-84.6%	-70.5%	-79.6%	-79.6%	-37.9%	-38.5%	-79.6%	-38.5%	-37.9%	-70.5%	-36.1%	-34.5%	-79.6%
Post 2007	-58.9%	-38.2%	-70.7%	-58.9%	-70.7%	-40.3%	-37.9%	-28.6%	-70.7%	-28.6%	-37.9%	-58.9%	-38.2%	-34.5%	-70.7%
Unspecified Vintage	-70.5%	-36.1%	-84.6%	-70.5%	-79.6%	-79.6%	-37.9%	-38.5%	-79.6%	-38.5%	-37.9%	-70.5%	-36.1%	-34.5%	-79.6%
A Total															
Pre 2006	-69.4%	-41.2%	-83.3%	-69.4%	-83.3%	-48.5%	-47.8%	-28.6%	-83.3%	-28.6%	-47.8%	-69.4%	-41.2%	-48.2%	-83.3%
2006	-75.0%	-40.1%	-90.0%	-75.0%	-90.0%	-79.6%	-47.8%	-38.5%	-90.0%	-38.5%	-47.8%	-75.0%	-40.1%	-48.2%	-90.0%
2007	-75.0%	-39.5%	-90.0%	-75.0%	-79.6%	-79.6%	-47.8%	-38.5%	-79.6%	-38.5%	-47.8%	-75.0%	-39.5%	-48.2%	-79.6%
Post 2007	-69.4%	-41.2%	-83.3%	-69.4%	-83.3%	-48.5%	-47.8%	-28.6%	-83.3%	-28.6%	-47.8%	-69.4%	-41.2%	-48.2%	-83.3%
Unspecified Vintage	-75.0%	-39.5%	-90.0%	-75.0%	-79.6%	-79.6%	-47.8%	-38.5%	-79.6%	-38.5%	-47.8%	-75.0%	-39.5%	-48.2%	-79.6%
BBB Total															
Pre 2006	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-41.7%	-28.6%	-82.9%	-28.6%	-41.7%	-69.1%	-54.6%	-42.3%	-82.9%
2006	-76.2%	-53.3%	-91.5%	-76.2%	-91.5%	-79.6%	-41.7%	-38.5%	-91.5%	-38.5%	-41.7%	-76.2%	-54.6%	-42.3%	-91.5%
2007	-76.2%	-53.3%	-91.5%	-76.2%	-79.6%	-79.6%	-41.7%	-38.5%	-79.6%	-38.5%	-41.7%	-76.2%	-53.3%	-42.3%	-79.6%
Post 2007	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-41.7%	-28.6%	-82.9%	-28.6%	-41.7%	-69.1%	-54.6%	-42.3%	-82.9%
Unspecified Vintage	-76.2%	-53.3%	-91.5%	-76.2%	-79.6%	-79.6%	-41.7%	-38.5%	-79.6%	-38.5%	-41.7%	-76.2%	-54.6%	-42.3%	-79.6%
BB Total															
Pre 2006	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
2006	-76.2%	-54.6%	-91.5%	-76.2%	-91.5%	-79.6%	-40.5%	-38.5%	-91.5%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-91.5%
2007	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
Post 2007	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
Unspecified Vintage	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
B Total															
Pre 2006	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
2006	-76.2%	-54.6%	-91.5%	-76.2%	-91.5%	-79.6%	-40.5%	-38.5%	-91.5%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-91.5%
2007	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
Post 2007	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
Unspecified Vintage	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
<B Total															
Pre 2006	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
2006	-76.2%	-54.6%	-91.5%	-76.2%	-91.5%	-79.6%	-40.5%	-38.5%	-91.5%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-91.5%
2007	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
Post 2007	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
Unspecified Vintage	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
NR Total															
Pre 2006	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
2006	-76.2%	-54.6%	-91.5%	-76.2%	-91.5%	-79.6%	-40.5%	-38.5%	-91.5%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-91.5%
2007	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%
Post 2007	-69.1%	-54.6%	-82.9%	-69.1%	-82.9%	-56.8%	-40.5%	-28.6%	-82.9%	-28.6%	-40.5%	-69.1%	-54.6%	-42.3%	-82.9%
Unspecified Vintage	-76.2%	-54.6%	-91.5%	-76.2%	-79.6%	-79.6%	-40.5%	-38.5%	-79.6%	-38.5%	-40.5%	-76.2%	-54.6%	-42.3%	-79.6%

Appendix 8: Global Market Shock – Securitized Products (Severe) (Cont.)

	ABS							CMBS						
	Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified	Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified
Relative MV Shock Based on Current Rating (%)														
AAA Total														
Pre 2006	-7.3%	-13.7%	-17.8%	-17.8%	-17.8%	-8.0%	-17.8%	-18.9%	-26.4%	-34.3%	-26.4%	-26.4%	-18.4%	-34.3%
2006	-7.3%	-13.7%	-18.5%	-18.5%	-18.5%	-8.0%	-18.5%	-18.9%	-26.4%	-34.3%	-26.4%	-26.4%	-22.1%	-34.3%
2007	-7.8%	-18.3%	-19.8%	-19.8%	-19.8%	-8.0%	-19.8%	-18.9%	-26.4%	-34.3%	-26.4%	-26.4%	-22.1%	-34.3%
Post 2007	-7.3%	-13.7%	-17.8%	-17.8%	-17.8%	-8.0%	-17.8%	-18.9%	-26.4%	-34.3%	-26.4%	-26.4%	-18.4%	-34.3%
Unspecified Vintage	-7.8%	-18.3%	-19.8%	-19.8%	-19.8%	-8.0%	-19.8%	-18.9%	-26.4%	-34.3%	-26.4%	-26.4%	-22.1%	-34.3%
AA Total														
Pre 2006	-17.8%	-33.1%	-28.9%	-33.1%	-33.1%	-8.0%	-33.1%	-48.1%	-58.4%	-75.9%	-58.4%	-58.4%	-18.4%	-75.9%
2006	-17.8%	-33.1%	-38.0%	-38.0%	-38.0%	-8.0%	-38.0%	-48.1%	-58.4%	-75.9%	-58.4%	-58.4%	-22.1%	-75.9%
2007	-19.0%	-39.4%	-38.2%	-39.4%	-39.4%	-8.0%	-39.4%	-48.1%	-58.4%	-75.9%	-58.4%	-58.4%	-22.1%	-75.9%
Post 2007	-17.8%	-33.1%	-28.9%	-33.1%	-33.1%	-8.0%	-33.1%	-48.1%	-58.4%	-75.9%	-58.4%	-58.4%	-18.4%	-75.9%
Unspecified Vintage	-19.0%	-39.4%	-38.2%	-39.4%	-39.4%	-8.0%	-39.4%	-48.1%	-58.4%	-75.9%	-58.4%	-58.4%	-22.1%	-75.9%
A Total														
Pre 2006	-19.4%	-33.7%	-35.4%	-35.4%	-35.4%	-8.0%	-35.4%	-59.7%	-58.1%	-75.5%	-58.1%	-58.1%	-18.4%	-75.5%
2006	-19.4%	-33.7%	-37.5%	-37.5%	-37.5%	-8.0%	-37.5%	-59.7%	-58.1%	-75.5%	-58.1%	-58.1%	-22.1%	-75.5%
2007	-20.7%	-40.0%	-45.6%	-45.6%	-45.6%	-8.0%	-45.6%	-59.7%	-58.1%	-75.5%	-58.1%	-58.1%	-22.1%	-75.5%
Post 2007	-19.4%	-33.7%	-35.4%	-35.4%	-35.4%	-8.0%	-35.4%	-59.7%	-58.1%	-75.5%	-58.1%	-58.1%	-18.4%	-75.5%
Unspecified Vintage	-20.7%	-40.0%	-45.6%	-45.6%	-45.6%	-8.0%	-45.6%	-59.7%	-58.1%	-75.5%	-58.1%	-58.1%	-22.1%	-75.5%
BBB Total														
Pre 2006	-18.7%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
2006	-18.7%	-46.3%	-37.5%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
2007	-20.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
Post 2007	-18.7%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
Unspecified Vintage	-20.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
BB Total														
Pre 2006	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
2006	-26.2%	-46.3%	-37.5%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
2007	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
Post 2007	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
Unspecified Vintage	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
B Total														
Pre 2006	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
2006	-26.2%	-46.3%	-37.5%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
2007	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
Post 2007	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
Unspecified Vintage	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
<B Total														
Pre 2006	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
2006	-26.2%	-46.3%	-37.5%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
2007	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
Post 2007	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
Unspecified Vintage	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
NR Total														
Pre 2006	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
2006	-26.2%	-46.3%	-37.5%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
2007	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%
Post 2007	-26.2%	-46.3%	-35.4%	-46.3%	-46.3%	-8.0%	-46.3%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-18.4%	-77.6%
Unspecified Vintage	-28.0%	-55.1%	-45.6%	-55.1%	-55.1%	-8.0%	-55.1%	-65.1%	-59.7%	-77.6%	-59.7%	-59.7%	-22.1%	-77.6%

Appendix 8: Global Market Shock – Securitized Products (Severe) (Cont.)

	Corporate CDO / CLO		Warehouse		
	CLO	Other / Unspecified	Total Size	Total Protection	Other / Unspecified
Relative MV Shock Based on Current Rating (%)					
AAA Total					
Pre 2006	-17.7%	-2.7%	-18.4%	18.4%	-2.7%
2006	-17.7%	-2.7%	-22.1%	22.1%	-2.7%
2007	-17.7%	-2.7%	-22.1%	22.1%	-2.7%
Post 2007	-17.7%	-2.7%	-18.4%	18.4%	-2.7%
Unspecified Vintage	-17.7%	-2.7%	-22.1%	22.1%	-2.7%
AA Total					
Pre 2006	-56.1%	-2.7%	-18.4%	18.4%	-2.7%
2006	-56.1%	-2.7%	-22.1%	22.1%	-2.7%
2007	-56.1%	-2.7%	-22.1%	22.1%	-2.7%
Post 2007	-56.1%	-2.7%	-18.4%	18.4%	-2.7%
Unspecified Vintage	-56.1%	-2.7%	-22.1%	22.1%	-2.7%
A Total					
Pre 2006	-82.3%	-2.7%	-18.4%	18.4%	-2.7%
2006	-82.3%	-2.7%	-22.1%	22.1%	-2.7%
2007	-82.3%	-2.7%	-22.1%	22.1%	-2.7%
Post 2007	-82.3%	-2.7%	-18.4%	18.4%	-2.7%
Unspecified Vintage	-82.3%	-2.7%	-22.1%	22.1%	-2.7%
BBB Total					
Pre 2006	-85.9%	-43.9%	-18.4%	18.4%	-43.9%
2006	-85.9%	-43.9%	-22.1%	22.1%	-43.9%
2007	-85.9%	-43.9%	-22.1%	22.1%	-43.9%
Post 2007	-85.9%	-43.9%	-18.4%	18.4%	-43.9%
Unspecified Vintage	-85.9%	-43.9%	-22.1%	22.1%	-43.9%
BB Total					
Pre 2006	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
2006	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
2007	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
Post 2007	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
Unspecified Vintage	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
B Total					
Pre 2006	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
2006	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
2007	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
Post 2007	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
Unspecified Vintage	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
<B Total					
Pre 2006	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
2006	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
2007	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
Post 2007	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
Unspecified Vintage	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
NR Total					
Pre 2006	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
2006	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
2007	-87.4%	-43.9%	-22.1%	22.1%	-43.9%
Post 2007	-87.4%	-43.9%	-18.4%	18.4%	-43.9%
Unspecified Vintage	-87.4%	-43.9%	-22.1%	22.1%	-43.9%

Appendix 8: Global Market Shock – Municipals (Severe)

	Spread Widening (bps)
Bonds	
AAA	3.0
AA	23.0
A	107.0
BBB	277.0
BB	277.0
B	277.0
<B	277.0
NR	277.0
Loans	
AAA	3.0
AA	23.0
A	107.0
BBB	277.0
BB	277.0
B	277.0
<B	277.0
NR	277.0
CDS	
AAA	3.0
AA	23.0
A	107.0
BBB	277.0
BB	277.0
B	277.0
<B	277.0
NR	277.0
Indices	
AAA	185.5
AA	185.5
A	185.5
BBB	185.5
BB	185.5
B	185.5
<B	185.5
NR	185.5
Other / Unspecified Munis	
AAA	3.0
AA	23.0
A	107.0
BBB	277.0
BB	277.0
B	277.0
<B	277.0
NR	277.0

Appendix 8: Global Market Shock – Agencies (Severe)

	OAS Widening (bps)
US Residential Agency Products	
IOs	160.0
POs	20.0
Other CMOs	50.0
Pass-Throughs	40.0
Agency Debt/Debentures	20.0
IOS Index	160.0
POS Index	20.0
MBX Index	40.0
Other Agency Derivatives	50.0
TBA's	40.0
Reverse Mortgages	80.0
Residential Other / Unspecified	50.0
US Commercial Agency Products	
Cash Agency CMBS	50.0
Agency CMBS Derivatives	50.0
Commercial Other / Unspecified	50.0
Non-US Agency Products	
AAA	50.0
AA	65.0
A	75.0
BBB	125.0
BB	150.0
B	250.0
<B	300.0
NR	300.0

Appendix 9: House Price Extrapolation

House Price Index Extrapolation

For house prices, extrapolate from the last period of the scenarios (Q4, 2016) using the following:
2016+ : Long-run house price appreciation rate of 70 basis points over inflation.

Inflation
2016 - 2018: Congressional Budget Office's projection of 2.2 percent per year.
2019 +: Congressional Budget Office's projection of 2.3 percent per year.

Appendix 10: Data Notes

Data Notes

Sources for data through 2013:Q3 (as released through 10/25/2013). The 2013:Q3 values of variables marked with an asterisk (*) are projected.

U.S. real GDP growth*: Percent change in real Gross Domestic Product at an annualized rate, Bureau of Economic Analysis.

U.S. nominal GDP growth*: Percent change in nominal Gross Domestic Product at an annualized rate, Bureau of Economic Analysis.

U.S. real disposable income growth*: Percent change in nominal disposable personal income divided by the price index for personal consumption expenditures at an annualized rate, Bureau of Economic Analysis.
U.S. nominal disposable income growth*: Percent change in nominal disposable personal income at an annualized rate, Bureau of Economic Analysis.

U.S. unemployment rate: Quarterly average of monthly data, Bureau of Labor Statistics.

U.S. CPI inflation*: Percent change in the Consumer Price Index at an annualized rate, Bureau of Labor Statistics.

U.S. 3-month Treasury rate: Quarterly average of 3-month Treasury bill secondary market rate discount basis, Federal Reserve Board.

U.S. 5-year Treasury yield: Quarterly average of the yield on 5-year U.S. Treasury bonds, constructed for FRB/U.S. model by Federal Reserve staff based on the Svensson smoothed term structure model; see Lars E. O. Svensson (1995), "Estimating Forward Interest Rates with the Extended Nelson-Siegel Method," *Quarterly Review*, no. 3, Sveriges Riksbank, pp. 13–26.
U.S. 10-year Treasury yield: Quarterly average of the yield on 10-year U.S. Treasury bonds, constructed for FRB/U.S. model by Federal Reserve staff based on the Svensson smoothed term structure model; see Lars E. O. Svensson (1995), "Estimating Forward Interest Rates with the Extended Nelson-Siegel Method," *Quarterly Review,* No. 3, Sveriges Riksbank, pp. 13-26.
U.S. BBB corporate yield: Quarterly average of the yield on 10-year BBB-rated corporate bonds, constructed for FRB/U.S. model by Federal Reserve staff using a Nelson-Siegel smoothed yield curve model; see Charles R. Nelson and Andrew F. Siegel (1987), "Parsimonious Modeling of Yield Curves," *Journal of Business*, vol. 60, pp. 473-89. Data prior to 1997 is based on the WARGA database. Data after 1997 is based on the Merrill Lynch database.
U.S. mortgage rate: Quarterly average of weekly series of Freddie Mac data.

U.S. prime rate: Quarterly average of monthly series, Federal Reserve Board.

U.S. Dow Jones Total Stock Market (Float Cap) Index: End of quarter value, Dow Jones.

U.S. House Price Index*: CoreLogic, index level, seasonally adjusted by Federal Reserve staff.

U.S. Commercial Real Estate Price Index*: From the Financial Accounts of the United States, Federal Reserve Board (Z.1 release); the series corresponds to the data for price indexes: Commercial Real Estate Price Index (series FI075035503.Q).
U.S. Market Volatility Index (VIX): Chicago Board Options Exchange, converted to quarterly by using the maximum value in any quarter.

Euro area real GDP growth*: Staff calculations based on Statistical Office of the European Communities via Haver, extended back using ECB Area Wide Model dataset (ECB Working Paper series no. 42).
Euro area inflation: Staff calculations based on Statistical Office of the European Community via Haver.

Developing Asia real GDP growth*: Staff calculations based on Chinese National Bureau of Statistics via CEIC; Indian Central Statistical Organization via CEIC; Bank of Korea via Haver; Census and Statistics Department of Hong Kong via CEIC; and Taiwan Directorate-General of Budget, Accounting, and Statistics via CEIC.
Developing Asia inflation: Staff calculations based on Chinese National Bureau of Statistics via CEIC; Indian Ministry of Statistics and Programme Implementation via Haver; Labour Bureau of India via CEIC; National Statistical Office of Korea via CEIC; Census and Statistic Department of Hong Kong via CEIC; and Taiwan Directorate-General of Budget, Accounting, and Statistics via CEIC.
Japan real GDP growth*: Cabinet Office via Haver.

Japan inflation: Ministry of Internal Affairs and Communications via Haver.

U.K. real GDP growth: Office for National Statistics via Haver.

U.K. inflation: Staff calculations based on Office for National Statistics (uses Retail Price Index to extend series back to 1960) via Haver.

Exchange rates: Bloomberg.

Dodd-Frank Stress Tests

Summary Instructions and Guidance

November 26, 2013

Accompanying Order No. 2013-OR-FNMA-2,

Order No. 2013-OR-FHLMC-2, and

Order No. 2013-OR-B-2

Federal Housing Finance Agency

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Introduction

Section 165(i)(2) of the Dodd-Frank Act requires certain financial companies with total consolidated assets of more than $10 billion, and which are regulated by a primary federal financial regulatory agency, to conduct annual stress tests to determine whether the companies have the capital necessary to absorb losses as a result of adverse economic conditions. The Federal Housing Finance Agency (FHFA) is the primary federal financial regulator of Fannie Mae, Freddie Mac, and the twelve Federal Home Loan Banks (Banks) referred to herein as each of the Banks (any of the Banks singularly, Bank; Fannie Mae and Freddie Mac collectively, the Enterprises; the Enterprises and the Banks collectively, regulated entities; any of the regulated entities singularly, regulated entity).

While each of the regulated entities currently has total consolidated assets of more than $10 billion, the final rule expressly retains the Director's discretion to require any regulated entity that falls below the $10 billion threshold to conduct the stress test.

The Enterprises' capital positions, supported and restricted by the Senior Preferred Stock Purchase Agreements with the Department of the Treasury are unique. Nonetheless, the Enterprises incorporate capital into their models for new business and to determine adequate returns (among other things). FHFA expects the Enterprises to have

processes and procedures for managing their businesses notwithstanding Treasury's support. Therefore, the rule and these instructions apply equally to the Enterprises and the Banks.

FHFA's final rule implementing the Dodd-Frank Act stress testing requirements sets forth the basic requirements for implementing the Dodd-Frank Stress Tests and reporting the results. FHFA anticipates supplementing the rule annually with reporting schedules and such additional Orders, instructions and guidance as may be necessary.

This document presents the general instructions and guidance that each regulated entity is expected to follow in conducting stress tests and reporting and publishing results under the rule.

General instructions and guidance are provided relating to:

- Scenario assumptions;
- Reporting and timing;
- Stress test process governance;
- Use of stress test results;
- Incomplete data;
- Evaluation of stress test processes

Dodd-Frank Stress Test Scenarios

For purposes of the Dodd-Frank Stress Test, the regulated entities are required to submit the results of stress tests based on three scenarios: Baseline, Adverse, and Severely Adverse. Assumptions for the variables in each separate scenario may be found in the attachments to the Order.

The initial stress tests are based on portfolios as of September 30, 2013. The planning horizon for the stress test is nine quarters starting with the fourth quarter of 2013 and extending through the fourth quarter of 2015. A year of scenario assumptions beyond the nine-quarter planning horizon is provided and may be utilized, if needed. Historical data is provided in the event that models require that information.

FHFA expects each regulated entity to use those scenario variables that are relevant to the entity's line of business and that are consumed by the entity's models. However, FHFA expects each regulated entity to apply all of the relevant global market shocks provided, with the exception of the counterparty default scenario component which is required for the Enterprises but optional for the Banks. The regulated entities are expected to indicate which scenario variables are included in their stress tests in their reports to FHFA and the Federal Reserve Board of Governors (Board).

Global Market Shock Assumptions

The global market assumptions provided by FHFA are to be applied to the regulated entities trading securities, available-for-sale-securities and other fair value assets as of September 30, 2013 for the adverse and severely adverse stress test.

The result of the global market shock is to be taken as an instantaneous loss and reduction of capital in the first quarter of the planning horizon. The regulated entities should not assume a related decline in portfolio positions as a result of these market shock losses. The global market shock should be treated as an add-on that is exogenous to the macroeconomic and financial market environment specified in the supervisory stress scenarios. The regulated entities should assume no recoveries of the losses generated by the global market shock over the nine quarters. The capital impact of the global market shock is carried over the planning horizon.

Counterparty Default Scenario Component

The Enterprises are required to perform the counterparty default scenario component of the global market shocks, while the component is optional for the Banks. The counterparty default scenario component of the global market shocks should be treated as an add-on to the macroeconomic and financial market scenarios specified in the FHFA's supervisory adverse and severely adverse scenarios. The counterparty default scenario component involves an instantaneous and unexpected default of the regulated entity's largest counterparty across the regulated entity's securities lending, repurchase/reverse repurchase agreements (collectively Securities Financing Transactions or SFTs) and derivative exposures, and the potential losses and effects on capital associated with such a default. The regulated entity should identify their largest counterparty by the counterparty that represents the largest total net stressed loss if the counterparty defaulted on its obligations.

Net stressed losses for each counterparty are calculated after applying the instantaneous market shock to any non-cash SFT assets (securities/collateral) posted or received, and, for derivatives, to the value of the trade position and non-cash collateral exchanged. All estimated losses from the counterparty default scenario component should be assumed to occur instantaneously and should be reported in the initial quarter of the planning horizon.

More detailed instructions for implementing other assumptions follow:

House Prices

The House Price Index assumptions provided by FHFA describe the path of national house prices. FHFA expects each regulated entity to extrapolate the national house price path beyond the nine quarters using the assumptions provided in the attachments to the Order.

FHFA expects each regulated entity to translate the national house price path in each scenario to regional house price paths as appropriate for each regulated entity's models and to interpolate the house price paths to accommodate the frequency of data required by their models.

Missing Interest Rate Series and Other Missing Variables

Regulated entities should develop assumptions for interest rate series and other variables that their models consume but that FHFA does not provide and interpolate those series to accommodate the frequency of data required by their models.

Balance Sheet Evolution

The regulated entities should also make the necessary assumptions for rolling their balance sheets forward through the nine-quarter projection period. Each entity's assumptions should reflect its reasonable expectations of future business and conform to its strategic plans. Additionally, the Enterprises should ensure that the size and composition of their books of business during the stress test are consistent with the goals in FHFA's Conservatorship Scorecard.

Capital Actions

For capital actions, the Banks should take into account their actual capital actions as of the end of the calendar quarter preceding the first quarter of the nine-quarter planning horizon. For each succeeding quarter, they should either assume payment of stock dividends equal to those paid in the year ending at the end of the first quarter of the planning horizon, or, follow any established rules they have for dividends payments.

The Banks should either assume that they do not redeem or repurchase any capital instrument over the planning horizon or that their capital actions will accord with their established capital plans.

They should also assume that they will redeem all mandatorily redeemable capital stock as per their usual practice unless restricted from doing so by FHFA actions.

Finally, they should assume that they will cease dividend payments, capital redemptions, or repurchases (as applicable) when retained earnings fall to zero.

The Enterprises should comply with the terms of the Senior Preferred Stock Agreements, as amended, to determine the level of dividends to pay over the planning horizon.

FHFA will review those assumptions for reasonableness and consistency with the assumptions used by other regulated entities. In all cases, FHFA may require resubmission where it deems assumptions unacceptable.

Other-than-temporary-impairments and Estimated AMA Losses

FHFA expects the Banks to use the common platform for estimating other-than-temporary impairments on Private Label Securities in each stress test scenario. For estimating AMA losses, the Banks are expected to use their existing modeling processes and may use the common platform.

FHFA Scenarios – Enterprises

In 2013, the Enterprises are required to conduct additional FHFA-required stress tests (the "FHFA scenarios"), as they have in the past, in conjunction with the initial implementation of the Dodd-Frank Stress Tests. Next year, the Enterprises will be required to conduct only the Dodd-Frank Stress Tests.

Reporting Format and Timing

The Enterprises must submit results of the Baseline, Adverse, and Severely Adverse scenarios to FHFA and the Board by February 5 (30 days after required reporting dates for financial institutions with $50 billion or more of assets) and publish results

of only the Severely Adverse scenario between April 15 and April 30. The Banks are to report results of the Baseline, Adverse, and Severely Adverse scenarios to FHFA and the Board by April 30 (30 days after required reporting dates for financial institutions with less than $50 billion of assets) and publish results of only the Severely Adverse scenario between July 15 and July 30.

The results of a regulated entity's analysis for each scenario should encompass all potential losses and other impacts to net income and capital that the regulated entity might experience under the scenarios. In all cases, regulated entities should substantiate that their results are consistent with the specified macroeconomic and financial environment, and that the components of their results are internally consistent within each scenario.

The regulated entities are required to report the results to FHFA and the Board using the Dodd Frank Act (DFA) schedules for non-public disclosure provided in Attachment 1. DFA schedules for public disclosure are provided in Attachment 2.

The regulated entities also are required to submit qualitative information describing the methodologies, including any simplifying or other assumptions used to produce the estimates, as well as any other information necessary to fully support the reasonableness of the stress test results.

Each regulated entity must submit its results and any supporting information to FHFA through a secure site. The Enterprises must use the secure server. The Banks must use the secure bank portal.

Stress Test Governance

The board of directors of each regulated entity or a designated committee thereof is responsible for reviewing and approving policies and procedures established to comply with the rule. The board should also receive and review the results of the stress tests for compliance with the rule and established policies and procedures. Senior management of each regulated entity is responsible for establishing and testing controls. Senior management and each member of the board of directors are to receive a summary of the stress test results.

Use of Stress Test Results

The rule requires that each regulated entity take the results of the annual stress test into account in making any changes, as appropriate, to its capital structure (including the level and composition of capital); its exposures, concentrations, and risk positions; any plans for recovery and resolution; and to improve overall risk management. Consultation with FHFA supervisory staff is expected in making such improvements. If a regulated entity is under FHFA conservatorship, any post-assessment actions would require FHFA's prior approval.

Results should include effects on capital as required under the Dodd-Frank Act stress testing rule. Specifically, and in accordance with the rule, each regulated entity must calculate how each of the following is affected during each quarter of the stress test planning horizon, for each scenario:

- Potential losses, pre-provision net revenues, allowance for loan losses,

and future pro forma capital positions over the planning horizon; and

- Capital levels and capital ratios, including regulatory capital and net worth, each Bank's leverage and permanent capital ratios, and any other capital ratios, as specified by FHFA.

Incomplete Data

All regulated entities are required to report all data elements in the attached FHFA DFA schedules. Failure to submit complete data to FHFA in a timely manner may require resubmission of data or any other remedy or penalty authorized under the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as amended (12 U.S.C. 4501 et seq.) (Safety and Soundness Act) and the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 through 1449) (Bank Act).

Evaluation of Stress Test Processes

FHFA will focus particular attention on the processes surrounding the implementation of the scenarios to ensure that these processes are robust and that they capture and stress key vulnerabilities and idiosyncratic risks facing the firm; and that the translation of the scenario into loss, revenue, and post-stress capital projections is conceptually sound and implemented in a well- controlled manner. FHFA will evaluate the extent to which stress testing processes at the regulated entities adhere to the regulatory principles outlined in Appendix 1. Failure to follow these principles in a timely manner constitutes a basis for objection to results, which may result in monetary penalties, revocation of publication or other remedy or penalty, authorized under the Safety and Soundness Act and the Bank Act.

Appendix 1: Regulatory Expectations for a Stress Testing Process

A regulated entity's stress testing process should adhere to the following principles:

Principle 1: The regulated entity has a sound risk measurement and management infrastructure that supports the identification, measurement, assessment, and control of all material risks arising from its exposures and business activities.

- A satisfactory stress testing process requires (1) a comprehensive risk identification process, and (2) complete and accurate measurement and assessment of all material risks.

- A regulated entity should measure or assess the full spectrum of risks that face the regulated entity, using both quantitative and qualitative methods, where applicable.

• The regulated entity should have data capture and retention systems that allow for the input, use, and storage of information required for sound risk identification and measurement and to produce reliable inputs for assessments of capital adequacy.

• Quantitative processes for measuring risks should meet supervisory expectations for model effectiveness and

be supported by robust model development, documentation, validation, and overall model governance practices. Both qualitative and quantitative processes for assessing risk should be transparent, repeatable, and reviewable by an independent party.

• Any identified weaknesses in risk measures used as inputs to the stress testing process should be documented and reported to relevant parties, with an assessment of the potential impact of risk-measurement weaknesses on the reliability of the stress test results.

Principle 2: The regulated entity has effective processes for translating risk measures into estimates of potential losses over a range of stressful scenarios and environments and for aggregating those estimated losses across the regulated entity.

• Stress tests should include methodologies that generate estimates of potential losses for all material risk exposures, one of which should be an enterprise-wide stress test using scenario analysis. Methodologies should be complementary, not suffer from common limitations, and minimize reliance on common assumptions.

• Using the loss estimation methodologies for its various risk exposures, a regulated entity should develop consistent and repeatable processes to aggregate its loss estimates on an enterprise-wide basis.

• A regulated entity should demonstrate that its loss estimation tools are developed using sound modeling approaches, appropriate for the manner in which they are being employed, and that the most relevant limitations are clearly identified, well documented, and appropriately communicated.

• A regulated entity should recognize that its loss projections are estimates and should have a good understanding of the uncertainty around those estimates, including the potential margin of error and the sensitivity of the estimates to changes in inputs and key assumptions.

Principle 3: The regulated entity has a clear definition of available capital resources and an effective process for estimating available capital resources (including any projected revenues) over the same range of stressful scenarios and environments used for estimating losses.

• Management and the Board of directors should understand the loss-absorption capabilities of the components of the regulated entity's capital base, and maintain projection methodologies for each of the capital

components included in relevant capital adequacy metrics.

• In estimating available capital resources, a regulated entity will need to consider not only its current positions and mix of capital instruments, but also how its capital resources may evolve over time under varying circumstances and stress scenarios.

• As part of a comprehensive enterprise-wide stress testing program, projections of pre-provision net revenue (PPNR) should be consistent with balance sheet and other exposure assumptions used for related loss estimation. Projections should estimate all key elements of PPNR, including net interest income, non-interest income, and non-interest expense at a level of granularity consistent with material revenue and expense components.

• A regulated entity should demonstrate that its capital resource estimation tools are developed using sound modeling approaches, appropriate for the manner in which they are being employed, and that the most relevant limitations are clearly identified, well documented, and appropriately communicated.

• A regulated entity should recognize that its projections of capital resources are estimates and should have a good understanding of the uncertainty around those estimates, including the potential margin of error and the sensitivity of the estimates to changes in inputs and key assumptions.

Principle 4: The regulated entity has processes for bringing together estimates of losses and capital resources to assess the combined impact on capital adequacy in relation to the regulated entity's stated goals for the level and composition of capital.

• A regulated entity should have a comprehensive and consistently executed process for combining loss, resource, and balance sheet estimates to assess the baseline and post-stress impact of those estimates on capital measures.

• A regulated entity should calculate and use several capital measures that represent both leverage and risk at specified time horizons under both baseline and stressful conditions, consistent with its capital policy framework. Measures should include quarterly estimates for the impact on capital and leverage ratios as well as other capital and risk measures useful in assessing overall capital adequacy.

• The processes for bringing together estimates of losses and capital resources should ensure that appropriately stressful conditions over the regulated entity's planning horizon have been incorporated to properly address the institutions' unique vulnerabilities.

• The processes should provide for the presentation of any information that may have material bearing on the regulated entity's capital adequacy assessment, including all relevant risks and strategic

factors, as well as key uncertainties and process limitations.

Principle 5: The regulated entity has a comprehensive capital policy and robust capital planning practices for establishing capital goals, determining appropriate capital levels and composition of capital, making decisions about capital actions, and maintaining capital contingency plans.

Capital Policy

- A capital policy is defined as a regulated entity's written assessment of the principles and guidelines used for capital planning, capital issuance, and usage and distributions, including internal capital goals, the quantitative or qualitative guidelines for dividend and stock repurchase decisions, the strategies for addressing potential capital shortfalls, and the internal governance procedures around capital policy principles and guidelines.
- A regulated entity should establish capital goals aligned with its risk appetite and risk profile as well as expectations of stakeholders, providing specific targets for the level and composition of capital. The regulated entity should ensure that maintaining its internal capital goals will allow it to continue its operations under stressful conditions.
- The capital policy should describe the decision making processes regarding capital goals, the level and composition of capital, capital actions, and capital contingency plans, including an explanation of the roles and responsibilities of key decision makers and information and analysis used to make decisions.
- The regulated entity should outline in its policy specific capital contingency actions it would consider to remedy any current or prospective deficiencies in its capital position, including any triggers and escalation procedures. The policy should also include a detailed explanation of the circumstances in which it will reduce or suspend a dividend or repurchase program, or will not execute a previously planned capital action.
- A regulated entity should establish a minimum frequency with which its capital plan is reevaluated (at least annually). In addition, a regulated entity should review its capital policy at least annually to ensure it remains relevant and current.

Capital Planning Practices

- At regular intervals, a regulated entity should compare the estimates of baseline and post-stress capital measures (see Principle 4) to the capital goals established in the capital policy for purposes of informing capital decisions.
- For capital decisions, consideration should be given to any information that may have material bearing on the regulated entity's capital adequacy assessment, including all relevant risks and strategic factors, key uncertainties, and limitations of the stress test.
- Assessments of capital adequacy and decisions about capital should be supported by high-quality data and information, informed by current and relevant analysis, and subject to challenge

by senior management and the Board of directors.

- Periodically, the regulated entity should conduct a thorough assessment of its capital contingency strategies, including their feasibility under stress, impact, timing, and potential stakeholder reactions.
- A regulated entity should administer its capital planning activities and capital decision processes in conformance with its policy framework, documenting and justifying any divergence from policy.

Principle 6: The regulated entity has robust internal controls governing capital adequacy process components, including policies and procedures, change control, model validation and independent review, comprehensive documentation, and review by internal audit.

- The internal control framework should encompass the entire stress test, including the risk measurement and management systems used to produce input data, the models and other techniques used to estimate loss and resource estimates, the process for making capital adequacy decisions, and the aggregation and reporting framework used to produce management and board reporting. The set of control functions in place should provide confirmation that all aspects of the stress test are functioning as intended.
- Policies and procedures should ensure a consistent and repeatable process and provide transparency to third parties for their understanding of a regulated entity's stress test processes and practices. Policies and procedures should be comprehensive, relevant to their use in the stress test, periodically updated and approved, and cover the entire stress test and all of its components.
- Specific to the stress test, a regulated entity should have internal controls that ensure the integrity of reported results and that all material changes to the stress test and its components are appropriately documented, reviewed, and approved. A regulated entity should have controls to ensure that management information systems are robust enough to support stress tests with sufficient flexibility to run ad hoc analysis as needed.
- Expectations for validation and independent review for components of the stress test are consistent with existing supervisory guidance on model risk management. Models should be independently validated or otherwise reviewed in line with model risk management and model governance expectations.
- A regulated entity should have clear and comprehensive documentation for all aspects of its stress test, including its risk measurement and management infrastructure, loss- and resource-estimation methodologies, the process for making capital decisions, and efficacy of control and governance functions.
- A regulated entity's internal audit should play a strong role in evaluating the stress test and its components. A full review of the capital adequacy process component should be done by audit periodically to ensure that as a whole the

stress test is functioning as expected and in accordance with the regulated entity's policies and procedures. Internal audit should review the manner in which stress test deficiencies are identified, tracked, and remediated.

Principle 7: The regulated entity has effective board and senior management oversight of the stress test, including periodic review of the regulated entity's risk infrastructure and loss and resource estimation methodologies; evaluation of capital goals, assessment of the appropriateness of stressful scenarios considered, regular review of any limitations and uncertainties in all aspects of the stress test, and approval of capital decisions.

- The Board of directors should make informed decisions on capital adequacy for its regulated entity by receiving sufficient information detailing the risks the regulated entity faces, its exposures and activities, and the impact that loss and resource estimates may have on its capital position.
- Information provided to the board about capital adequacy should be framed against the capital goals established by the regulated entity and by obligations to external stakeholders, and consider capital adequacy for the regulated entity with respect to the current circumstances as well as on a pro forma, post-stress basis.
- The information the board of directors reviews should include a representation of key limitations, assumptions, and uncertainties within the stress test, enabling the board to have the perspective to effectively understand and challenge reported results. The board should take action when weaknesses in the stress test are identified, giving full consideration to the impact of those weaknesses in their capital decisions.
- Senior management should ensure that all weaknesses in the stress test are identified, as well as key assumptions, limitations, and uncertainties, and evaluate them for materiality (both individually and collectively). Senior management also should have remediation plans for any weaknesses affecting stress test reliability or results.
- Using appropriate information, senior management should make informed recommendations to the Board of directors about the regulated entity's capital, including capital goals and distribution decisions. Senior management should include supporting information to highlight key assumptions, limitations, and uncertainties in the stress test that may affect capital decisions.
- A regulated entity should appropriately document the key decisions about capital adequacy—including capital actions—made by the Board of directors and senior management, and describe the information used to make those decisions.

Attachment 1: FHFA DFA Reporting Schedules (Non-Public)

Scenario Schedule Cover Sheet

Each regulated entity is expected to provide input data for all the tabs in this spreadsheet.

Institution Name:	
Date of Data Submission:	
Institution Contact Name:	
Institution Contact Phone Number:	
Institution Contact Email Address:	

Supplied Scenario Variables

(Please indicate which scenarios were used in your model by checking the appropriate box:)

Domestic Variables

- ☐ Real GDP Growth
- ☐ Nominal GDP Growth
- ☐ Real Disposable Income Growth
- ☐ Nominal Disposable Income Growth
- ☐ Unemployment Rate
- ☐ CPI Inflation Rate
- ☐ 3-month Treasury Yield
- ☐ 5-year Treasury Yield
- ☐ 10-year Treasury Yield
- ☐ BBB Corporate Yield
- ☐ Mortgage Rate
- ☐ Prime Rate
- ☐ Dow Jones Total Stock Market Index
- ☐ House Price Index
- ☐ Commercial Real Estate Price Index
- ☐ Market Volatility Index (VIX)
- ☐ Private Label Securities (PLS) or Non-Agency Prices for Residential Mortgage-backed Securities (RMBS), Asset-based Securities (ABS), Commercial Mortgage-backed Securities (CMBS) and other collateral*
- ☐ Agency Securities Option-Adjusted Spreads (OAS)*
- ☐ Municipal Securities*
- ☐ Counterparty Default Risk**

International Variables

- ☐ Euro Area Real GDP Growth
- ☐ Euro Area Inflation
- ☐ Euro Area Bilateral Dollar Exchange Rate ($/euro)
- ☐ Developing Asia Real GDP Growth
- ☐ Developing Asia Inflation
- ☐ Developing Asia Bilateral Dollar Exchange Rate (F/UDS, indes, base = 2000,Q1)
- ☐ Japan Real GDP Growth
- ☐ Japan Inflation
- ☐ Japan Bilateral Dollar Exchange Rate (yen/USD)
- ☐ U.K. Real GDP Growth
- ☐ U.K. Inflation
- ☐ U.K. Bilaeral Dollar Exchange Rate (USD/pound)

*Note: These are mandatory variables required by the Order for all Regulated Entities

**Note: This is a mandatory variable required by the Order for the Enterprises

For variables not used, please provide a brief explanation below as to why it was not used:

Variable Name	Explanation
1	
2	
3	
4	
5	

Scenario Variables Beyond Those Supplied

Baseline Scenario (additional variables used beyond those supplied)

Variable Number	Variable Name	Variable Definition
1		
2		
3		
4		
5		

Adverse Scenario (additional variables used beyond those supplied)

Variable Number	Variable Name	Variable Definition
1		
2		
3		
4		
5		

Severely Adverse Scenario (additional variables used beyond those supplied)

Variable Number	Variable Name	Variable Definition
1		
2		
3		
4		
5		

Baseline

Spread Assumptions

Spread to Benchmark

		Actual	Projected								
Category	Benchmark	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Example: Advance	3-Month LIBOR	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0

Variables Used Beyond Those Supplied

	Actual	Projected								
Variable Name	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9

Forward Curve

	Actual	Projected								
Maturity	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
3-Month Treasury		0.1	0.1	0.1	0.1	0.2	0.4	0.6	0.8	1.1
6-Month										
1 year										
2 year										
5 year Treasury		1.8	2	2.1	2.2	2.3	2.4	2.6	2.7	2.8
10 year Treasury		2.8	2.9	3	3.1	3.3	3.4	3.5	3.7	3.8
15 year										
30 year										

House Price Index

(NOTE: For printing purposes dates only goes to Jul-14. However, the underlying excel spreadsheet collects 30 years of data.)

	Actual	Projected								
Region	3Q 2013	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14
Region 1											
Region 2											
.											
.											
.											
.											

Adverse

Spread Assumptions

		Spread to Benchmark									
		Actual	Projected								
Category	Benchmark	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Example: Advance	3-Month LIBOR	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0

Variables Used Beyond Those Supplied

	Actual	Projected								
Variable Name	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9

Forward Curve

	Actual	Projected								
Maturity	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
3-Month Treasury		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
6-Month										
1 year										
2 year										
5 year Treasury		2.7	3.3	3.9	4.5	4.6	4.5	4.4	4.2	4
10 year Treasury		3.5	4.2	5	5.7	5.8	5.7	5.5	5.3	5.1
15 year										
30 year										

House Price Index

(NOTE: For printing purposes dates only goes to Jul-14. However, the underlying excel spreadsheet collects 30 years of data.)

	Actual	Projected									
Region	3Q 2013	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14
Region 1											
Region 2											
.											
.											
.											
.											

Severely Adverse

Spread Assumptions

		Spread to Benchmark									
		Actual	Projected								
Category	Benchmark	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Example: Advance	3-Month LIBOR	10.0	10.0	10.0	10.0	15.0	15.0	15.0	15.0	15.0	15.0

Variables Used Beyond Those Supplied

	Actual	Projected								
Variable Name	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9

Forward Curve

	Actual	Projected								
Maturity	3Q 2013	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
3-Month Treasury		0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
6-Month										
1 year										
2 year										
5 year Treasury		0.8	0.6	0.6	0.6	0.6	0.6	0.6	0.6	0.6
10 year Treasury		1	1	1.1	1.1	1.3	1.3	1.4	1.5	1.6
15 year										
30 year										

House Price Index

(NOTE: For printing purposes dates only go to Jul-14. However, the underlying excel spreadsheet collects 30 years of data.)

	Actual	Projected									
Region	3Q 2013	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14
Region 1											
Region 2											
.											
.											
.											
.											
.											

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Income Statement (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	Interest Income:										
1	Advances										
2	Whole loans held for portfolio										
3	Investment Securities										
4	Fed Funds										
5	Other Interest Income										
6	Total Interest Income										
	Interest Expense:										
7	CO Bonds										
8	Discount Notes										
9	Member Deposits										
10	Other Interest Expense										
11	Total Interest Expense										
12	**Net interest income**										
13	Provision (reversal) for credit losses on mortgage loans										
14	**Net Interest Income after mortgage loan loss provision**										
15	Derivatives gains (losses)										
16	Gains (losses) on securities										
17	Total net gain (loss) on changes in fair value										
18	Total OTTI credit charge										
19	Other gains (losses)										
20	Operating expenses										
21	Other expenses										
22	**Income (loss) before assessments**										
23	Total assessments										
24	**Net Income (Loss)**										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

Balance Sheet (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Advances										
2 Investment Securities										
3 Mortgage Loans										
4 Allowance for loan losses										
5 Fed Funds										
6 Other assets										
7 Total assets										
LIABILITIES										
8 CO bonds										
9 Discount notes										
10 Member deposits										
11 Other liabilities										
12 Total liabilities										
CAPITAL										
13 Class B capital stock										
14 Class A capital stock										
15 Capital stock pre-conversion										
16 Retained earnings (unrestricted)										
17 Retained earnings (restricted)										
18 Accumulated other comprehensive income (loss)										
19 Total capital										
20 Total liabilities and capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

Capital Roll Forward (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
CAPITAL										
1 Beginning Capital										
2 Net Income										
3 Less: Dividends										
4 Other Capital Actions										
5 Change in AOCI										
6 Other										
7 Ending Capital										
8 Regulator Capital										
Capital Ratios										
9 Regulatory Capital										
10 Leverage Capital										
11 Permanent Capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Credit (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Provision for credit losses										
	PLS CREDIT QUALITY										
2	Principal										
3	Principal writedown										
4	Balance										
5	Credit support										
	COUNTERPARTY CREDIT										
6	Unsecured credit										
7	Unsecured derivative counterparty exposure										
8	Payment from private mortgage insurers										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

Income Statement (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Interest Income:										
1 Advances										
2 Whole loans held for portfolio										
3 Investment Securities										
4 Fed Funds										
5 Other Interest Income										
6 Total Interest Income										
Interest Expense:										
7 CO Bonds										
8 Discount Notes										
9 Member Deposits										
10 Other Interest Expense										
11 Total Interest Expense										
12 Net interest income										
13 Provision (reversal) for credit losses on mortgage loans										
14 Net interest income after mortgage loan loss provision										
15 Derivatives gains (losses)										
16 Gains (losses) on securities										
17 Total net gain (loss) on changes in fair value										
18 Total OTTI credit charge										
19 Other gains (losses)										
20 Operating expenses										
21 Other expenses										
22 Income (loss) before assessments										
23 Total assessments										
24 Net Income (Loss)										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

Balance Sheet (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Advances										
2 Investment Securities										
3 Mortgage Loans										
4 Allowance for loan losses										
5 Fed Funds										
6 Other assets										
7 Total assets										
LIABILITIES										
8 CO bonds										
9 Discount notes										
10 Member deposits										
11 Other liabilities										
12 Total liabilities										
CAPITAL										
13 Class B capital stock										
14 Class A capital stock										
15 Capital stock pre-conversion										
16 Retained earnings (unrestricted)										
17 Retained earnings (restricted)										
18 Accumulated other comprehensive income (loss)										
19 Total capital										
20 Total liabilities and capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Capital Roll Forward (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CAPITAL										
1	Beginning Capital										
2	Net Income										
3	Less: Dividends										
4	Other Capital Actions										
5	Change in AOCI										
6	Other										
7	**Ending Capital**										
8	Regulator Capital										
	Capital Ratios										
9	Regulatory Capital										
10	Leverage Capital										
11	Permanent Capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Credit (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Provision for credit losses										
	PLS CREDIT QUALITY										
2	Principal										
3	Principal writedown										
4	Balance										
5	Credit support										
	COUNTERPARTY CREDIT										
6	Unsecured credit										
7	Unsecured derivative counterparty exposure										
8	Payment from private mortgage insurers										

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Global Market Shock (Adverse)

		Q1 Loss
1	Private Label Securities (PLS) or Non-Agency Prices for Residential Mortgage-backed Securities (RMBS), Asset-based Securities (ABS), Commercial Mortgage-backed Securities (CMBS) and other collateral	
2	Agency Securities Option-Adjust Spread	
3	Municipal Securities	

Investment Securities and Other Fair Value Assets
Securitized Products (Adverse)

(*Credit ratings should be as of September 30, 2013)

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

		RMBS															
	Grand Total	Non-Agency Prime	Sub-prime	Option ARMS	Other Alt-A	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified	RMBS SubTotal
MV* ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

		RMBS															
	Grand Total	Non-Agency Prime	Sub-prime	Option ARMS	Other Alt-A	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified	RMBS SubTotal
Profit/Loss ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Investment Securities and Other Fair Value Assets
Securitized Products (Adverse)

(*Credit ratings should be as of September 30, 2013)

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

MV* ($MM)

	Grand Total	ABS								CMBS								Corporate CDO / CLO			Warehouse		
		Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified	ABS SubTotal	Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified	CMBS SubTotal	CLO	Other / Unspecified	Corporate CDO/CLO SubTotal	Total Size	Total Protection	Other / Unspecified
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Profit/Loss ($MM)

AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Trading and Other Fair Value Assets Schedule
Agencies (Adverse)

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

	MV ($MM)	Proft/Loss
US Residential Agency Products		
IOs		
POs		
Other CMOs		
Pass-Throughs		
Agency Debt/Debentures		
IOS Index		
POS Index		
MBX Index		
Other Agency Derivatives		
TBA's		
Reverse Mortgages		
Residential Other / Unspecified		
Total	$0	$0

US Commercial Agency Products		
Cash Agency CMBS		
Agency CMBS Derivatives		
Commercial Other / Unspecified		
Total	$0	$0

Non-US Agency Products		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Total	$0	$0

Trading and Other Fair Value Assets
Munis (Adverse)

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

	MV* ($MM)	Profit/(Loss) from a Widening in Spreads
Bonds		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Bonds Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Bonds Total	$0	$0

	MV* ($MM)	Profit/(Loss) from a Widening in Spreads
Indices		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Indices Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Indices Total	$0	$0

Loans		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Loans Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Loans Total	$0	$0

Other / Unspecified Munis		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Other / Unspecified Munis Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Other / Unspecified Munis Total	$0	$0

CDS		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
CDS Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
CDS Total	$0	$0

Grand Total		
AAA	$0	$0
AA	$0	$0
A	$0	$0
BBB	$0	$0
BB	$0	$0
B	$0	$0
<B	$0	$0
NR	$0	$0
Grand Total	$0	$0
1M	$0	$0
3M	$0	$0
6M	$0	$0
9M	$0	$0
1Y	$0	$0
2Y	$0	$0
3Y	$0	$0
5Y	$0	$0
7Y	$0	$0
10Y	$0	$0
15Y	$0	$0
20Y	$0	$0
30Y	$0	$0
Grand Total	$0	$0

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Income Statement (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	Interest Income:										
1	Advances										
2	Whole loans held for portfolio										
3	Investment Securities										
4	Fed Funds										
5	Other Interest Income										
6	Total Interest Income										
	Interest Expense:										
7	CO Bonds										
8	Discount Notes										
9	Member Deposits										
10	Other Interest Expense										
11	Total Interest Expense										
12	**Net interest income**										
13	Provision (reversal) for credit losses on mortgage loans										
14	**Net Interest Income after mortgage loan loss provision**										
15	Derivatives gains (losses)										
16	Gains (losses) on securities										
17	Total net gain (loss) on changes in fair value										
18	Total OTTI credit charge										
19	Other gains (losses)										
20	Operating expenses										
21	Other expenses										
22	**Income (loss) before assessments**										
23	Total assessments										
24	**Net Income (Loss)**										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

Balance Sheet (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Advances										
2 Investment Securities										
3 Mortgage Loans										
4 Allowance for loan losses										
5 Fed Funds										
6 Other assets										
7 Total assets										
LIABILITIES										
8 CO bonds										
9 Discount notes										
10 Member deposits										
11 Other liabilities										
12 Total liabilities										
CAPITAL										
13 Class B capital stock										
14 Class A capital stock										
15 Capital stock pre-conversion										
16 Retained earnings (unrestricted)										
17 Retained earnings (restricted)										
18 Accumulated other comprehensive income (loss)										
19 Total capital										
20 Total liabilities and capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Capital Roll Forward (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CAPITAL										
1	Beginning Capital										
2	Net Income										
3	Less: Dividends										
4	Other Capital Actions										
5	Change in AOCI										
6	Other										
7	**Ending Capital**										
8	Regulator Capital										
	Capital Ratios										
9	Regulatory Capital										
10	Leverage Capital										
11	Permanent Capital										

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Credit (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Provision for credit losses										
	PLS CREDIT QUALITY										
2	Principal										
3	Principal writedown										
4	Balance										
5	Credit support										
	COUNTERPARTY CREDIT										
6	Unsecured credit										
7	Unsecured derivative counterparty exposure										
8	Payment from private mortgage insurers										

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Global Market Shock (Severe)

		Q1 Loss
1	Private Label Securities (PLS) or Non-Agency Prices for Residential Mortgage-backed Securities (RMBS), Asset-based Securities (ABS), Commercial Mortgage-backed Securities (CMBS) and other collateral	
2	Agency Securities Option-Adjust Spread	
3	Municipal Securities	

Investement Securities and Fair Value Trading Assets
Securitized Products (Severe)

(*Credit ratings should be as of September 30, 2013)

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

MV* ($MM)

	Grand Total	RMBS																
		Non-Agency Prime	Sub-prime	Option ARMS	Other Alt-A	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified	RMBS SubTotal
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Profit/Loss ($MM)

AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																	$0
2006	$0																	$0
2007	$0																	$0
Post 2007	$0																	$0
Unspecified Vintage	$0																	$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Investement Securities and Fair Value Trading Assets
Securitized Products (Severe)

(*Credit ratings should be as of September 30, 2013)

FHLBank Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

MV* ($MM)

	Grand Total	ABS								CMBS								Corporate CDO / CLO			Warehouse		
		Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified	ABS SubTotal	Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified	CMBS SubTotal	CLO	Other / Unspecified	Corporate CDO/CLO SubTotal	Total Size	Total Protection	Other / Unspecified
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Profit/Loss ($MM)

AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Trading & Other Fair Value Assets Schedule
Agencies (Severe)

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

	MV ($MM)	Proft/Loss in $K from OAS Widening
US Residential Agency Products		
IOs		
POs		
Other CMOs		
Pass-Throughs		
Agency Debt/Debentures		
IOS Index		
POS Index		
MBX Index		
Other Agency Derivatives		
TBA's		
Reverse Mortgages		
Residential Other / Unspecified		
Total	$0	$0
US Commercial Agency Products		
Cash Agency CMBS		
Agency CMBS Derivatives		
Commercial Other / Unspecified		
Total	$0	$0
Non-US Agency Products		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Total	$0	$0

Trading and Other Fair Value Assets
Munis (Severe)

FHLBank Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Bonds	MV* ($MM)	Profit/(Loss) in $K from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Bonds Total	**$0**	**$0**
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Bonds Total	**$0**	**$0**

Indices	MV* ($MM)	Profit/(Loss) in $K from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Indices Total	**$0**	**$0**
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Indices Total	**$0**	**$0**

Loans		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Loans Total	**$0**	**$0**
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Loans Total	**$0**	**$0**

Other / Unspecified Munis		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Other / Unspecified Munis Total	**$0**	**$0**
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Other / Unspecified Munis Total	**$0**	**$0**

CDS		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
CDS Total	**$0**	**$0**
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
CDS Total	**$0**	**$0**

Grand Total		
AAA	$0	$0
AA	$0	$0
A	$0	$0
BBB	$0	$0
BB	$0	$0
B	$0	$0
<B	$0	$0
NR	$0	$0
Grand Total	$0	$0
1M	$0	$0
3M	$0	$0
6M	$0	$0
9M	$0	$0
1Y	$0	$0
2Y	$0	$0
3Y	$0	$0
5Y	$0	$0
7Y	$0	$0
10Y	$0	$0
15Y	$0	$0
20Y	$0	$0
30Y	$0	$0
Grand Total	$0	$0

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

Income Statement (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Interest income:										
1 Securities										
2 Mortgage loans										
3 Other										
4 Total interest income										
Interest expense:										
5 Short-term debt										
6 Long-term debt										
7 Other debt/Interest expense										
8 Total interest expense										
9 Net interest income										
10 Guaranty fees										
11 Other income										
12 Total revenue										
13 (Provision) benefit for credit losses										
14 Total revenue after (provision) benefit for credit losses										
15 Derivatives gains (losses)										
16 Trading gains (losses)										
17 Other gains (losses)										
18 REO (foreclosed property exp.)										
19 SOP 03-3 losses, net										
20 Security impairments										
21 Administrative expenses										
22 Other expenses										
23 Pre-Tax Income (Loss)										
24 Provision (benefit) for federal income taxes										
25 Extraordinary gains (losses), net of tax effect										
26 Net income (Loss)										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

Balance Sheet (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Cash and cash equivalents										
2 Investments in securities										
3 Available-for-sale, at fair value										
4 Trading, at fair value										
5 Mortgage loans, excluding loss allowance										
6 Allowance for loan losses										
7 Deferred tax assets, net of allowance										
8 Other assets										
9 Total Assets										
LIABILITIES										
10 Short-term debt										
11 Long-term debt										
12 Debt of consolidated trusts/PCs										
13 Guarantee fee obligation										
14 Reserve for guaranty losses										
15 Other liabilities										
16 Total liabilities										
17 Minority interest										
CAPITAL										
18 Senior preferred stock										
19 Preferred stock										
20 Common stock										
21 Retained earnings (deficit)										
22 Accumulated other comprehensive income (loss)										
23 Treasury stock										
24 Total stockholders' equity (deficit)										
25 Total capital (deficit)										
26 Total liabilities, minority interest and capital										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

		Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Capital Roll Forward (BASE)											
	CAPITAL										
1	Beginning capital										
2	Senior preferred Treasury draw (prior period)										
3	Net income										
4	Less: Dividends										
5	Other capital actions										
6	Change in AOCI										
7	Change in non-controlling/minority interest										
8	Other										
9	**Ending capital**										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

	Credit (BASE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Credit losses										
2	REO (foreclosed property exp.)										
3	Net charge-offs										
4	Provision for credit losses										
5	SOP 03-3 losses, net										
6	**Total credit expenses**										
	LOAN LOSS RESERVE										
7	Loan loss reserve beginning balance										
8	Net charge-offs										
9	Provison (benefit) for loan/guaranty losses										
10	Other										
11	Allowance for accrued interest receivable										
12	Allowance for accrued property taxes and insurance										
13	**Ending total loan loss reserve**										
	PAYMENTS FROM PRIVATE MORTGAGE INSURERS										
14	MGIC										
15	Radian										
16	United										
17	Genworth										
18	PMI										
19	Other										
	CREDIT QUALITY										
20	Defaults (count)										
21	REO acquisitions (count)										
22	Average seriously delinquent loans (count)										
23	Average seriously delinquent rate (%)										
24	Aggregate UPB of seriously delinquent loans ($)										
25	Loan modifications (count)										
26	Special Mention (count)										
27	Special Mention ($)										
28	Substandard (count)										
29	Substandard ($)										
30	Doubtful (count)										
31	Doubtful ($)										
32	Loss (count)										
33	Loss ($)										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

	Income Statement (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	Interest income:										
1	Securities										
2	Mortgage loans										
3	Other										
4	Total interest income										
	Interest expense:										
5	Short-term debt										
6	Long-term debt										
7	Other debt/Interest expense										
8	Total interest expense										
9	**Net interest income**										
10	Guaranty fees										
11	Fee and float income										
12	**Total revenue**										
13	(Provision) benefit for credit losses										
14	**Total revenue after (provision) benefit for credit losses**										
15	Derivatives gains (losses)										
16	Trading gains (losses)										
17	Other gains (losses)										
18	REO (foreclosed property exp.)										
19	SOP 03-3 losses, net										
20	Security impairments										
21	Administrative expenses										
22	Other expenses										
23	**Pre-Tax Income (Loss)**										
24	Provision (benefit) for federal income taxes										
25	Extraordinary gains (losses), net of tax effect										
26	**Net income (Loss)**										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

Balance Sheet (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Cash and cash equivalents										
2 Investments in securities										
3 Available-for-sale, at fair value										
4 Trading, at fair value										
5 Mortgage loans, excluding loss allowance										
6 Allowance for loan losses										
7 Deferred tax assets, net of allowance										
8 Other assets										
9 Total Assets										
LIABILITIES										
10 Short-term debt										
11 Long-term debt										
12 Debt of consolidated trusts/PCs										
13 Guarantee fee obligation										
14 Reserve for guaranty losses										
15 Other liabilities										
16 Total liabilities										
17 Minority interest										
CAPITAL										
18 Senior preferred stock										
19 Preferred stock										
20 Common stock										
21 Retained earnings (deficit)										
22 Accumulated other comprehensive income (loss)										
23 Treasury stock										
24 Total stockholders' equity (deficit)										
25 Total capital (deficit)										
26 Total liabilities, minority interest and capital										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

		Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Capital Roll Forward (ADVERSE)											
	CAPITAL										
1	Beginning capital										
2	Senior preferred Treasury draw (prior period)										
3	Net income										
4	Less: Dividends										
5	Other capital actions										
6	Change in AOCI										
7	Change in non-controlling/minority interest										
8	Other										
9	**Ending capital**										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

	Credit (ADVERSE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Credit losses										
2	REO (foreclosed property exp.)										
3	Net charge-offs										
4	Provision for credit losses										
5	SOP 03-3 losses, net										
6	**Total credit expenses**										
	LOAN LOSS RESERVE										
7	Loan loss reserve beginning balance										
8	Net charge-offs										
9	Provison (benefit) for loan/guaranty losses										
10	Other										
11	Allowance for accrued interest receivable										
12	Allowance for accrued property taxes and insurance										
13	**Ending total loan loss reserve**										
	PAYMENTS FROM PRIVATE MORTGAGE INSURERS										
14	MGIC										
15	Radian										
16	United										
17	Genworth										
18	PMI										
19	Other										
	CREDIT QUALITY										
20	Defaults (count)										
21	REO acquisitions (count)										
22	Average seriously delinquent loans (count)										
23	Average seriously delinquent rate (%)										
24	Aggregate UPB of seriously delinquent loans ($)										
25	Loan modifications (count)										
26	Special Mention (count)										
27	Special Mention ($)										
28	Substandard (count)										
29	Substandard ($)										
30	Doubtful (count)										
31	Doubtful ($)										
32	Loss (count)										
33	Loss ($)										

Enterprise Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Global Market Shock (Adverse)

Q1 Loss

1	Private Label Securities (PLS) or Non-Agency Prices for Residential Mortgage-backed Securities (RMBS), Asset-based Securities (ABS), Commercial Mortgage-backed Securities (CMBS) and other collateral
2	Agency Securities Option-Adjust Spread
3	Municipal Securities
4	Counterparty Default Risk*

* Please provide the name and type (eg: derivatives, repo, etc.) of the largest counterparty below:

Counterparty Name	Counterparty Type

Investment Securities and Other Fair Value Assets
Securitized Products (Adverse)

(*Credit ratings should be as of September 30, 2013)

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

		RMBS															
	Grand Total	Non-Agency Prime	Sub-prime	Option ARMS	Other Alt-A	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified	RMBS SubTotal
MV* ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Profit/Loss ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Investment Securities and Other Fair Value Assets
Securitized Products (Adverse)

(*Credit ratings should be as of September 30, 2013)

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

MV* ($MM)

	Grand Total	ABS								CMBS								Corporate CDO / CLO			Warehouse		
		Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified	ABS SubTotal	Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified	CMBS SubTotal	CLO	Other / Unspecified	Corporate CDO/CLO SubTotal	Total Size	Total Protection	Other / Unspecified
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Profit/Loss ($MM)

AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Trading and Other Fair Value Assets Schedule
Agencies (Adverse)

Enterprises Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

	MV ($MM)	Proft/Loss
US Residential Agency Products		
IOs		
POs		
Other CMOs		
Pass-Throughs		
Agency Debt/Debentures		
IOS Index		
POS Index		
MBX Index		
Other Agency Derivatives		
TBA's		
Reverse Mortgages		
Residential Other / Unspecified		
Total	$0	$0

US Commercial Agency Products		
Cash Agency CMBS		
Agency CMBS Derivatives		
Commercial Other / Unspecified		
Total	$0	$0

Non-US Agency Products		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Total	$0	$0

Trading and Other Fair Value Assets
Munis (Adverse)

Enterprises Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Bonds	MV* ($MM)	Profit/(Loss) from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Bonds Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Bonds Total	$0	$0

Indices	MV* ($MM)	Profit/(Loss) from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Indices Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Indices Total	$0	$0

Loans		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Loans Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Loans Total	$0	$0

Other / Unspecified Munis		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Other / Unspecified Munis Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Other / Unspecified Munis Total	$0	$0

CDS		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
CDS Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
CDS Total	$0	$0

Grand Total		
AAA	$0	$0
AA	$0	$0
A	$0	$0
BBB	$0	$0
BB	$0	$0
B	$0	$0
<B	$0	$0
NR	$0	$0
Grand Total	$0	$0
1M	$0	$0
3M	$0	$0
6M	$0	$0
9M	$0	$0
1Y	$0	$0
2Y	$0	$0
3Y	$0	$0
5Y	$0	$0
7Y	$0	$0
10Y	$0	$0
15Y	$0	$0
20Y	$0	$0
30Y	$0	$0
Grand Total	$0	$0

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

	Income Statement (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	Interest income:										
1	Securities										
2	Mortgage loans										
3	Other										
4	Total interest income										
	Interest expense:										
5	Short-term debt										
6	Long-term debt										
7	Other debt/Interest expense										
8	Total interest expense										
9	**Net interest income**										
10	Guaranty fees										
11	Other income										
12	**Total revenue**										
13	(Provision) benefit for credit losses										
14	**Total revenue after (provision) benefit for credit losses**										
15	Derivatives gains (losses)										
16	Trading gains (losses)										
17	Other gains (losses)										
18	REO (foreclosed property exp.)										
19	SOP 03-3 losses, net										
20	Security impairments										
21	Administrative expenses										
22	Other expenses										
23	**Pre-Tax Income (Loss)**										
24	Provision (benefit) for federal income taxes										
25	Extraordinary gains (losses), net of tax effect										
26	**Net income (Loss)**										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

Balance Sheet (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
ASSETS										
1 Cash and cash equivalents										
2 Investments in securities										
3 Available-for-sale, at fair value										
4 Trading, at fair value										
5 Mortgage loans, excluding loss allowance										
6 Allowance for loan losses										
7 Deferred tax assets, net of allowance										
8 Other assets										
9 Total Assets										
LIABILITIES										
10 Short-term debt										
11 Long-term debt										
12 Debt of consolidated trusts/PCs										
13 Guarantee fee obligation										
14 Reserve for guaranty losses										
15 Other liabilities										
16 Total liabilities										
17 Minority interest										
CAPITAL										
18 Senior preferred stock										
19 Preferred stock										
20 Common stock										
21 Retained earnings (deficit)										
22 Accumulated other comprehensive income (loss)										
23 Treasury stock										
24 Total stockholders' equity (deficit)										
25 Total capital (deficit)										
26 Total liabilities, minority interest and capital										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

		Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
Capital Roll Forward (SEVERE)											
	CAPITAL										
1	Beginning capital										
2	Senior preferred Treasury draw (prior period)										
3	Net income										
4	Less: Dividends										
5	Other capital actions										
6	Change in AOCI										
7	Change in non-controlling/minority interest										
8	Other										
9	**Ending capital**										

Enterprise Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

($s in billions)

	Credit (SEVERE)	Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
	CREDIT EXPENSES										
1	Credit losses										
2	REO (foreclosed property exp.)										
3	Net charge-offs										
4	Provision for credit losses										
5	SOP 03-3 losses, net										
6	**Total credit expenses**										
	LOAN LOSS RESERVE										
7	Loan loss reserve beginning balance										
8	Net charge-offs										
9	Provison (benefit) for loan/guaranty losses										
10	Other										
11	Allowance for accrued interest receivable										
12	Allowance for accrued property taxes and insurance										
13	**Ending total loan loss reserve**										
	PAYMENTS FROM PRIVATE MORTGAGE INSURERS										
14	MGIC										
15	Radian										
16	United										
17	Genworth										
18	PMI										
19	Other										
	CREDIT QUALITY										
20	Defaults (count)										
21	REO acquisitions (count)										
22	Average seriously delinquent loans (count)										
23	Average seriously delinquent rate (%)										
24	Aggregate UPB of seriously delinquent loans ($)										
25	Loan modifications (count)										
26	Special Mention (count)										
27	Special Mention ($)										
28	Substandard (count)										
29	Substandard ($)										
30	Doubtful (count)										
31	Doubtful ($)										
32	Loss (count)										
33	Loss ($)										

Enterprise Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Global Market Shock (Severe)

Q1 Loss

1	Private Label Securities (PLS) or Non-Agency Prices for Residential Mortgage-backed Securities (RMBS), Asset-based Securities (ABS), Commercial Mortgage-backed Securities (CMBS) and other collateral
2	Agency Securities Option-Adjust Spread
3	Municipal Securities
4	Counterparty Default Risk*

* Please provide the name and type (eg: derivatives, repo, etc.) of the largest counterparty below:

Counterparty Name	Counterparty Type

Investement Securities and Fair Value Trading Assets
Securitized Products (Severe)

(*Credit ratings should be as of September 30, 2013)

Enterprises Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Grand Total	RMBS																
		Non-Agency Prime	Sub-prime	Option ARMS	Other Alt-A	Unspec Non-Prime	HELOC	RMBS CDO	RMBS CDS	Credit Basket	PrimeX	ABX / TABX	Prime Whole Loans	Non-Prime Whole Loans	European RMBS	Other / Unspecified	RMBS SubTotal
MV* ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Profit/Loss ($MM)																	
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0																$0
2006	$0																$0
2007	$0																$0
Post 2007	$0																$0
Unspecified Vintage	$0																$0
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Investement Securities and Fair Value Trading Assets
Securitized Products (Severe)

(*Credit ratings should be as of September 30, 2013)

Enterprises Dodd-Frank Stress Test Template
(Disclosure to FHFA ONLY)

	Grand Total	ABS							ABS SubTotal	CMBS							CMBS SubTotal	Corporate CDO / CLO		Corporate CDO/CLO SubTotal	Warehouse		
		Autos	Credit Cards	Student Loans	ABS CDS	Credit Basket	Index Tranches	Other / Unspecified		Cash Non-Agency CMBS	CMBS CDS	CMBS CDO	Credit Basket	Index Tranches	Whole Loans	Other / Unspecified		CLO	Other / Unspecified		Total Size	Total Protection	Other / Unspecified
MV* ($MM)																							
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Profit/Loss ($MM)																							
AAA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
AA Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
A Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BBB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
BB Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
<B Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
NR Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0
Pre 2006	$0								$0								$0			$0			
2006	$0								$0								$0			$0			
2007	$0								$0								$0			$0			
Post 2007	$0								$0								$0			$0			
Unspecified Vintage	$0								$0								$0			$0			
Total	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0	$0

Trading & Other Fair Value Assets Schedule
Agencies (Severe)

Enterprises Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

	MV ($MM)	Proft/Loss in $K from OAS Widening
US Residential Agency Products		
IOs		
POs		
Other CMOs		
Pass-Throughs		
Agency Debt/Debentures		
IOS Index		
POS Index		
MBX Index		
Other Agency Derivatives		
TBA's		
Reverse Mortgages		
Residential Other / Unspecified		
Total	$0	$0
US Commercial Agency Products		
Cash Agency CMBS		
Agency CMBS Derivatives		
Commercial Other / Unspecified		
Total	$0	$0
Non-US Agency Products		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Total	$0	$0

Trading and Other Fair Value Assets
Munis (Severe)

Enterprises Dodd-Frank Stress Test Template (Disclosure to FHFA ONLY)

Bonds	MV* ($MM)	Profit/(Loss) in $K from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Bonds Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Bonds Total	$0	$0

Indices	MV* ($MM)	Profit/(Loss) in $K from a Widening in Spreads
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Indices Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Indices Total	$0	$0

Loans		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Loans Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Loans Total	$0	$0

Other / Unspecified Munis		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
Other / Unspecified Munis Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
Other / Unspecified Munis Total	$0	$0

CDS		
AAA		
AA		
A		
BBB		
BB		
B		
<B		
NR		
CDS Total	$0	$0
1M		
3M		
6M		
9M		
1Y		
2Y		
3Y		
5Y		
7Y		
10Y		
15Y		
20Y		
30Y		
CDS Total	$0	$0

Grand Total		
AAA	$0	$0
AA	$0	$0
A	$0	$0
BBB	$0	$0
BB	$0	$0
B	$0	$0
<B	$0	$0
NR	$0	$0
Grand Total	$0	$0
1M	$0	$0
3M	$0	$0
6M	$0	$0
9M	$0	$0
1Y	$0	$0
2Y	$0	$0
3Y	$0	$0
5Y	$0	$0
7Y	$0	$0
10Y	$0	$0
15Y	$0	$0
20Y	$0	$0
30Y	$0	$0
Grand Total	$0	$0

Attachment 2: FHFA DFA Reporting Schedules (Public)

FHLBank Dodd-Frank Stress Test Template - SEVERE
(Disclosure to the Public)

		Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
1	Net interest income + other non-interest income										
2	Provision (reversal) for credit losses on mortgage loans										
3	Net income (loss) before assessments										
4	Total capital										

Enterprise Dodd-Frank Stress Test Template - SEVERE
(Disclosure to the Public)

($s in billions)

		Most Recent Quarter	Q1	Q2	Q3	Q4	Q5	Q6	Q7	Q8	Q9
1	Total net revenue before provision for credit losses										
2	Benefit (Provision) for credit losses										
3	Net income before taxes										
4	Credit losses ($s)										
5	Credit losses (% of average portfolio balance)										
6	Ending capital										

Credit losses are defined as charge-offs, net plus foreclosed property expenses

[FR Doc. 2013–30356 Filed 12–24–13; 8:45 am]

BILLING CODE 8070–01–C

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9632]

RIN 1545–BL36

Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9632) that were published in the **Federal Register** on Friday, August 30, 2013. The final regulations provide guidance to individual taxpayers on the liability under section 5000A of the Internal Revenue Code for the shared responsibility payment for not maintaining minimum essential coverage.

DATES: This correction is effective December 26, 2013 and applicable beginning August 30, 2013.

FOR FURTHER INFORMATION CONTACT: John Lovelace, at (202) 622–4960 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9632) that are the subject of this correction is under section 5000A of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9632), August 30, 2013 (78 FR 53646), contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by correcting the sectional authority for § 1.5000A–4 to read in part as follows:

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

Section 1.5000A–3 also issued under 26 U.S.C. 5000A(e)(4).

■ **Par. 2.** Section 1.5000A–0 is amended by revising the entry in the table of contents for § 1.5000A–2 (b)(2)(iii) to read as follows:

§ 1.5000A–0 Table of Contents.

* * * * *

§ 1.5000A 2 Minimum essential coverage.

(a) * * *
(b) * * *
(2) * * *
(iii) Limited-benefit TRICARE programs.

* * * * *

■ **Par. 3.** Section 1.5000A–1 is amended by revising paragraphs (d)(6) and (7) to read as follows:

§ 1.5000A–1 Maintenance of minimum essential coverage and liability for the shared responsibility payment.

* * * * *

(d) * * *

(6) *Group health insurance coverage. Group health insurance coverage* has the same meaning as in section 2791(b)(4) of the Public Health Service Act (42 U.S.C. 300gg–91(b)(4)).

(7) *Group health plan. Group health plan* has the same meaning as in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1)).

* * * * *

■ **Par. 4.** Section 1.5000A–2 is amended by revising paragraphs (b)(1)(iv), (b)(2)(iii), (c)(1)(i)(B), (c)(2), and the last sentence of paragraph (d)(2) to read as follows:

§ 1.5000A–2 Minimum essential coverage.

* * * * *

(b) * * *

(1) * * *

(iv) *TRICARE.* Medical coverage under chapter 55 of Title 10, U.S.C., including coverage under the TRICARE program;

* * * * *

(2) * * *

(iii) *Limited-benefit TRICARE programs.* [Reserved]

(c) * * *

(1) * * *

(i) * * *

(B) Any other plan or coverage offered in the small or large group market within a State; or

* * * * *

(2) *Government-sponsored program generally not an eligible employer-sponsored plan.* Except for the program identified in paragraph (b)(1)(vii) of this section, a government-sponsored program described in paragraph (b) of this section is not an eligible employer-sponsored plan.

(d) * * *

(2) *Qualified health plan offered by an exchange.* * * * If a territory of the United States elects to establish an Exchange under section 1323(a)(1) and (b) of the Affordable Care Act (42 U.S.C. 18043(a)(1), (b)), a qualified health plan offered by that Exchange is a plan in the individual market.

* * * * *

■ **Par. 5.** Section 1.5000A–3 is amended by revising the first sentence of paragraph (e)(4)(ii)(D), the last sentence of paragraph (e)(4)(iii), and the heading of (e)(4)(iii) *Example 1* to read as follows:

§ 1.5000A–3 Exempt individuals.

* * * * *

(e) * * *

(4) * * *

(ii) * * *

(D) * * * For each individual, affordability under paragraph (e)(4) of this section is determined separately for each period described in paragraph (e)(4)(ii)(E) of this section that is less than a 12-month period. * * *

(iii) * * * Unless stated otherwise, in each example the taxpayer's taxable year is a calendar year, the rate of premium growth has not exceeded the rate of income growth since 2013, and the taxpayer is ineligible for any of the exemptions described in paragraphs (a) through (d) and (f) through (j) of this section for a month.

Example 1. Unmarried individual with no dependents. * * *

* * * * *

■ **Par. 6.** Section 1.5000A–4 is amended by revising the second sentence of paragraphs (d) *Example 1*(ii), (d) *Example 5*(iii), and the third sentence of (d) *Example 5*(iv) to read as follows:

§ 1.5000A–4 Computation of shared responsibility payment.

* * * * *

(d) * * *

Example 1. * * *

(ii) * * * Under paragraph (b)(2)(i) of this section, G's flat dollar amount is $695 (the lesser of $695 and $2,085 ($695 × 3)). * * *

Example 5. * * *

(iii) * * * Under paragraph (b)(2)(i) of this section, the flat dollar amount is $2,085 (the lesser of $2,085 or $2,085 ($695 × 3)). * * *

(iv) * * * Therefore, under paragraph (a) of this section, the shared responsibility payment imposed on S

and T for 2016 is $1,911.24 (the lesser of $1,911.24 or $11,000).

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2013–30742 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9632]

RIN 1545–BL36

Shared Responsibility Payment for Not Maintaining Minimum Essential Coverage; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9632) that were published in the **Federal Register** on Friday, August 30, 2013. The final regulations provide guidance to individual taxpayers on the liability under section 5000A of the Internal Revenue Code for the shared responsibility payment for not maintaining minimum essential coverage.

DATES: This correction is effective December 26, 2013 and applicable beginning August 30, 2013.

FOR FURTHER INFORMATION CONTACT: John Lovelace, at (202) 622–4960 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9632) that are the subject of this correction is under section 5000A of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9632), published August 30, 2013 (78 FR 53646), contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9632), that are the subject of FR Doc. 2013–21157, are corrected as follows:

1. On page 53646, first column, in the preamble, under the paragraph heading ''Paperwork Reduction Act'', third line from the bottom of the column, the language ''with the Paperwork and Reduction Act'' is corrected to read ''with the Paperwork Reduction Act''.

2. On page 53646, second column, in the preamble, seventh line from the top of the page, the language ''the amount of the penalty. The likely'' is corrected to read ''the amount of the payment. The likely''.

3. On page 53647, first column, in the preamble, fifth line of the first full paragraph, the language ''approval for enrollment have minimum'' is corrected to read ''approval for enrollment has minimum''.

4. On page 53647, second column, in the preamble, twenty-fourth line from the top of the page, the language ''qualifying relative, would prevent them'' is corrected to read ''qualifying relative, would prevent a taxpayer''.

5. On page 53647, third column, in the preamble, under the paragraph heading ''2. Special Rule for Adopted Children'', fourth line of the second paragraph, the language ''for shared responsibility payment for an'' is corrected to read ''for the shared responsibility payment for an''.

6. On page 53648, first column, in the preamble, under the paragraph heading ''1. Insurance-related Terms'', the last sentence of the first paragraph, ''The additional terms defined include health insurance coverage, individual health insurance coverage, individual market, and state.'' is corrected to read ''The additional terms defined include health insurance coverage, individual market, and state.''.

7. On page 53648, first column, in the preamble, under the paragraph heading ''2. Household Income'', fifteenth line of the first paragraph, the language ''income, the gross income of his or her'' is corrected to read ''income the gross income of his or her''.

8. On page 53648, third column, in the preamble, twelfth line of the second full paragraph, the language ''will be effective starting January 1, 2014'' is corrected to read ''will be effective starting January 1, 2014,''.

9. On page 53649, second column, in the preamble, fourth line of the first full paragraph, the language ''and 1902(cc) of the Social Security Act,'' is corrected to read ''and 1902(cc) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)(XIX) and (cc))''.

10. On page 53649, third column, in the preamble, under the paragraph heading ''4. Medicaid for the Medically Needy'', tenth line of the first paragraph, the language ''and following (Subpart D). Over half of'' is corrected to read ''and following sections. Over half of''.

11. On page 53649, third column, in the preamble, under the paragraph heading ''4. Medicaid for the Medically Needy'', last line of the column, the language ''coverage by the HHS Secretary, in'' is corrected to read ''coverage by the Secretary of HHS, in''.

12. On page 53650, first column, in the preamble, first and second lines from the top of the page, the language ''consultation with the Treasury Secretary, under section 5000A(f)(1)(E).'' is corrected to read ''consultation with the Secretary of the Treasury, under section 5000A(f)(1)(E).''.

13. On page 53650, first column, in the preamble, under the paragraph heading ''5. TRICARE'', the seventh and the twelfth lines of the second paragraph, the language ''limited benefit'' is corrected to read ''limited-benefit''.

14. On page 53651, second column, in the preamble, first line from the top of the page, the language ''responsibility penalty even if the'' is corrected to read ''responsibility payment even if the''.

15. On page 53652, first column, in the preamble, under the paragraph heading ''*C. Exempt Noncitizens'',* twelfth and thirteenth line of the first paragraph, the language ''taxable year if the individual is either (1) a nonresident alien as defined in'' is corrected to read ''taxable year if the individual either (1) is a nonresident alien as defined in''.

16. On page 53652, second column, in the preamble, under the paragraph heading ''*D. Incarcerated Individuals'',* second and third lines of the first paragraph, the language ''individual is exempt for a month for which the individual is incarcerated'' is corrected to read ''individual is exempt for a month when the individual is incarcerated''.

17. On page 53652, second column, in the preamble, under the paragraph heading ''*D. Incarcerated Individuals'',* tenth line of the third paragraph, the language ''receive benefits for healthcare provided'' is corrected to read ''receive benefits for health care provided''.

18. On page 53652, third column, in the preamble, fourteenth line of the second full paragraph, the language ''that are excluded from the individual's'' is corrected to read ''that are excluded from the employee's''.

19. On page 53653, third column, in the preamble, fourth through the sixth line from the top of the page, the language ''applicable plan, when a plan is not offered that covers members of the entire tax household, be revocable. The'' is corrected to read ''applicable plan when a plan is not offered that covers members of the entire non-exempt family, be revocable. The''.

20. On page 53653, third column, in the preamble, the third full paragraph,

is corrected to read ''It is anticipated that future HHS guidance will specify that when determining eligibility for the hardship exemption for individuals who lack affordable coverage based on projected income described in 45 CFR 155.605(g)(2), the Exchange will calculate advance payments of the premium tax credit using the rules specified in the regulations under section 36B, providing that individuals who have minimum essential coverage are excluded from the computation of the applicable benchmark plan. This treatment will ensure that Exchanges can reuse existing advance payment functionality instead of having to develop additional functionality for the sole purpose of supporting this exemption.''.

21. On page 53654, second column, third line from the bottom of the first full paragraph, the language ''through Indian Health Service in'' is corrected to read ''through the Indian Health Service in''.

22. On page 53654, second column, in the preamble, under the paragraph heading ''*H. Short Coverage Gap'',* fourteenth line of the first paragraph, the language ''February) in conjunction with the one'' is corrected to read ''February) in conjunction with the one-''.

23. On page 53655, first column, seventh line from the top of the page, the language ''section 5000A for the short coverage gap'' is corrected to read ''section 5000A for purposes of the short coverage gap''.

24. On page 53655, second column, in the preamble, seventh and eighth lines of the second full paragraph, the language ''exemptions on a Federal income tax return.'' is corrected to read ''exemption on Federal income tax returns.''.

25. On page 53655, third column, in the preamble, under the paragraph heading ''Special Analyses'', tenth line of the first paragraph, the language ''to these regulations, and, because the'' is corrected to read ''to these regulations and, because the''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2013–30740 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 2012–5]

Verification of Statements of Account Submitted by Cable Operators and Satellite Carriers

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Interim rule.

SUMMARY: The U.S. Copyright Office is adopting an interim regulation that implements certain aspects of the Satellite Television Extension and Localism Act of 2010 (''STELA''). Cable operators and satellite carriers must file statements of account (''SOAs'') and deposit royalty fees with the Office in order to use the statutory licenses that allow for the retransmission of over-the-air broadcast signals. The Office published two notices of proposed rulemaking concerning a new process to allow copyright owners to audit the SOAs and associated royalty payments. The Office received extensive comments on its proposed audit procedures and is carefully reviewing these comments to address them as appropriate in a final rule. In the meantime, the Office is issuing an interim rule to establish the procedure for filing a notice of intent to audit one or more SOAs.

DATES: *Effective Date:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Jacqueline C. Charlesworth, General Counsel, or Erik Bertin, Attorney Advisor, U.S. Copyright Office, P.O. Box 70400, Washington, DC 20024–0400. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

SUPPLEMENTARY INFORMATION: STELA amended the Copyright Act by directing the Register of Copyrights to issue regulations to allow copyright owners to audit the SOAs and royalty fees that cable operators and satellite carriers file with the Office. *See* 17 U.S.C. 111(d)(6), 119(b)(2). On June 14, 2012, the Office published a notice of proposed rulemaking that set forth an initial proposal for this procedure. *See* 77 FR 35643. The Office received extensive comments from groups representing copyright owners, cable operators, and individual companies that use the statutory licenses. The parties offered conflicting points of view on nearly every aspect of the proposal, including the procedures for selecting an auditor, for protecting the confidentiality of the licensee's records, for correcting the errors and underpayments identified in the auditor's report, and for allocating the cost of the audit procedure between the copyright owners and the licensee.

The Office carefully studied these comments and revised its proposal based on the suggestions that it received. The revised proposal was published for comment on May 9, 2013. *See* 78 FR 27137. The Office received comments from a wide range of stakeholders, and once again, the parties raised a number of complex issues, such as the records retention requirement and the procedure for expanding or suspending the scope of the audit.

The Office is carefully reviewing these comments and intends to issue a final rule that strikes an appropriate balance between the interests of the copyright owners and the cable and satellite licensees in the audit process. In the meantime, the Office is issuing an interim rule that addresses a procedural issue—the provision of notice of an intent to audit—that was not contested by the parties.

The Office's initial proposal explained that a copyright owner may initiate an audit by filing a notice with the Office. It explained that the notice should identify the SOAs to be included in the audit and the licensee that filed those SOAs. In addition, the notice should provide contact information for the copyright owner, along with a brief statement establishing that the copyright owner owns at least one work that was included in a secondary transmission made by that licensee during the accounting period or periods subject to audit. The proposed regulation further provided that a notice of intent to audit a particular SOA should be submitted within three years after the last day of the year in which that SOA was filed. It also explained that the copyright owner should provide a copy of the notice to the licensee on the same date that the notice is filed with the Office. It stated that the Office would publish this notice in the **Federal Register**. Within 30 days thereafter, any other copyright owner that wished to participate in the audit would be required to notify both the copyright owner that filed the notice and the licensee to be subject to the audit. Copyright owners that failed to comply with this requirement would not be permitted to participate in the audit process and would not be permitted to audit the same SOAs in a subsequent proceeding.

All of the parties agreed with this proposal. A group representing the copyright owners offered a minor suggestion for clarifying one aspect of this procedure, namely, that a group

representing multiple copyright owners should be able to file an audit notice on behalf of its members. None of the other parties objected to this, and, as discussed in the prior **Federal Register** notice, the Office included this suggestion in its revised proposal. *See* 78 FR at 27139.

The Office finds there is good cause for adopting this procedural rule concerning notification of an intent to audit as an interim rule and for making the rule effective immediately. The other issues presented in this proceeding are numerous and complex. The Office issued an initial notice of proposed rulemaking that was based in part on a proposal that the Office received from a group of copyright owners. *See* 77 FR at 35644. In response to its initial proposal, the Office received detailed comments from more than a dozen stakeholders. It also received a counterproposal for revising nearly every aspect of the proposed regulation. The Office addressed many of these issues in a second notice of proposed rulemaking, which was published earlier this year. *See* 78 FR 27137. In response to this latest notice, the Office received another round of comments from nearly all of the parties in this proceeding. All of these parties raised issues of first impression that were not addressed in the initial phase of this proceeding. The Office is studying these new issues and intends to issue a final rule early next year. In the meantime, the interim rule will allow copyright owners to identify any SOAs from accounting periods beginning January 1, 2010 and later that they intend to audit. At the same time, it will provide licensees with advance notice of the SOAs that will be subject to audit when the final rule goes into effect.

List of Subjects in 37 CFR Part 201

Copyright, General Provisions.

Interim Regulation

In consideration of the foregoing, the U.S. Copyright Office amends part 201 of 37 CFR, as follows:

PART 201—GENERAL PROVISIONS

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

Section 201.10 also issued under 17 U.S.C. 304.

■ 2. Add new § 201.16 to read as follows:

§ 201.16 Verification of a Statement of Account and royalty fee payments for secondary transmissions made by cable systems and satellite carriers.

(a) *General.* This section prescribes procedures pertaining to the verification of a Statement of Account and royalty fees filed with the Copyright Office pursuant to sections 111(d)(1) and 119(b)(1) of title 17 of the United States Code.

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

(1) The term *cable system* has the meaning set forth in § 201.17(b)(2).

(2) *Copyright owner* means any person or entity that owns the copyright in a work embodied in a secondary transmission made by a statutory licensee that filed a Statement of Account with the Copyright Office for an accounting period beginning on or after January 1, 2010, or a designated agent or representative of such person or entity.

(3) The term *satellite carrier* has the meaning set forth in 17 U.S.C. 119(d)(6).

(4) The term *secondary transmission* has the meaning set forth in 17 U.S.C. 111(f)(2).

(5) *Statement of Account* or *Statement* means a semiannual Statement of Account filed with the Copyright Office under 17 U.S.C. 111(d)(1) or 119(b)(1) or an amended Statement of Account filed with the Office pursuant to § 201.11(h) or § 201.17(m) of this chapter.

(6) *Statutory licensee* or *licensee* means a cable system or satellite carrier that filed a Statement of Account with the Office under 17 U.S.C. 111(d)(1) or 119(b)(1).

(c) *Notice of intent to audit.* (1) Any copyright owner that intends to audit a Statement of Account for an accounting period beginning on or after January 1, 2010 must notify the Register of Copyrights no later than three years after the last day of the year in which the Statement was filed with the Office. The notice of intent to audit may be filed by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners. The notice shall identify the statutory licensee that filed the Statement(s) with the Copyright Office, the Statement(s) and accounting period(s) that will be subject to the audit, and the party that filed the notice, including its name, address, telephone number, facsimile number, and email address. In addition, the notice shall include a statement that the party owns, or represents one or more copyright owners that own, a work that was embodied in a secondary transmission made by the statutory licensee during one or more of the accounting period(s) specified in the Statement(s) of Account that will be subject to the audit. A copy of the notice of intent to audit shall be provided to the statutory licensee on the same day that the notice is filed with the Copyright Office. Within 30 days after the notice has been received in the Office, the Office will publish a notice in the **Federal Register** announcing the receipt of the notice of intent to audit.

(2) Within 30 days after a notice of intent to audit a Statement of Account is published in the **Federal Register** pursuant to paragraph (c)(1) of this section, any other copyright owner that owns a work that was embodied in a secondary transmission made by that statutory licensee during an accounting period covered by the Statement(s) of Account referenced in the **Federal Register** notice and that wishes to participate in the audit of such Statement(s) must provide written notice of such participation to the statutory licensee and to the party that filed the notice of intent to audit. A notice given pursuant to this paragraph may be provided by an individual copyright owner or a designated agent that represents a group or multiple groups of copyright owners, and shall include all of the information specified in paragraph (c)(1) of this section.

(3) Once a notice of intent to audit a Statement of Account has been received by the Office, a notice of intent to audit that same Statement will not be accepted for publication in the **Federal Register**.

Dated: December 13, 2013.

Maria A. Pallante,

Register of Copyrights.

James H. Billington,

The Librarian of Congress.

[FR Doc. 2013–30776 Filed 12–24–13; 8:45 am]

BILLING CODE 1410–30–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AO25

Duty Periods for Establishing Eligibility for Health Care

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is amending its medical regulations concerning eligibility for health care to re-establish the definitions of ''active military, naval, or air service,'' ''active duty,'' and ''active duty for training.'' These definitions were deleted in 1996; however, we believe that all duty periods should be

defined in part 17 of the Code of Federal Regulations (CFR) to ensure proper determination of eligibility for VA health care. We are also providing a more complete definition of ''inactive duty training.''

DATES: *Effective Date:* This final rule is effective January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Kristin J. Cunningham, Director, Business Policy, Chief Business Office (10NB6), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420; (202) 461–1599. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Section 101(2) of title 38 United States Code (U.S.C.) defines the term ''veteran'' to mean ''a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.'' ''Active military, naval, or air service'' includes ''active duty'' and certain periods of ''active duty for training'' and ''inactive duty training,'' which are all defined in 38 U.S.C. 101. See 38 U.S.C. 101(21)–(24). These terms prescribe the type of service an individual needs to have had in order to be eligible for VA health care benefits under 38 U.S.C. 1710 and 1705. On May 13, 1996, in 61 FR 21965, VA removed and marked as reserved paragraphs (a) through (c) of 38 CFR 17.31, which contained the definitions of ''active military, naval, or air service,'' ''active duty,'' and ''active duty for training,'' and only retained paragraph (d), which defines ''inactive duty training.'' A reader of § 17.31 could conclude that no other duty periods, aside from ''inactive duty training,'' would qualify an individual as eligible for VA medical benefits. We are amending this oversight by incorporating the 38 U.S.C. 101 definitions of ''active military, naval, or air service,'' ''active duty,'' and ''active duty for training'' into § 17.31 as paragraphs (a) through (c). We are also incorporating 38 U.S.C. 106, which establishes certain other service as active military service.

Under the provisions of Public Law 95–202, sec. 401 (1977), the Department of Defense (DoD) can determine that the service of certain groups or individuals constitutes active duty service for purposes of title 38 benefits. We are incorporating in paragraph (b) service by any individual or group certified by the Secretary of Defense as active duty, which is currently listed in 38 CFR 3.7. We are also listing in paragraph (b) service by other individuals and groups specifically identified by Congress, or determined by court or VA decisions interpreting applicable legislative provisions, as constituting active military service in an effort to provide a more complete definition of active duty for purposes of determining eligibility for VA health care. See 38 CFR 3.7(a)–(l), (n)–(q), (s)–(w).

The National Defense Authorization Act, Fiscal Year 1989, Public Law 100–456, sec. 633 (1988), amended the definition of ''inactive duty training'' in 38 U.S.C. 101(23) to include members of, or applicants for membership in, the Senior Reserve Officers' Training Corps (SROTC). We are amending § 17.31(d) to include the complete statutory definition of ''inactive duty training.''

In a document published in the **Federal Register** on May 9, 2013 (78 FR 27153), VA proposed to amend part 17 of 38 CFR by amending the regulation that defines the duty periods for establishing eligibility for health care. We provided a 60-day comment period, which ended on July 8, 2013. We did not receive any comments on the proposed rule.

Based on the rationale set forth in the **SUPPLEMENTARY INFORMATION** to the proposed rule and in this final rule, VA is adopting the proposed rule as a final rule with no change.

Effect of Rulemaking

Title 38 of the Code of Federal Regulations, as revised by this final rulemaking, represents VA's implementation of its legal authority on this subject. Other than future amendments to this regulation or governing statutes, no contrary guidance or procedures are authorized. All existing or subsequent VA guidance must be read to conform with this rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

This final rule contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule will directly affect only individuals and will not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB) unless OMB waives such review, as ''any regulatory action that 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.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at *http://www.regulations.gov,* usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at *http://www1.va.gov/orpm/,* by following the link for ''VA Regulations Published.''

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more

(adjusted annually for inflation) in any one year. This final rule will have no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.005, Grants to States for Construction of State Home Facilities; 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem 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. Jose D. Riojas, Chief of Staff, Department of Veteran Affairs, approved this document on December 18, 2003, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure; Alcohol abuse; Alcoholism; Claims; Day care; Dental health; Drug abuse; Government contracts; Grant programs—health; Grant programs—veterans; Health care; Health facilities; Health professions; Health records; Homeless; Mental health programs; Nursing homes; Philippines, Reporting and recordkeeping requirements; Veterans.

Dated: December 20, 2013.

Robert C. McFetridge,

Director, Office of Regulation Policy and Management, Office of the General Counsel, Department of Veterans Affairs.

For the reasons set forth in the preamble, the Department of Veterans Affairs amends 38 CFR part 17 as follows:

PART 17—MEDICAL

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

Authority: 38 U.S.C. 501, and as noted in specific sections.

■ 2. Amend § 17.31 by:

■ a. Adding paragraphs (a) through (c).

■ b. Revising paragraph (d) introductory text.

■ c. Redesignating paragraph (d)(4) as paragraph (d)(5).

■ d. Adding new paragraphs (d)(4) and (d)(6).

■ e. Adding an authority citation at the end of the section.

The revision and additions read as follows:

§ 17.31 Duty periods defined.

* * * * *

(a) *Active military, naval, or air service* includes:

(1) Active duty.

(2) Any period of active duty for training during which the individual was disabled from a disease or injury incurred or aggravated in line of duty.

(3) Any period of inactive duty training during which the individual was disabled from an injury incurred or aggravated in line of duty.

(4) Any period of inactive duty training during which the individual was disabled from an acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident which occurred during such period of inactive duty training.

(b) *Active duty* means:

(1) Full-time duty in the Armed Forces, other than active duty for training.

(2) Full-time duty, other than for training purposes, as a commissioned officer of the Regular or Reserve Corps of the Public Health Service during the following dates:

(i) On or after July 29, 1945;

(ii) Before July 29, 1945, under circumstances affording entitlement to full military benefits; or

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration or its predecessor organizations, the Coast and Geodetic Survey or the Environmental Science Services Administration, during the following dates:

(i) On or after July 29, 1945;

(ii) Before July 29, 1945, under the following circumstances:

(A) While on transfer to one of the Armed Forces;

(B) While, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard; or

(C) In the Philippine Islands on December 7, 1941, and continuously in such islands thereafter; or

(4) Service as a cadet at the U.S. Military, Air Force, or Coast Guard Academy, or as a midshipman at the U.S. Naval Academy.

(5) Service in Women's Army Auxiliary Corps (WAAC). Recognized effective March 18, 1980.

(6) Service of any person in a group the members of which rendered service to the Armed Forces of the United States in a capacity considered civilian employment or contractual service at the time such service was rendered, if the Secretary of Defense:

(i) Determines that the service of such group constituted active military service; and

(ii) Issues to each member of such group a discharge from such service under honorable conditions where the nature and duration of the service of such member so warrants.

(7) Service in American Merchant Marine in Oceangoing Service any time during the period December 7, 1941, to August 15, 1945. Recognized effective January 19, 1988.

(8) Service by the approximately 50 Chamorro and Carolinian former native policemen who received military training in the Donnal area of central Saipan and were placed under the command of Lt. Casino of the 6th Provisional Military Police Battalion to accompany U.S. Marines on active, combat-patrol activity any time during the period August 19, 1945, to September 2, 1945. Recognized effective September 30, 1999.

(9) Service by Civilian Crewmen of the U.S. Coast and Geodetic Survey (USCGS) vessels, who performed their service in areas of immediate military hazard while conducting cooperative operations with and for the U.S. Armed Forces any time during the period December 7, 1941, to August 15, 1945. Qualifying USCGS vessels specified by the Secretary of the Air Force are the Derickson, Explorer, Gilbert, Hilgard, E. Lester Jones, Lydonia, Patton, Surveyor, Wainwright, Westdahl, Oceanographer, Hydrographer, or Pathfinder. Recognized effective April 8, 1991.

(10) Service by Civilian Employees of Pacific Naval Air Bases who actively participated in Defense of Wake Island during World War II. Recognized effective January 22, 1981.

(11) Service by Civilian Navy Identification Friend or Foe (IFF) Technicians who served in the Combat Areas of the Pacific any time during the period December 7, 1941, to August 15, 1945. Recognized effective August 2, 1988.

(12) Service by Civilian personnel assigned to the Secret Intelligence Element of the Office of Strategic Services (OSS). Recognized effective December 27, 1982.

(13) Service by Engineer Field Clerks (World War I). Recognized effective August 31, 1979.

(14) Service by Guam Combat Patrol. Recognized effective May 10, 1983.

(15) Service by Honorably discharged members of the American Volunteer Group (Flying Tigers) who served any time during the period December 7, 1941, to July 18, 1942. Recognized effective May 3, 1991.

(16) Service by Honorably discharged members of the American Volunteer Guard, Eritrea Service Command who served any time during the period June 21, 1942, to March 31, 1943. Recognized effective June 29, 1992.

(17) Service by Male Civilian Ferry Pilots. Recognized effective July 17, 1981.

(18) Service with the Operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps any time during the period December 7, 1941, to August 15, 1945. Recognized effective August 27, 1999.

(19) Service by Quartermaster Corps Female Clerical Employees serving with the American Expeditionary Forces in World War II. Recognized effective January 22, 1981.

(20) Service by Quartermaster Corps Keswick Crew on Corregidor (World War II). Recognized effective February 7, 1984.

(21) Service by Reconstruction Aides and Dietitians in World War I. Recognized effective July 6, 1981.

(22) Service by Signal Corps Female Telephone Operators Unit of World War I. Recognized effective May 15, 1979.

(23) Service by three scouts/guides, Miguel Tenorio, Penedicto Taisacan, and Cristino Dela Cruz, who assisted the U.S. Marines in the offensive operations against the Japanese on the Northern Mariana Islands from June 19, 1944, through September 2, 1945. Recognized effective September 30, 1999.

(24) Service by U.S. civilian employees of American Airlines who served overseas as a result of American Airlines' Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective October 5, 1990.

(25) Service by U.S. civilian female employees of the U.S. Army Nurse Corps while serving in the Defense of Bataan and Corregidor any time during the period January 2, 1942, to February 3, 1945. Recognized effective December 13, 1993.

(26) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Braniff Airways, who served overseas in the North Atlantic or under the jurisdiction of the North Atlantic Wing, Air Transport Command (ATC), as a result of a Contract with the ATC any time during the period February 26, 1942, to August 14, 1945. Recognized effective June 2, 1997.

(27) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Consolidated Vultree Aircraft Corporation (Consairway Division), who served overseas as a result of a Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective June 29, 1992.

(28) Service by U.S. Flight Crew and Aviation Ground Support Employees of Northeast Airlines Atlantic Division, who served overseas as a result of Northeast Airlines' Contract with the Air Transport Command any time during the period December 7, 1941, to August 14, 1945. Recognized effective June 2, 1997.

(29) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Northwest Airlines, who served overseas as a result of Northwest Airlines' Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective December 13, 1993.

(30) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Pan American World Airways and its Subsidiaries and Affiliates, who served overseas as a result of Pan American's Contract with the Air Transport Command and Naval Air Transport Service any time during the period December 14, 1941, to August 14, 1945. Recognized effective July 16, 1992.

(31) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of Transcontinental and Western Air (TWA), Inc., who served overseas as a result of TWA's Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. The ''Flight Crew'' includes pursers. Recognized effective May 13, 1992.

(32) Service by U.S. Civilian Flight Crew and Aviation Ground Support Employees of United Air Lines (UAL), who served overseas as a result of UAL's Contract with the Air Transport Command any time during the period December 14, 1941, to August 14, 1945. Recognized effective May 13, 1992.

(33) Service by U.S. civilian volunteers who actively participated in the Defense of Bataan. Recognized effective February 7, 1984.

(34) Service by U.S. civilians of the American Field Service (AFS) who served overseas operationally in World War I any time during the period August 31, 1917, to January 1, 1918. Recognized effective August 30, 1990.

(35) Service by U.S. civilians of the American Field Service (AFS) who served overseas under U.S. Armies and U.S. Army Groups in World War II any time during the period December 7, 1941, to May 8, 1945. Recognized effective August 30, 1990.

(36) Service by U.S. Merchant Seamen who served on blockships in support of Operation Mulberry. Recognized effective October 18, 1985.

(37) Service by Wake Island Defenders from Guam. Recognized effective April 7, 1982.

(38) Service by Women's Air Forces Service Pilots (WASP). Recognized effective November 23, 1977.

(39) Service by persons who were injured while providing aerial transportation of mail and serving under conditions set forth in Public Law 73–140.

(40) Service in the Alaska Territorial Guard during World War II, for any person who the Secretary of Defense determines was honorably discharged.

(41) Service by Army field clerks.

(42) Service by Army Nurse Corps, Navy Nurse Corps, and female dietetic and physical therapy personnel as follows:

(i) Female Army and Navy nurses on active service under order of the service department; or

(ii) Female dietetic and physical therapy personnel, excluding students and apprentices, appointed with relative rank after December 21, 1942, or commissioned after June 21, 1944.

(43) Service by students who were enlisted men in Aviation camps during World War I.

(44) Active service in the Coast Guard after January 28, 1915, while under the jurisdiction of the Treasury Department, the Navy Department, the Department of Transportation, or the Department of Homeland Security. This does not include temporary members of the Coast Guard Reserves.

(45) Service by contract surgeons if the disability was the result of injury or disease contracted in the line of duty during a period of war while actually performing the duties of assistant surgeon or acting assistant surgeon with any military force in the field, or in transit, or in a hospital.

(46) Service by field clerks of the Quartermaster Corps.

(47) Service by lighthouse service personnel who were transferred to the service and jurisdiction of the War or

Navy Departments by Executive Order under the Act of August 29, 1916. Effective July 1, 1939, service was consolidated with the Coast Guard.

(48) Service by male nurses who were enlisted in a Medical Corps.

(49) Service by persons having a pensionable or compensable status before January 1, 1959.

(50) Service by a Commonwealth Army veteran or new Philippine Scout, as defined in 38 U.S.C. 1735, who resides in the United States and is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; service by Regular Philippine Scouts and service in the Insular Force of the Navy, Samoan Native Guard, or Samoan Native Band of the Navy.

(51) Service with the Revenue Cutter Service while serving under direction of the Secretary of the Navy in cooperation with the Navy. Effective January 28, 1915, the Revenue Cutter Service was merged into the Coast Guard.

(52) Service during World War I in the Russian Railway Service Corps as certified by the Secretary of the Army.

(53) Service by members of training camps authorized by section 54 of the National Defense Act (Pub. L. 64–85, 39 Stat. 166), except for members of Student Army Training Corps Camps at the Presidio of San Francisco; Plattsburg, New York; Fort Sheridan, Illinois; Howard University, Washington, DC; Camp Perry, Ohio; and Camp Hancock, Georgia, from July 18, 1918, to September 16, 1918.

(54) Service in the Women's Army Corps (WAC) after June 30, 1943.

(55) Service in the Women's Reserve of the Navy, Marine Corps, and Coast Guard.

(56) Effective July 28, 1959, service by a veteran who was discharged for alienage during a period of hostilities unless evidence affirmatively shows the veteran was discharged at his or her own request. A veteran who was discharged for alienage after a period of hostilities and whose service was honest and faithful is not barred from benefits if he or she is otherwise entitled. A discharge changed prior to January 7, 1957, to honorable by a board established under 10 U.S.C. 1552 and 1553 will be considered as evidence that the discharge was not at the alien's request.

(57) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy for enlisted active duty members who are reassigned to a preparatory school without a release from active duty, and for other individuals who have a commitment to active duty in the Armed Forces that would be binding upon disenrollment from the preparatory school.

(58) For purposes of providing medical care under chapter 17 for a service-connected disability, service by any person who has suffered an injury or contracted a disease in line of duty while en route to or from, or at, a place for final acceptance or entry upon active duty and:

(i) Who has applied for enlistment or enrollment in the active military, naval, or air service and has been provisionally accepted and directed or ordered to report to a place for final acceptance into such service;

(ii) Who has been selected or drafted for service in the Armed Forces and has reported pursuant to the call of the person's local draft board and before rejection; or

(iii) Who has been called into the Federal service as a member of the National Guard, but has not been enrolled for the Federal service.

Note to paragraph (b)(58): The injury or disease must be due to some factor relating to compliance with proper orders. Draftees and selectees are included when reporting for preinduction examination or for final induction on active duty. Such persons are not included for injury or disease suffered during the period of inactive duty, or period of waiting, after a final physical examination and prior to beginning the trip to report for induction. Members of the National Guard are included when reporting to a designated rendezvous.

(59) Authorized travel to or from such duty or service, as described in this section.

(60) The period of time immediately following the date an individual is discharged or released from a period of active duty, as determined by the Secretary concerned to have been required for that individual to proceed to that individual's home by the most direct route, and in any event until midnight of the date of such discharge or release.

(c) *Active duty for training* means:

(1) Full-time duty in the Armed Forces performed by Reserves for training purposes.

(2) Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health service during the period covered in paragraph (b)(2) of this section.

(3) In the case of members of the Army National Guard or Air National Guard of any State, full-time duty under sections 316, 502, 503, 504, or 505 of title 32 U.S.C., or the prior corresponding provisions of law.

(4) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10 U.S.C. for a period of not less than four weeks and which must be completed by the member before the member is commissioned.

(5) Attendance at the preparatory schools of the United States Air Force Academy, the United States Military Academy, or the United States Naval Academy by an individual who enters the preparatory school directly from the Reserves, National Guard or civilian life, unless the individual has a commitment to service on active duty which would be binding upon disenrollment from the preparatory school.

(6) Authorized travel to or from such duty as described in paragraph (c) of this section if an individual, when authorized or required by competent authority, assumes an obligation to perform active duty for training and is disabled from an injury, acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident incurred while proceeding directly to or returning directly from such active duty for training. Authorized travel should take into account:

(i) The hour on which such individual began so to proceed or to return;

(ii) The hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty;

(iii) The method of travel employed;

(iv) The itinerary;

(v) The manner in which the travel was performed; and

(vi) The immediate cause of disability.

(**Note to paragraph (c)(6):** Active duty for training does not include duty performed as a temporary member of the Coast Guard Reserve.)

(d) *Inactive duty training* means:

* * * * *

(4) Training (other than active duty for training) by a member of, or applicant for membership (as defined in 5 U.S.C. 8140(g)) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10 U.S.C.

* * * * *

(6) Travel to or from such duty as described in this paragraph (d) if an individual, when authorized or required by competent authority, assumes an obligation to perform inactive duty training and is disabled from an injury, acute myocardial infarction, a cardiac arrest, or a cerebrovascular accident incurred while proceeding directly to or

returning directly from such inactive duty training. Authorized travel should take into account:

(i) The hour on which such individual began so to proceed or to return;

(ii) The hour on which such individual was scheduled to arrive for, or on which such individual ceased to perform, such duty;

(iii) The method of travel employed;

(iv) The itinerary;

(v) The manner in which the travel was performed; and

(vi) The immediate cause of disability.

(Authority: 38 U.S.C. 101, 106, 501, 1734 and 1735.)

[FR Doc. 2013–30775 Filed 12–24–13; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0058; FRL–9904–49–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets for the Lancaster 1997 8-Hour Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve revisions to the Commonwealth of Pennsylvania's (Pennsylvania) State Implementation Plan (SIP). The revisions consist of an update to the SIP-approved Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOCs), and an updated point source inventory for NO_X and VOCs for the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) SIP for Lancaster County (hereafter referred to as the ''Lancaster Maintenance Area''). EPA's approval of the updated MVEBs makes them available for transportation conformity purposes. EPA is approving these revisions to the MVEBs and point source inventory in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on February 24, 2014 without further notice, unless EPA receives adverse written comment by January 27, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0058 by one of the following methods:

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

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0058, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2013–0058. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On November 19, 2012, Pennsylvania submitted formal revisions to its SIP. One SIP revision consists of updated MVEBs for NO_X and VOCs for the 1997 8-Hour Ozone NAAQS. The other SIP revision updates the point source inventory for NO_X and VOCs.

On July 18, 1997 (62 FR 38856), EPA established the 1997 8-Hour Ozone NAAQS. On April 30, 2004 (69 FR 23860), Lancaster County was designated as nonattainment for the 1997 8-Hour Ozone NAAQS. On September 20, 2006, the Pennsylvania Department of Environmental Protection (PADEP) submitted a SIP revision which consisted of a maintenance plan, a 2002 base year inventory and MVEBs for transportation conformity purposes. On November 8, 2006, PADEP supplemented their September 20, 2006 submittal. On July 6, 2007 (72 FR 36889), EPA approved the SIP revision as well as the redesignation request made by PADEP and Lancaster County was redesignated as a maintenance area.

The currently SIP-approved MVEBs for the Lancaster Area were developed using the Highway Mobile Source Emission Factor Model (MOBILE6.2). On March 2, 2010 (75 FR 9411), EPA published a notice of availability for the Motor Vehicle Emissions Simulator (MOVES2010) model for use in developing MVEBs for SIPs and for conducting transportation conformity analyses. EPA commenced a two year grace period after which time the MOVES2010 model would have to be used for transportation conformity purposes. The two year grace period was scheduled to end on March 2, 2012. On February 27, 2012 (77 FR 11394), EPA published a final rule extending the grace period for one more year to March 2, 2013 to ensure adequate time

for affected parties to have the capacity to use the MOVES model to develop or update the applicable MVEBs in SIPs and to conduct conformity analyses. On September 8, 2010, EPA released MOVES2010a, which is a minor update to MOVES2010 and which is used by Pennsylvania in this SIP revision.

II. Summary of SIP Revision

This MVEBs SIP revision updates the MVEBs for NO_X and VOCs for the years 2009 (interim year) and 2018 (maintenance year) that were produced using the MOVES2010a model. The point source inventory SIP revision updates the point source inventory for NO_X and VOCs. A comparison between the previous point source inventory and the updated point source inventory is provided in Table 1. The previously approved MVEBs were produced using the Mobile Source Emission Factor Model (MOBILE6.2). A summary of the updated MOVES-based MVEBs and previously approved MOBILE6.2-based MVEBs for the years 2009 and 2018 is provided in Table 2. Even though there is an emissions increase in the MOVES-based MVEBs, the increase is not due to an increase in emissions from mobile sources. The increase is due to the fact that the MOVES model provides more accurate emissions estimates than MOBILE6.2, rather than growth that had not been anticipated in the maintenance plan. Also, part of the update of the MVEBs is the addition of two tons per day (tpd) safety margin for both NO_X and VOCs in 2018 as well as a 2 tpd safety margin for NO_X in 2009. The MVEBs that will be utilized for transportation conformity purposes and include the safety margins are presented in Table 3. These safety margins were added because emissions in the interim (2009) and maintenance (2018) years are significantly less than the attainment year emissions, which is the year that the Lancaster Maintenance Area attained the standard. A detailed summary of EPA's review and rationale for proposing to approve this SIP revision may be found in the Technical Support Documents (TSDs) prepared in support of this proposed approval and are available on line at *http://www.regulations.gov,* Docket number EPA–R03–OAR–2013–0058.

TABLE 1—SUMMARY OF POINT SOURCE INVENTORY FOR THE LANCASTER MAINTENANCE AREA

	Current		Updated	
Year	2009	2018	2009	2018
VOCs (tpd)	8.7	11	5.5	7.7
NO_X (tpd)	4.1	4.6	3.2	3.6

TABLE 2—SUMMARY OF MOTOR VEHICLE EMISSIONS FOR THE LANCASTER MAINTENANCE AREA

Model	MOBILE6.2		MOVES2010a	
Year	2009	2018	2009	2018
VOCs (tpd)	14.33	7.77	14.29	8.14
NO_X (tpd)	22.32	8.99	33.18	18.57

TABLE 3—UPDATED MVEBS FOR THE LANCASTER MAINTENANCE AREA

Year	2009	2018
VOCs (tpd)	14.29	10.14
NO_X (tpd)	35.18	20.57

III. Final Action

EPA is approving Pennsylvania's SIP revision from November 19, 2012 to update the SIP-approved MVEBs for the Lancaster County Maintenance Area to reflect the use of the MOVES model. EPA is also approving the update to the SIP-approved point source inventory. These SIP revisions allow the Lancaster County Maintenance Area to continue to be in attainment of the 1997 8-Hour Ozone NAAQS. The updated MVEBs meet the adequacy requirements set forth in 40 CFR 93.118(e)(4)(i)–(vi), and have been correctly calculated to reflect the use of the MOVES model. Upon final approval, these updated MVEBs will be both adequate and SIP-approved for purposes of transportation conformity. EPA is publishing this rule without prior proposal because EPA views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register,** EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on February 24, 2014 without further notice unless EPA receives adverse comment by January 27, 2014. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

IV. Statutory and Executive Order Reviews

A. General Requirements

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

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

• is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register,** rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking action.

This action pertaining to the update of the SIP-approved MVEBs and point source inventory for the Lancaster Maintenance Area may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 9, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart NN–Pennsylvania

■ 2. In § 52.2020, the table in paragraph (e)(1) is amended by revising the entry for the 8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory. The revised text reads as follows:

§ 52.2020 Identification of plan.

* * * * *

(e) * * *

(1) * * *

Name of non-regulatory SIP revision	Applicable geographic area	State submittal date	EPA approval date	Additional explanation
*	*	* *	* *	*
8-Hour Ozone Maintenance Plan and 2002 Base Year Emissions Inventory.	Lancaster Area (Lancaster County).	9/20/06; 11/8/06	7/6/07; 72 FR 36889	
		11/29/12	12/26/13 *[Insert page number where the document begins].*	Revised 2009 and 2018 Motor Vehicle Emission Budgets. Revised 2009 and 2018 point source inventory. See sections 52.2043 and 52.2052.
*	*	* *	* *	*

* * * * *

■ 3. Section 52.2043 is added to read as follows:

§ 52.2043 Control strategy for maintenance plans: ozone.

As of December 26, 2013, EPA approves the following revised 2009 and 2018 point source inventory for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) for the Lancaster 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO_X	Tons per day VOCs
Lancaster 1997 8-Hour Ozone Maintenance Area	2009	3.2	5.5
Lancaster 1997 8-Hour Ozone Maintenance Area	2018	3.6	7.7

■ 4. Section 52.2052 is added to read as follows:

§ 52.2052 Motor vehicle emissions budgets for Pennsylvania ozone areas.

As of December 26, 2013, EPA approves the following revised 2009 and 2018 Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) for the Lancaster 1997 8-Hour Ozone Maintenance Area submitted by the Secretary of the Pennsylvania Department of Environmental Protection:

Applicable geographic area	Year	Tons per day NO_X	Tons per day VOCs
Lancaster 1997 8-Hour Ozone Maintenance Area	2009	35.18	14.29
Lancaster 1997 8-Hour Ozone Maintenance Area	2018	20.57	10.14

[FR Doc. 2013–30714 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0629; FRL–9904–43–Region–4]

Approval and Promulgation of Implementation Plans; North Carolina; Transportation Conformity Memorandum of Agreement Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to approve a revision to the North Carolina State Implementation Plan (SIP) submitted on July 12, 2013, through the North Carolina Department of Environment and Natural Resources (NC DENR). This submission consists of memorandum of agreements (MOAs) establishing transportation conformity criteria and procedures related to interagency consultation, conflict resolution, public participation and enforceability of certain transportation-related control measures and mitigation measures. This action streamlines the conformity process to allow direct consultation among agencies at the Federal, state and local levels. This action is being taken pursuant to section 110 of the Clean Air Act (CAA or Act).

DATES: This direct final rule is effective on February 24, 2014 without further notice, unless EPA receives adverse comment by January 27, 2014. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R04–OAR–2013–0629 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-Mail: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0629, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R04–OAR–2013–0629. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email, information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Quality Modeling and Transportation Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA

requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

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

SUPPLEMENTARY INFORMATION:

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I. What action is EPA taking?
II. Background for this Action
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I. What action is EPA taking?

EPA is taking direct final action to approve NC DENR's July 12, 2013 SIP submission, which consists of MOAs establishing transportation conformity criteria and procedures related to interagency consultation, conflict resolution, public participation and enforceability of certain transportation-related control measures and mitigation measures in the State of North Carolina and its SIP pursuant to the sections 110 and 176 of the CAA. Pursuant to section 110 of the CAA, EPA is approving into the North Carolina SIP the July 12, 2013, transportation conformity MOAs.

II. Background for This Action

A. What is transportation conformity?

Transportation conformity is required under section 176(c) of the CAA to ensure that federally supported highway projects, transit projects, and other activities are consistent with (conform to) the purpose of the SIP. Conformity [1] currently applies to areas that are designated nonattainment and to areas that have been redesignated to attainment after 1990 (maintenance areas) with plans developed under section 175A of the Act, for transportation-related criteria pollutants including ozone, particulate matter (e.g., $PM_{2.5}$ and PM_{10}), carbon monoxide, and nitrogen dioxide.

The 1990 Amendments to the CAA expanded the scope and content of the conformity concept by defining conformity to a SIP. Section 176(c) of the Act defines conformity as conformity to the SIP's purpose of eliminating or reducing the severity and number of violations of the national ambient air quality standards (NAAQS) and achieving expeditious attainment of such standards. Also, the CAA provides that no Federal activity will: (1) Cause or contribute to any new violation of any NAAQS in any area, (2) increase the frequency or severity of any existing violation of any standard in any area, or (3) delay timely attainment of any standard or any required interim emission reductions or other milestones in any area. The requirements of section 176(c) of the CAA apply to all departments, agencies and instrumentalities of the Federal government. Transportation conformity refers only to the conformity of transportation plans, programs and projects that are funded or approved under title 23 U.S.C. or the Federal Transit Act (49 U.S.C. Chapter 53). EPA was required to issue criteria and procedures for determining conformity of transportation plans, programs, and projects to a SIP pursuant to section 176(c) of the CAA. The CAA also required the procedures to include a requirement that each state submit a revision to its SIP to include conformity criteria and procedures.

B. Why are states required to submit a transportation conformity SIP?

EPA promulgated the first federal transportation conformity criteria and procedures (''Conformity Rule'') on November 24, 1993 (58 FR 62188) which was codified at 40 CFR part 51, subpart T and 40 CFR part 93. Among other things, the rule required states to address all provisions of the conformity rule in their SIPs, frequently referred to as ''conformity SIPs.'' Under 40 CFR 51.390, most sections of the conformity rule were required to be copied verbatim into the SIP. The rule has been subsequently revised on August 7, 1995 (60 FR 40098), August 15, 1997 (62 FR 43780) November 14, 1995 (60 FR 57179), April 10, 2000 (65 FR 18911), and August 6, 2002 (67 FR 50808).

On August 10, 2005, the ''Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users'' (SAFETEA–LU) was signed into law. SAFETEA–LU revised section 176(c) of the CAA transportation conformity provisions by streamlining the requirements for conformity SIPs. Under SAFETEA–LU, states are required to address and tailor only three sections of the rule in their conformity SIPs: 40 CFR 93.105, 40 CFR 93.122(a)(4)(ii), and 40 CFR 93.125(c). In general, states are no longer required to submit conformity SIP revisions that address the other sections of the conformity rule. These changes took effect on August 10, 2005, when SAFETEA–LU was signed into law.

States may also choose to develop, in place of adopting federal regulations, a MOA which establishes the roles and procedures for transportation conformity. The MOA must include the detailed consultation procedures developed for that particular area. The MOAs are enforceable through the signature of all the transportation and air quality agencies, including the U.S. Department of Transportation (USDOT) Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and EPA.

C. How does transportation conformity work?

The Federal or state transportation conformity rule applies to applicable NAAQS nonattainment and maintenance areas in the state. The Metropolitan Planning Organization (MPO), the state department of transportation (DOT) (in absence of a MPO), State and local air quality agencies, EPA and the USDOT are involved in the process of making conformity determinations. Conformity determinations are made on programs and plans such as transportation improvement programs (TIP), transportation plans, and transportation projects. The projected emissions that will result from implementation of the transportation plans and programs are calculated and compared to the motor vehicle emissions budget (MVEB) established in the SIP. The calculated emissions must be equal to or smaller than the federally approved MVEB in order for the USDOT to make a positive conformity determination with respect to the SIP.

Pursuant to Federal regulations, when an area is designated nonattainment for a transportation-related NAAQS, the state is required to submit a transportation conformity SIP one year after the effective date of the nonattainment area (NAA) designations. *See* Section 40 CFR 51.390(c). Previously, North Carolina established, and EPA subsequently approved, a transportation conformity SIP to address areas that were designated nonattainment or previously designated nonattainment for the carbon monoxide

[1] Conformity first appeared as a requirement in the CAA in the 1977 amendments (Pub. L. 95–95). Although the Act did not define conformity, it stated that no Federal department could engage in, support in any way or provide financial assistance for, license or permit, or approve any activity which did not conform to a SIP which has been approved or promulgated.

(CO) and 1-hour ozone [2] NAAQS. *See* 67 FR 32549 (December 27, 2002) for EPA's rulemaking related to approval on North Carolina's transportation conformity SIP. North Carolina's July 12, 2013, SIP revision updates and replaces North Carolina's previously-approved transportation conformity SIP.

Effective January 6, 1992 (59 FR 56694), EPA designated four counties in North Carolina as nonattainment for the CO NAAQS. Specifically, EPA designated the following areas as nonattainment for the CO NAAQS: (1) Durham and Wake Counties in the Raleigh-Durham Area; (2) Forsyth County in the Winston-Salem Area; and (3) Mecklenburg County in the Charlotte Area. Provided below in Section III(a), (c) and (e) are more details related to transportation conformity for the aforementioned areas for the CO NAAQS.

On June 15, 2004 (69 FR 23858), EPA designated seven areas in North Carolina as nonattainment for the 1997 8-hour ozone NAAQS. Specifically, EPA designated the following areas as nonattainment for the 1997 8-hour ozone NAAQS: (1) the bi-state Charlotte-Gastonia-Rock Hill, NC–SC; (2) Fayetteville, NC; (3) Greensboro-Winston Salem-High Point, NC; (4) Great Smoky National Park (North Carolina portion); (5) Hickory-Morganton-Lenoir, NC; (6) Raleigh-Durham-Chapel Hill, NC; and (7) Rocky Mount, NC. Nonattainment designations became effective June 15, 2004, for the bi-state Charlotte-Gastonia-Rock-Hill, NC–SC; [3] Great Smoky National Park; [4] Raleigh-Durham-Chapel Hill, NC; [5] and Rocky Mount, NC [6] areas. As Early Action Compact (EAC) Areas,[7] nonattainment designations were deferred for the Fayetteville, NC; Greensboro-Winston Salem-High Point, NC; and Hickory-Morganton-Lenoir, NC areas and, because these areas met all the requirements for EAC Areas, they were never effectively nonattainment for the 1997 8-hour ozone NAAQS. As such, these EAC Areas were not required to meet transportation conformity requirements for the 1997 8-hour ozone NAAQS. Provided below in Section III(a)–(f) are more details related to transportation conformity for the Charlotte-Gastonia-Rock-Hill, NC–SC; Great Smoky National Park, Raleigh-Durham-Chapel Hill, NC, and Rocky Mount, NC areas for the 1997 8-hour ozone NAAQS.

Effective April 5, 2005, EPA designated two areas in North Carolina as nonattainment for the 1997 $PM_{2.5}$ NAAQS. Specifically, EPA designated the following areas as nonattainment for the 1997 $PM_{2.5}$ NAAQS: (1) Greensboro-Winston Salem-High Point, NC;[8] and (2) Hickory, NC.[9] *See* 70 FR 944. Provided below in Section III(c) and (d) are more details related to transportation conformity for the Greensboro-Winston Salem-High Point, NC; and Hickory, NC areas for the 1997 $PM_{2.5}$ NAAQS.

On April 30, 2012, EPA designated the bi-state Charlotte area nonattainment for the 2008 8-hour ozone NAAQS. *See* 77 FR 30088. Provided below in Section III(a) are more details related to transportation conformity for the bi-state Charlotte for the 2008 8-hour ozone NAAQS.

III. EPA Analysis of North Carolina's Submittal

EPA's Transportation Conformity rule requires the states to develop their own processes and procedures which meet the criteria in 40 CFR 93.105 for interagency consultation and resolution of conflicts among the federal, state, and local agencies. The SIP revision must include processes and procedures to be followed by the MPO, state DOT, and the USDOT in consulting with the state and local air quality agencies and EPA before making conformity determinations. The conformity SIP revision must also include processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, state DOTS, and the USDOT. Additionally, the SIP revision must include provisions addressing the enforceability of certain transportation-related control measures and mitigation measures.

On July 12, 2013, the State of North Carolina, through NC DENR, submitted its ''Conformity SIP'' for the applicable transportation-related NAAQS. Specifically, North Carolina requested EPA approval of its Conformity SIP which included MOAs signed by the federal and state transportation and air quality partners, and all of the MPOs in the state subject to transportation conformity requirements. The North Carolina Conformity SIP establishes new procedures for interagency consultation, dispute resolution, public participation and enforceability of certain transportation-related control measures and mitigation measures, and supersedes the MOA incorporated into the SIP on November 19, 2003. Prior to today, the MOAs in the SIP included procedures for interagency consultation and also incorporated EPA regulations in 40 CFR 93 Subpart A (July 1, 1997) and 62 FR 43780 (August 15, 1997) by reference. The MOAs that EPA is approving in this action no longer incorporate the federal conformity rules by reference. More details on the Areas that these MOAs relate to are provided below in this Section.

a. Bi-State Charlotte Area

Counties (or portions of counties) in the bi-state Charlotte Area comprise the maintenance area for the CO NAAQS; the nonattainment area for the 1997 8-hour ozone NAAQS; and the nonattainment area for the 2008 8-hour ozone NAAQS. As indicated above, Mecklenburg County in the bi-state Charlotte Area for the CO NAAQS; and Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties in their entireties, and a portion of Iredell County in North Carolina, and a portion of York County in South Carolina in the bi-state Charlotte Area for the 2008 8-hour ozone NAAQS are required to implement transportation conformity requirements. Effective July 20, 2013, EPA revoked the 1997 8-hour ozone NAAQS for the purpose of transportation conformity as part of the transition between the implementation of the 1997 8-hour ozone NAAQS and 2008 8-hour ozone NAAQS. *See* 77 FR

[2] Gaston and Mecklenburg Counties in the Charlotte-Gastonia Area; Durham and Wake Counties, and a portion of Granville County in the Raleigh-Durham Area; and Davidson, Forsyth and Guilford Counties, and a portion of Davie County in the Greensboro-Winston Salem-High Point Area were previously designated nonattainment for the 1-hour ozone standard and thus, implemented transportation conformity for the 1-hour ozone standard. However, EPA subsequently revoked the 1-hour ozone NAAQS for all these areas as part of the transition to the new 1997 8-hour ozone NAAQS, and because these areas had long complied with the 1-hour ozone NAAQS, transportation conformity ceased to apply in these Areas for the 1-hour ozone NAAQS.

[3] The Charlotte-Gastonia-Rock Hill 1997 8-hour ozone area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, and Union Counties in their entireties, and a portion of Iredell County in North Carolina, and a portion of York County in South Carolina.

[4] The Great Smoky National Park 1997 8-hour ozone area consists for a portion of Haywood and Swain Counties.

[5] The Raleigh-Durham-Chapel Hill 1997 8-hour ozone area consists of Durham, Franklin, Granville, Orange, Johnston, Person and Wake Counties, in their entireties, and a portion of Chatham County.

[6] The Rocky Mount 1997 8-hour ozone area consists of Edgecombe and Nash Counties in their entireties.

[7] EAC areas entered into compacts with EPA whereby the areas agreed to reduce ozone pollution earlier than required by the CAA and meet specific milestones, in exchange for a deferred effective date for nonattainment designations for the 1997 8-hour ozone NAAQS. *See* 69 FR 23858, 23864–23869.

[8] The Greensboro-Winston Salem-High Point 1997 annual $PM_{2.5}$ area consists of Davidson and Guilford Counties in their entireties.

[9] The Hickory 1997 annual $PM_{2.5}$ area consists of Catawba County in its entirety.

30160. As such, the bi-state Charlotte Area is no longer required to implement transportation conformity requirements for the 1997 8-hour ozone NAAQS.

There are 3 MPOs within the bi-state Charlotte Area for the 2008 8-hour ozone NAAQS, and a portion of the nonattainment area that is not within the jurisdiction of a MPO. The MPOs in the bi-state Charlotte Area include the Mecklenburg-Union MPO (MUMPO), the Cabarrus-Rowan Urban MPO, and Gaston Urban Area MPO. The areas that are not within the jurisdiction of a MPO are known as ''donut'' areas. The State DOT is responsible for implementation of transportation conformity requirements in donut areas. For the purposes of transportation conformity requirements related to the CO NAAQS, MUMPO serves as the lead agency for the preparation, consultation, and distribution of the conformity determinations. For the purpose of transportation conformity requirements related to the 2008 8-hour ozone NAAQS, MUMPO, Cabarrus-Rowan Urban MPO, Gaston Urban Area MPO and NC DOT coordinate and serve as the lead agencies for the preparation, consultation, and distribution of the conformity determinations for their respective portions of the bi-state Charlotte Area. As such, the NC DENR worked with MUMPO, Cabarrus-Rowan Urban MPO, Gaston Urban Area MPO, NC DOT, and the other applicable transportation and air quality partners for the Area to develop and execute MOAs to address the consultation and other applicable transportation conformity requirements for the Area. These MOAs are provided in the docket for today's rulemaking. Today, EPA is proposing to approve the inclusion of the MOA for the MUMPO, Cabarrus-Rowan Urban MPO, Gaston Urban Area MPO, and NC DOT into the North Carolina SIP.

The State of South Carolina has established conformity procedures for the portion of York County which makes up the South Carolina portion of the bi-state Charlotte Area in its individual conformity SIP. EPA approved South Carolina's Conformity SIP on July 28, 2009. *See* 74 FR 37168. North Carolina's July 2013 SIP revision updates the transportation conformity consultation, conflict resolution and public participation procedures, and includes provisions addressing the enforceability of certain transportation-related control measures and mitigation measures for its portion of the bi-state Charlotte Area.

b. Great Smoky Mountain National Park Area

Portions of Haywood and Swain Counties comprise the Great Smoky National Park maintenance area for the 1997 8-hour ozone NAAQS. As indicated above, the Great Smoky Mountain National Park Area was required to implement transportation conformity requirements for the 1997 8-hour ozone NAAQS as a maintenance area. As such, the NC DENR worked with the Great Smoky Mountain National Park Service, and the other applicable transportation and air quality partners for the Area to develop and execute a MOA to address the consultation and other applicable transportation conformity requirements for the Area. This MOA is provided in the docket for today's rulemaking. EPA notes that effective July 20, 2013, the 1997 8-hour ozone NAAQS was revoked for the purpose of transportation conformity. *See* 77 FR 30160. Transportation conformity is, therefore, not currently required for the Great Smoky Mountain National Park Area under the CAA. Today, however, EPA is proposing to approve the inclusion of the MOA for the Great Smoky Mountain National Park Area into the North Carolina SIP in the event that the Area will be required to implement transportation conformity requirements for a future transportation-related NAAQS.

c. Greensboro-Winston Salem-High Point Area

Counties (or portions of counties) in the Greensboro-Winston Salem-High Point Area comprise the maintenance area for the CO NAAQS; and the maintenance area for the 1997 $PM_{2.5}$ NAAQS. As indicated above, Forsyth County in the Greensboro-Winston Salem-High Point Area for the CO NAAQS; and Davidson and Guilford Counties in the Greensboro-Winston Salem-High Point Area for the 1997 $PM_{2.5}$ NAAQS are required to implement transportation conformity requirements. Also, as mentioned above, the Greensboro-Winston Salem-High Point Area was an EAC area for the 1997 8-hour ozone NAAQS. This Area was designated nonattainment on June 15, 2004, for the 1997 8-hour ozone NAAQS, with a deferred effective date. The Area met all of the EAC milestones and was ultimately never effectively designated nonattainment for the 1997 8-hour ozone NAAQS. The Area was therefore never required to implement transportation conformity requirements for the 1997 8-hour ozone NAAQS, but was required to continue to implement transportation conformity requirements for the 1-hour ozone NAAQS in the Area until this requirement was removed as a result of the Area successfully meeting the EAC milestones for the 1997 8-hour ozone NAAQS.

There is one MPO, Greensboro Urban Area MPO, within the Greensboro-Winston Salem Area for the 1997 $PM_{2.5}$ NAAQS. The MPOs for the 1997 8-hour ozone NAAQS for the Greensboro-Winston Salem Area included the Greensboro Urban Area MPO, High Point Urban Area MPO, Winston Salem -Forsyth's Urban Area MPO, and Burlington-Graham MPO. The areas that are not within the jurisdiction of a MPO are known as ''donut'' areas. The State DOT is responsible for implementation of transportation conformity requirements in donut areas. For the purposes of transportation conformity requirements related to the CO NAAQS, the Winston Salem-Forsyth Urban Area MPO serves as the lead agency for the preparation, consultation, and distribution of the conformity determinations. For the purpose of transportation conformity requirements related to the 1997 $PM_{2.5}$ NAAQS, the Greensboro Urban Area MPO coordinates and serves as the lead agencies for the preparation, consultation, and distribution of the conformity determinations for the Greensboro Area.

The NC DENR worked with the Greensboro Urban Area MPO, High Point Urban Area MPO, Winston Salem-Forsyth's Urban Area MPO, Burlington-Graham MPO, the NC DOT, and the other applicable transportation and air quality partners for the Area to develop and execute MOAs to address the consultation and other applicable transportation conformity SIP requirements for the Area. These MOAs are provided in the docket for today's rulemaking. North Carolina's July 2013 SIP revision updates the transportation conformity consultation, conflict resolution and public participation procedures, and includes provisions addressing the enforceability of certain transportation-related control measures and mitigation measures for the Greensboro-Winston Salem-High Point Area. Today, EPA is proposing to approve the inclusion of the MOAs for the Greensboro Area (i.e., for the Greensboro Urban Area MPO, and Winston Salem-Forsyth's Urban Area MPO) in relation to $PM_{2.5}$ and CO into the North Carolina SIP. While transportation conformity is not currently required for the remainder of this area under the CAA because these areas (i.e., the High Point Urban Area

and Burlington-Graham Area) successfully met the EAC milestones for the 1997 8-hour ozone NAAQS, EPA is also proposing to approve the inclusion of the MOAs for these areas in the event that any of these areas will be required to implement transportation conformity requirements for a future transportation-related NAAQS.

d. Hickory Area

The Hickory Area is a maintenance area for the 1997 $PM_{2.5}$ NAAQS. As indicated above, the Hickory Area is required to implement transportation conformity requirements for the 1997 $PM_{2.5}$ NAAQS as a maintenance area. As such, the NC DENR worked with the Greater Hickory MPO, and other applicable transportation and air quality partners for the Area to develop and execute a MOA to address the consultation and other applicable transportation conformity SIP requirements for the Area. This MOA is provided in the docket for today's rulemaking. North Carolina's July 2013 SIP revision updates the transportation conformity consultation, conflict resolution and public participation procedures and includes provisions addressing the enforceability of certain transportation-related control measures and mitigation measures for the Hickory Area. Today, EPA is proposing to approve the inclusion of the MOA for the Greater Hickory MPO into the North Carolina SIP.

e. Raleigh-Durham-Chapel Hill Area

Counties (or portions of counties) in the Raleigh-Durham-Chapel Hill comprise a maintenance area for the CO NAAQS; and a maintenance area for the 1997 8-hour ozone NAAQS for the Area. As indicated above, Durham and Wake Counties in the Raleigh-Durham Area for the CO NAAQS are required to implement transportation conformity requirements. Also mentioned above, Durham, Franklin, Granville, Orange, Johnston, Person and Wake Counties, in their entireties, and a portion of Chatham County in the Raleigh-Durham-Chapel Hill Area were included in the maintenance area for the 1997 8-hour ozone NAAQS, and thus required to implement transportation conformity requirements. Effective July 20, 2013, EPA revoked the 1997 8-hour ozone NAAQS for the purpose of transportation conformity as part of the transition between the implementation of the 1997 8-hour ozone NAAQS and 2008 8-hour ozone NAAQS. *See* 77 FR 30160. As such, the Raleigh-Durham-Chapel Hill Area is no longer required to implement transportation conformity requirements for the 1997 8-hour ozone NAAQS.

The NC DENR worked with the Burlington-Graham MPO, Durham-Chapel Hill-Cabarrus MPO, the North Carolina Capital Area MPO, the NC DOT, and the other applicable transportation and air quality partners for the Area to develop and execute MOAs to address the consultation and other applicable transportation conformity SIP requirements for the Area. These MOAs are provided in the docket for today's rulemaking. North Carolina's July 2013 SIP revision updates the transportation conformity consultation, conflict resolution and public participation procedures, and includes provisions addressing the enforceability of certain transportation-related control measures and mitigation measures for the Raleigh-Durham-Chapel Hill Area. Today, EPA is proposing to approve the inclusion of the MOAs for the Raleigh-Durham Area (i.e., for the Durham-Chapel Hill-Carrboro MPO, and the North Carolina Capital Area MPO) in relation to CO into the North Carolina SIP. While transportation conformity is not currently required for the remainder of this area (i.e., the Burlington-Graham Area) under the CAA, EPA is also proposing to approve the inclusion of the MOA for the remainder of this area in the event that the area will be required to implement transportation conformity requirements for a future transportation-related NAAQS.

f. Rocky Mount Area

Edgecombe and Nash Counties comprise the Rocky Mount maintenance area for the 1997 8-hour ozone NAAQS. As indicated above, the Rocky Mount Area was required to implement transportation conformity requirements for the 1997 8-hour ozone NAAQS as a maintenance area. As such, the NC DENR worked with the Rocky Mount Urban Area MPO, and other applicable transportation and air quality partners for the Area to develop and execute a MOA to address the consultation and other applicable transportation conformity SIP requirements for the Area. This MOA is provided in the docket for today's rulemaking. North Carolina's July 2013 SIP revision updates the transportation conformity consultation, conflict resolution and public participation procedures and includes provisions addressing the enforceability of certain transportation-related control measures and mitigation measures for the Rocky Mount Area. EPA notes that effective July 20, 2013, the 1997 8-hour ozone NAAQS was revoked for the purpose of transportation conformity. *See* 77 FR 30160. Transportation conformity is, therefore, not required for the Rocky Mount Urban Area under the CAA. Today, however, EPA is proposing to approve the inclusion of the MOA for the Rocky Mount Urban Area MPO in the event that the Area will be required to implement transportation conformity requirements for a future transportation-related NAAQS.

g. Analysis of North Carolina's MOAs and Conformity SIP

The State of North Carolina developed its MOAs based on the elements contained in 40 CFR 93.105, 93.122(a)(4)(ii), and 93.125(c) and included them in the SIP. As a first step, the State worked with the existing transportation planning organization's interagency committees that included representatives from the NC DENR; NC DOT; the MPOs in the State; Federal Highway Administration—North Carolina Division; Federal Transit Administration; and the Region 4 office of EPA. The interagency committee met regularly and drafted the consultation procedures considering elements in 40 CFR part 93.105, 93.122(a)(4)(ii), and 93.125(c), and integrated the local procedures and processes into the MOAs. The resulting consultation process developed is unique to the State of North Carolina. A public notice announcement was issued on July 20, 1012, indicating that the MOAs were available for public comment until August 24, 2012. No request for a public hearing was received. The NC DENR posted the MOAs on their Web site and provided access to the documents for review in person at the NC DENR central office in Raleigh and seven regional offices throughout the state. The final MOAs were issued by North Carolina on October 1, 2012, and subsequently submitted as a SIP revision to EPA on July 12, 2013, after signature from all signatories.

EPA has evaluated this SIP revision and has determined that the State has met the requirements of federal transportation conformity rules as described in 40 CFR part 51, Subpart T and 40 CFR part 93, Subpart A. NC DENR has satisfied the public participation and comprehensive interagency consultation requirement during development and adoption of the MOA at the local level. Therefore, EPA is approving the MOAs as a revision to the North Carolina SIP. EPA's rule requires the states to develop their own processes and procedures for interagency consultation among the Federal, state, and local agencies; resolution of conflicts; and public

participation meeting the criteria in 40 CFR 93.105. The SIP revision must include processes and procedures to be followed by the MPO, state DOT, and US DOT in consulting with the state and local air quality agencies and EPA before making conformity determinations. The conformity SIP revision must also include processes and procedures for the state and local air quality agencies and EPA to coordinate the development of applicable SIPs with MPOs, state DOTs, and the USDOT. In addition, the SIP revision must include provisions to address the enforceability of certain transportation-related control measures and mitigation measures meeting the criteria of 40 CFR 93.122(a)(4)(ii) and 93.125(c).

EPA has reviewed the submittal to assure consistency with the CAA as amended by SAFETEA–LU and EPA regulations (40 CFR part 93 and 40 CFR 51.390) governing applicable procedures for transportation conformity and interagency consultation and has concluded that the submittal is approvable. Details of our review are set forth in a technical support document (TSD), which has been included in the docket for this action. Specifically, in the TSD, we identify how the submitted procedures satisfy our requirements under 40 CFR 93.105 for interagency consultation with respect to the development of transportation plans and programs, SIPs, and conformity determinations, the resolution of conflicts, and the provision of adequate public consultation, and the requirements under 40 CFR 93.122(a)(4)(ii) and 93.125(c) for enforceability of control measures and mitigation measures.

IV. Final Action

For the reasons set forth above, EPA is taking direct final action, pursuant to section 110 and 176 of the Act, to approve North Carolina's July 12, 2013, transportation conformity SIP and MOAs to implement the conformity consultation, conflict resolution and public participation procedures, and provisions addressing the enforceability of certain transportation-related control measures and mitigation measures in the State of North Carolina. This action also establishes consultation procedures for all counties in North Carolina. As a result of this action, North Carolina's previously SIP-approved conformity procedures for North Carolina at 67 FR 32549 (December 27, 2002), will be replaced by the procedures submitted to EPA on July 12, 2013, and approved in this action.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective February 24, 2014 without further notice unless the Agency receives adverse comments by January 27, 2014.

If EPA receives such comments, then EPA will publish a document withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on February 24, 2014 and no further action will be taken on the proposed rule.

V. Statutory and Executive Order Reviews

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

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

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

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of today's **Federal Register;** rather than file an immediate petition for judicial

review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. See section 307(b)(2).

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart II—North Carolina

■ 2. Section 52.1770(e) is amended by adding a new entry at the end of the table for ''North Carolina Transportation Conformity Air Quality Implementation Plan'' to read as follows:

§ 52.1770 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED NORTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
*	*	*	*
North Carolina Transportation Conformity Air Quality Implementation Plan.	July 12, 2013	December 26, 2013 [Insert citation of publication].	

[FR Doc. 2013–30542 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2008–0117; A–1–FRL–9904–45–Region 1]

Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Ozone Attainment Demonstration for the Greater Connecticut Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the ozone attainment demonstration submitted by Connecticut to meet Clean Air Act requirements for attaining the 1997 8-hour ozone national ambient air quality standard. EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone standard as it relates to the Greater Connecticut 1997 8-hour ozone nonattainment area. EPA is also approving the reasonably available control measures (RACM) analysis for this same area.

DATES: This rule is effective on January 27, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2008–0117. All documents in the docket are listed on the *www.regulations.gov.* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding legal holidays. Copies of the documents relevant to this action are also available for public inspection during normal business hours, by appointment at the State Air Agency: the Bureau of Air Management, Department of Energy and Environmental Protection, State Office Building, 79 Elm Street, Hartford, CT 06106–1630.

FOR FURTHER INFORMATION CONTACT: Richard P. Burkhart, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1664, fax number (617) 918–0664, email *Burkhart.Richard@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, wherever ''Agency,'' ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

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I. What actions is EPA taking?
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I. What actions is EPA taking?

EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone national ambient air quality standard (NAAQS or standard) for the Greater Connecticut moderate ozone nonattainment area, submitted on February 1, 2008. EPA is also approving the associated RACM analysis for this same area.

On May 9, 2013 (78 FR 27161), EPA issued a notice of proposed rulemaking (NPR) which proposed approval of Connecticut's ozone attainment demonstrations for the 1997 ozone standard for two different nonattainment areas: (1) The Greater Connecticut ozone nonattainment area, and (2) the Connecticut portion of the New York-Northern New Jersey-Long Island, NY–NJ–CT ozone nonattainment area (the New York City area). The NPR also proposed approval of the RACM analyses for these areas. Today's action approves the ozone attainment demonstration and RACM analysis for the Greater Connecticut area only. EPA is not taking action on the ozone attainment demonstration and the RACM analysis for the Connecticut portion of the New York City ozone nonattainment area at this time.

As stated in the NPR, the EPA is approving Connecticut's 1997 8-hour ozone attainment demonstration and RACM analysis, for the Greater Connecticut ozone nonattainment area,

because the basic photochemical grid modeling used by Connecticut in its SIP submittal meets EPA's guidelines and is acceptable to EPA. As also noted in the NPR, complete, quality assured and certified ambient air monitoring data show that the Greater Connecticut area attained the 1997 ozone standard for the 2007–2009 monitoring period (i.e., by the area's June 15, 2010 attainment date) and show that this area continued to attain the standard through 2011.[1] The purpose of the attainment demonstration is to show how the area will meet the standard by the attainment date. All the control measures necessary for attainment of the 1997 8-hour ozone standard have already been adopted, submitted, approved and implemented.[2] Based on (1) the state following EPA's modeling guidance, (2) the air quality data through 2011, (3) the area attaining the standard by the attainment date, and (4) the implemented SIP-approved control measures, EPA is approving the Connecticut attainment demonstration and RACM SIP submissions for the Greater Connecticut 1997 8-hour ozone moderate nonattainment area.

II. Response to Comments

As noted above, EPA's May 9, 2013 (78 FR 27161) NPR proposed approval of the Connecticut attainment demonstration and RACM SIP submissions for two nonattainment areas. EPA received a comment letter on our NPR. Most of the comments were solely relevant to the New York City area ozone attainment demonstration. EPA is not taking action on the New York City attainment demonstration and RACM analysis at this time. Consequently, this action does not address comments that pertain solely to the New York City area. In today's action, EPA is approving the Greater Connecticut ozone attainment demonstration and RACM analysis. There was, however, one comment that could be interpreted as applying to the attainment demonstrations for both areas. That comment is summarized below with EPA's response for the Greater Connecticut nonattainment area.

Comment: The commenter stated that EPA must disapprove the attainment demonstration, because it fails to include an analysis under Section 110(l) of the Clean Air Act. The commenter states that EPA must analyze whether approval of the attainment demonstration for the 1997 ozone NAAQS would interfere with any applicable requirements regarding the 2008 ozone NAAQS or the 2010 nitrogen dioxide NAAQS. The commenter specifically requests that EPA evaluate whether approval of this attainment demonstration, which does not require any additional emission reductions, foregoes some NOx RACT limits which the Connecticut Department of Energy and Environmental Protection (CTDEEP) previously proposed, and does not apply an 0.07 lb/mmbtu limit for coal-fired EGUs, will interfere with attaining the 2008 ozone NAAQS as expeditiously as practicable.

Response: EPA interprets this comment to apply to the Greater Connecticut area and our response solely applies to that area. Section 110(l) states: ''The Administrator shall not approve a revision of a plan if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress (as defined in section 171), or any other applicable requirement of this chapter.''

The SIP submittal that is the subject of this action does not contain revisions to any control measures or other regulatory requirements. It does not add, remove, or revise any regulatory requirements in the list of Federally-enforceable regulations at 40 CFR 52.370 or 40 CFR 52.385. Rather, this SIP submission is a demonstration that, with respect to the 1997 ozone NAAQS, regulations and control measures already approved into Connecticut's SIP will (1) provide for the implementation of all reasonably available control measures as expeditiously as practicable, as required by section 172(c)(1) of the Clean Air Act, and (2) provide for attainment of the 1997 ozone NAAQS in the Greater Connecticut area by the applicable attainment date (June 15, 2010), as required by sections 172(c)(1) and 182(c)(2)(A). This particular SIP submission does not (and was not required to) make any demonstrations regarding the adequacy of the SIP with respect to any other NAAQS, such as the 2008 ozone NAAQS or the 2010 nitrogen dioxide NAAQS.

It is arguable whether section 110(l) applies to this submission, as this submission is not revising any substantive elements of the SIP, such as control measures. As noted above, the submission that EPA is approving does not include any increases in emissions or relaxations of Federally-enforceable control measures to existing SIP-approved emissions control regulations in the list of Federally-enforceable regulations at 40 CFR 52.370 or 40 CFR 52.385, where we would need to determine if such changes would meet the Section 110(l) requirement. Rather, EPA is simply revising § 52.377 to reflect EPA's conclusion that Connecticut has an adequate control strategy for the 1997 ozone standard with respect to the Greater Connecticut ozone nonattainment area.

Specifically, the 1997 8-hour ozone attainment demonstration submitted by Connecticut includes: (1) A detailed ozone photochemical grid modeling analysis (including a weight of evidence analysis) that meets EPA guidance; (2) an analysis of air quality data, which is supplemented in the NPR by EPA with more up-to-date ozone data; and (3) a list of measures that will bring the area into attainment. The purpose of the 1997 8-hour ozone attainment demonstration for the Greater Connecticut area is to demonstrate how, through enforceable and approvable emission reductions, that area will meet the standard by the attainment date (June 15, 2010). All ozone control measures necessary for attainment of the 1997 8-hour ozone NAAQS have already been adopted, submitted, approved into the SIP and implemented. Based on (1) Connecticut following EPA's modeling guidance, (2) the air quality data through 2011, (3) the area attaining the standard by the attainment date, and (4) the implemented SIP-approved control measures, EPA is approving the Connecticut ozone attainment demonstration, including the RACM analysis, for the Greater Connecticut area.

Furthermore, the Greater Connecticut area is designated ''marginal'' nonattainment for the 2008 ozone standard. (See 40 CFR 81.307) As a result of its ''marginal'' classification, the area is required to attain the 2008 ozone standard by December 31, 2015 (77 FR 30167, May 21, 2012) but is not required to submit an attainment demonstration for the 2008 ozone standard. Approval of this submission will not interfere with attainment of the 2008 ozone standard, because it will not

[1] Subsequently, final, certified 2012 ozone data, and preliminary 2013 ozone data, indicate continued attainment of the 1997 8-hour ozone NAAQS for this area. The area, however, remains designated nonattainment for the 2008 8-hour ozone NAAQS.

[2] At the time of publication of the NPR, three Connecticut state SIP revisions had not yet been approved by EPA. All were subsequently approved. Specifically, Connecticut's December 8, 2006 reasonably available control technology (RACT) SIP submission was approved on June 27, 2013 (78 FR 38587). The final rulemaking notice approving Connecticut's VOC content limits for consumer products (Regulations of Connecticut State Agencies (RCSA) section 22a–174–40) and Connecticut's restrictions on the manufacture and use of adhesives and sealants (RCSA section 22a–174–44) was signed by the Regional Administrator on November 12, 2013. A copy of the signed notice is available in the docket for today's action.

change any control requirements or alter ambient concentrations of ozone.

While many of the control measures that CTDEEP has implemented for attaining the 1997 standard may also assist the Greater Connecticut area in meeting the 2008 standard, it is possible that the area may also need additional measures that were not needed to attain the 1997 standard. The fact that Connecticut did not find it necessary to implement a particular measure in order to attain the 1997 standard does not mean that Connecticut may not find it necessary to implement that same (or a similar) measure in the future, to fulfill other requirements of the Clean Air Act. By the same token, EPA's approval of Connecticut's attainment demonstration for the 1997 ozone standard without certain measures does not foreclose either Connecticut or EPA from finding, at a future date with respect to a distinct future obligation, that Connecticut needs those (or similar) measures in order to meet other requirements. *See Ky. Resources Council, Inc.* v. *EPA,* 467 F.3d 986, 996 (6th Cir. 2006).

Connecticut is designated unclassifiable/attainment for the 2010 1-hour NAAQS for nitrogen dioxide (see 40 CFR 81.307), and therefore has no requirement to submit an attainment demonstration. However, a similar analysis illustrates that, assuming section 110(l) applies, approval of this submission will not interfere with attainment or maintenance of the nitrogen dioxide NAAQS. Approval of this SIP submission will not alter any control measures currently in the SIP. Thus, there is no reason to believe that approval of this SIP submission will change the ambient concentrations of nitrogen dioxide that would otherwise occur, or that approval would interfere with attainment or maintenance of the nitrogen dioxide NAAQS.

For these reasons, even assuming section 110(l) applies to this submittal, EPA concludes the submittal will not interfere with attainment of the 2008 ozone NAAQS, the 2010 nitrogen dioxide NAAQS, or any other requirement of the Clean Air Act.

III. Final Action

EPA is approving Connecticut's demonstration of attainment of the 1997 8-hour ozone national ambient air quality standard for the Greater Connecticut moderate 8-hour ozone nonattainment area submitted on February 1, 2008. EPA is also approving the associated RACM analysis for this same area.

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 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. The approval of an attainment demonstration and RACM analysis does not impose additional requirements beyond those imposed by state law and the CAA. For that reason, this action:

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it does not impose any new regulatory requirements on tribes, impact any existing sources of air pollution on tribal lands, nor impair the maintenance of ozone national ambient air quality standards in tribal lands.

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 24, 2014. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: December 10, 2013.

Michael P. Kenyon,

Acting Regional Administrator, EPA New England.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart H—Connecticut

■ 2. Section 52.377 is amended by adding a new paragraph (n) to read as follows:

§ 52.377 Control strategy: Ozone.

* * * * *

(n) Approval—An attainment demonstration for the 1997 8-hour ozone standard to satisfy requirements of section 182(c)(2)(A) of the Clean Air Act, and a Reasonably Available Control Measure (RACM) analysis to satisfy requirements of section 172(c)(1) of the Clean Air Act for the Greater Connecticut ozone nonattainment area, submitted by the Connecticut Department of Energy and Environmental Protection on February 1, 2008.

[FR Doc. 2013–30735 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 17]

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2014

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of determination.

SUMMARY: According to data from FRA's Management Information System, the rail industry's random drug testing positive rate has remained below 1.0 percent for the last two years. FRA's Administrator has therefore determined that the minimum annual random drug testing rate for the period January 1, 2014, through December 31, 2014, will remain at 25 percent of covered railroad employees. In addition, because the industry-wide random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2014, through December 31, 2014. Railroads remain free, as always, to conduct random testing at higher rates.

DATES: This notice of determination is effective December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, FRA Drug and Alcohol Program Manager, W38–105, 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).

Issued in Washington, DC on December 20, 2013.

Karen J. Hedlund,

Deputy Administrator.

[FR Doc. 2013–30806 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

[Docket No. FWS–R9–MB–2011–0077; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AY59

Migratory Bird Hunting; Revision of Language for Approval of Nontoxic Shot for Use in Waterfowl Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, revise our regulations regarding the approval of nontoxic shot types to make the regulations easier to understand. The language governing determination of Estimated Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems is altered to make clear the shot size and number of shot to be used in calculating the EECs. We specify the pH level to be used in calculating the EEC in water. We also move the requirement for in vitro testing to Tier 1, which will allow us to better assess applications and minimize the need for Tier 2 applications. We add language for withdrawal of shot types that have been demonstrated to have detrimental environmental or biological effects, or for which no suitable field-testing device is available. We expect these changes to reduce the time required for nontoxic shot approvals. Finally, we add fees to cover our costs in evaluating these applications.

DATES: This rule is effective on January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Dr. George Allen, 703–358–1825.

SUPPLEMENTARY INFORMATION:

Background

The Migratory Bird Treaty Act of 1918 (Act) (16 U.S.C. 703–712 and 16 U.S.C. 742 a–j) implements migratory bird treaties between the United States and Great Britain for Canada (1916 and 1996 as amended), Mexico (1936 and 1972 as amended), Japan (1972 and 1974 as amended), and Russia (then the Soviet Union, 1978). These treaties protect certain migratory birds from take, except as permitted under the Act. The Act authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, the U.S. Fish and Wildlife Service (FWS or USFWS) regulates the hunting of migratory game birds through regulations in 50 CFR part 20.

Since the mid-1970s, we have sought to identify shot types that are not significant toxicity hazards to migratory birds or other wildlife. Producers of potential nontoxic shot types submit them for FWS approval under 50 CFR 20.134 as nontoxic for waterfowl hunting.

We revise the regulations to clarify them for applicants and to provide for withdrawal of approval of a shot type that is not readily detectable in the field or has environmental effects or direct toxicological effects on biota.

Comments on the Proposed Rule

We published a proposed rule on this regulations revision on March 4, 2013 (78 FR 14060). We received eight comments or sets of comments on the proposed rule. We respond to the significant comments below and explain subsequent changes we are making to the proposed regulations.

Comment. We agree . . . that there is no need to publish a ''Notice of Application'' in the **Federal Register**.

Comment. ''. . . I speak principally for the handloading hunter when I explain how simple it should be to identify his shotshells as non-lead in nature. The shot he might be using will be of two types usually; either steel or tungsten/alloy balls. Steel is easy to detect by simple magnet identification. Tungsten alloys usually deflect at least slightly when they are exposed to a rare earth magnet. A simple exam of the pellets involves using a needle nose pliers to open up the shell and squeeze the shot, and makes obvious to the agent how much softer the lead ball is compared to a tungsten/alloy ball. The shell is able to be reclosed usually on the spot and no big harm or inconv[en]ience has been done to either hunter or agents.

Now, it is important to understand that these Tungsten alloys are not purposely made to be non magnetic. When we make them, if we use high enough concentrations of iron to make them more magnetic in nature, they spuriously loose [sic] density and become harder, both of which is unacceptable to the user . . . So why do we want to create entrepreneurial as well as manufacturing hurdles when it is usually accepted hunters are doing the right thing and using non-toxic shells. Simple common sense should

prevail, tungsten alloys DO NOT look like lead, and are dissimilar as well when manipulated by pliers. I would suggest we concentrate our efforts in other areas where we might be able to solve important issues.''

Response. We agree that shells used in waterfowl hunting are *often* loaded with either steel or tungsten-alloy pellets. However, there may be other suitable shot types in the future, for which a test device or devices may be needed. In addition, testing as the commenter suggests will require rendering any tested shell unusable for hunting, at least until it is recrimped. A law enforcement officer may not wish to take the time in the field to open and test shells, or to have to replace any that he or she opens.

Comment. ''No field test shall be approved if it requires human intervention and/or interpretation. In other words the results of a field test cannot be influenced by the administer[er]. As an example, a field test using rare-earth magnets HELD by a human from a string and OBSERVING the effects of the magnets when a shotgun shell was introduced to the magnet field requires human intervention and interpretation. Such field tests should not be approved.''

Comment. ''A valid field test must not be influenced by external conditions such as wind, snow, rain.''

Comment. All field tests must be non-invasive. Meaning no officer can cut open a shell to conduct a field test. However a game officer can cut open a shell to investigate further if given probable cause.

Response. We agree, and attempt to approve easily-applied field tests.

Comment. ''ANY shot that has a negative impact on the environment and/or wildlife shall be denied and revoked if approved.''

Response. These considerations are the reasons for, and the provisions of, this regulation.

Comment. ''ANY shot that has a negative impact on a game officer's ability to use existing practices or equipment in their ability to identify Lead shall be denied and revoked if approved.''

Response. We disagree with this suggestion. We need to be prepared to accept new technologies and new ways of ensuring compliance with the prohibition on lead shot in waterfowl hunting.

Comment. ''While it is a good idea to specify pH for water testing, one should apply the pH and other parameters specified by EPA for this purpose. pH should accordingly be 6.5–9.0 to represent normal range of typical freshwater bodies suitable for waterfowl habitat. It is my professional opinion that testing at pH of 4.0 will automatically cause most presently approved shot types to exceed SMAV's [sic, Species Mean Acute Values] for many sensitive organisms. This would include most, if not all, types of coated/plated steel shot types!''

Comment. ''We understand the intent behind specifying the pH levels to be used in calculating the EEC I water in item #5 [adding specific pH levels to be used in calculating the EEC in water], but we believe the new regulations for testing in vitro shot should use the extensive database of freshwater parameters specified by the US EPA, as they are continuously monitored and updated tor many different conditions and for use in a variety of applications (fish and wildlife, agriculture, municipal water supply, waste disposal, etc.). We understand that the currently approved and accepted requirements are those published in a series of documents, ''Aquatic Life Ambient Freshwater Quality Criteria— ''for a wide spectrum of specific water parameters''— and which also reference other EPA documents.

A specific example of problems that can occur when the EPA standards are arbitrarily replaced by other criteria concerns the range of pH that should be addressed when performing corrosion testing in aqueous environments. EPA recommends that a pH range of 6.5–9.0 should be investigated as representative of normal levels encountered in natural waters of importance. The newly proposed USFWS range of 4.0–9.0 appears to represent extreme values that EPA has not included as reasonably ''normal''.

Imposition of a pH value as low as 4.0 would have a catastrophic impact on most, it not all, types of currentlyapproved nontoxic shot. It is our professional opinion, as a company heavily involved in material science, that perhaps only bare, uncoated steel shot would survive this type of scrutiny, as all of the metallic shot coatings currently approved for corrosion protection of steel (Zn, Cu, Ni, Cr) would be rapidly solubilized.

Indeed, unprotected steel is already known to have its own set of problems, including rusting and forming agglomerated ''slugs'' within shotshells, resulting in dangerous barrel obstruction. It is our opinion that this level of acidity would cause most metals to exceed allowable EEC's for 69,000 shot in 3.048×10^6 liters of freshwater, and that the most important ''indicator species'' of aquatic organisms (e.g., *Daphnia, Gammarus,* et al.) would not thrive in water of such low pH, especially if such acidic values were intermittent or seasonal in nature, thereby impeding genetic adaptation of the organisms. In other words, at a pH of 4.0, there would be little aquatic life to preserve, and metal dissolution would not be a significant additional problem.''

Response. We agree with these comments. Calculating for a pH range of 6.5 to 9.0 will provide a useful assessment of the potential concentration (see paragraph (g)(3)(ii) of the rule portion of this document).

Comment. ''Inventing an entirely new (and arbitrary) method of measuring and comparing shot hardness values is not a valid materials testing approach. Simply require the applicant to certify that the shot is softer than gun barrel steels, as determined by standard (e.g., ASTM testing) methods.''

Comment. ''In item #3, specifying that applicants must submit a relative hardness value referenced to that of lead as ''1.0'' is not very meaningful. The many different material hardness measurement methods (e.g., ''Rockwell'' of at least six different scales, ''Vickers,'' ''Mohs,'' ''Brinell,'' ''Shore,'' ''Durometer,'' et al.) are designed for specific ranges of values and types of materials. Perhaps a more meaningful requirement would be to simply state whether the submitted shot type is harder or softer than standard steel shot. This is meaningful because shotgun manufacturers currently differentiate between guns rated for steel and those that are not, taking into account important factors other than hardness, notably gun barrel bursting strength/pressure ratings.

Response. We have changed this requirement to state that the submitter must inform us of the method used to determine the hardness of the shot and the hardness value (see paragraph (e)(4) of the rule portion of this document).

Comment. ''With respect to solubility (and/or ''artificial gizzard'') testing, allow applicants to either perform the indicated testing or submit published (''in vitro'' and/or ''in vivo'') data acceptable to USFWS. (There is no reason to ''reinvent'' data for common materials which have already been thoroughly evaluated in prior art.)''

Response. Though we understand the intent of this comment, it would be arbitrary to accept test results from similar shot types or shot coatings, because different production methods or slightly different alloys could mean different solubility test results.

Comment. ''We agree with item #6 [*moving the former Tier 2 solubility testing to Tier 1*], but we believe the

qualifying condition should be added that original solubility data must be submitted with the application ''unless sufficient published data from scientific sources acceptable to USFWS can be cited.''

Response. We will continue to require original solubility testing with each application for a new shot type or coating.

Comment. ''Moving the in vitro evaluation of erosion rate from Tier II into Tier I is reasonable. It would be helpful if the citation of this method (Kimball, W.H. and Z.A. Munir. 1971. The corrosion of lead shot in a simulated waterfowl gizzard. Journal of Wildlife Management 35(2):360–365) was provided in the document. It should also be stated that this testing should be in compliance with Good Laboratory Practices Standards.''

Response. We added the citation for the benefit of applicants, and we agree that applicants should follow the standards in 40 CFR 160. We added this requirement in paragraph (h).

Comment. ''Require applicants to demonstrate effectiveness and availability of shot detection methods to USFWS's satisfaction, rather than calling out one particular type and source of a specific instrument.''

Comment. ''We think the regulation in item #2 [*Specifying that an application for approval of a nontoxic alloy must document that a shotshell loaded with shot of the alloy can be readily identified as containing nontoxic shot with a standard field shotshell testing device*] for detection in the field should say only that a method for confirming that a shotshell contains nontoxic shot must be demonstrated by the applicant. It seems inappropriate for the government to make reference to one specific commercial product from one small source (e.g., ''HOT SHOT'' device from Stream Systems) when metal detection technologies (especially electronic types) are continually being advanced. We believe USFWS would be better served by simply stating that availability of a field method acceptable to USFWS must be demonstrated. This approach would encourage innovation and competition that may actually benefit law enforcement efforts. It would also provide some flexibility to USFWS and manufacturers in the event that a particular detection method becomes unavailable or unaffordable to law enforcement agencies.''

Response. The footnote at the end of the approved shot types table in 50 CFR 20.21(j)(1) states ''The information in the ''Field Testing Device'' column is strictly informational, not regulatory.'' The listing is not an endorsement of any particular field testing device, such as the ''Hot Shot'' tool. We provide the information about field test methods for the use of law enforcement officers. If we become aware of any additional suitable field test devices, or if another type device is required for a newly approved shot type, we will add it or them to the ''Field Testing Device'' column.

Comment. ''We strongly disagree with item #7 [*adding a provision for withdrawal of an approved shot type*] as a matter of resource stewardship. If the shot is nontoxic, changes in detectability in the field should not lead to its withdrawal from the market. Instead, USFWS can require applicants to demonstrate detectability again. If detectability becomes a problem in the field, USFWS can give the manufacturer a complete description of the technical problem and a reasonable period, perhaps 180 days, to remedy the situation by improving either the shot or the detection method.

These new, nontoxic alloys are not generally materials with years of metallurgical practice behind them, and withdrawing approvals on the basis of occasional field reports of detection difficulty seems arbitrary and capricious, especially when manufacturers could potentially fix the problems and continue to offer the products to consumers.

After all the years, solubility testing, animal gavage, process development, and quality assurance efforts that a small company undertakes to qualify one of these products, allowing USFWS to withdraw approval without some kind of reasonable due process seems unfair.

It also seems to invite competitive manipulation, where competitors could allege detection difficulties to slow the adoption of a better nontoxic alternative. This area clearly requires more thought before USFWS changes policy.''

Response. Competitors cannot allege detection difficulties; we rely on tribal, State, and Federal law enforcement officers to advise us about field testing problems. We revised the relevant language at paragraph (z)(1) to give shotshell producers opportunities to resolve field detection problems.

Comment. ''I firmly believe that the USFW and tax payers should not absorb the costs associated with the approval process of non-toxic shot. Adopting fees for the approval process would insure those individuals applying for the approval are serious and not wasting the USFW time and tax payer's money.''

Response. We proposed to add the fees to recoup costs to the government.

Comment. ''We strongly disagree with the proposal to increase fees. The ''service'' USFWS renders does not ''provide special benefits to an identifiable recipient beyond those that accrue to the general public.'' The easiest shotshell to make is a lead shotshell. The public, that is the nation as a whole, benefits when manufacturers advance nontoxic shot technology because it helps conserve the migratory waterfowl resource. Once a new shot type is approved, any manufacturer with the technology can use the approval. Those without the technology can buy approved shot from the producer.

Our company pioneered high-density tungsten-nickel-iron shot in 2001, and by 2006 all major ammunition companies had competing products. The public benefited from choice and falling prices for nontoxic shot. The manufacturers certainly earned no special benefits that did not also accrue to the general public.

Small innovators who manage to surmount the toxicology, solubility, and process technology challenges of introducing new nontoxic products for the public should not see this effort squashed by a looming $20,000 fee at the end of the line. This proposal will slow innovation in the field, and deprive the public of improvements that lower the cost of and encourage compliance with nontoxic regulations.

We could agree with the higher review fees, which we do not think will impede innovation. But the **Federal Register** fee is prohibitively high for a small company, and small companies have been behind most of the innovation in nontoxic shot products.''

Response. Office of Management and Budget Circular A–25 establishes Federal policy regarding fees assessed for Government services. We proposed to add fees to cover costs that we would continue to have to absorb in reviewing nontoxic shot or shot coating submissions and changing the regulations to approve them. The **Federal Register** fee will be a burden for companies that submit nontoxic shot or shot coatings, but it has been a burden for the Division of Migratory Bird Management. This provision of the proposed rule is unchanged.

Comment. Recovery of staff costs for the review of a submission is a great notion . . . However, I believe the proposed staff hours for review may underestimate the actual cost and value. I would propose 40 hours for each of the Tiers.

Response. In the proposed rule, we estimated fewer hours for reviews conducted by our colleagues at the U.S.

Geological Survey (USGS) than the commenter suggests. After considering this comment and further reviewing the work required of USGS, which involves conducting and checking calculations, determining if the literature review is thorough and accurate, and drafting a response with comments to provide for our use in carrying out the rulemaking process, we change the estimated review time for the USGS toxicologist for each tier from 5 to 15 hours. The estimated cost for the Tier 1 USGS review, therefore, rises from $415 in the proposed rule to $1,245. Subsequently, we revise the Tier 1 review fee from $800 to $1,630. We revise the Tier 2 fee and Tier 3 fees to $1,530 each (see paragraphs (d), (l), and (t) in the rule portion of this document.).

Comment. ''As a non-hunter who picks up litter, I note a lot of plastic shot gun shells are discarded during hunting. Any chance of looking at whether those plastics are laden with BPAs and other toxins that can leach as well? Might there ever be a safe (for the hunter) and truly biodegradable shell? Were there paper casings before plastic?''

Response. Paper shotgun shells were in use long before plastic shells, but the bases of the shells are still metal. The idea of a biodegradable shell is laudable, but it might create problems for hunters because the shells may get wet and dirty before they are used. We agree that fired shotgun shells should not be discarded in the field. However, this regulation is limited to the approval of the shot types and shot coatings used in waterfowl and coot hunting.

Other Changes From the Proposed Rule

We added invertebrates to the listing of potentially affected biota in paragraph (f)(4). Assessment of impacts of a shot type or coating on invertebrates is required in paragraph (g). We intended to be consistent between paragraphs (f) and (g), but we inadvertently left ''invertebrates'' out of paragraph (f)(4).

We added a requirement in paragraph (o)(2)(x) to weigh all recovered shot and determine shot erosion. Weighing the shot and determining erosion should have been in the proposed rule because, without this analysis, the erosion testing is not complete.

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 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. Executive Order 13563 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 rule in a manner consistent with these requirements.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an 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 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. Thus, for a regulatory flexibility analysis to be required, impacts must exceed a threshold for ''significant impact'' and a threshold for a ''substantial number of small entities.'' See 5 U.S.C. 605(b). SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

The rule requires additional information in the initial application and increases the application fee. As a result, companies applying for nontoxic shot approval will incur additional costs. These companies include ammunition companies. The U.S. Small Business Administration defines a ''small business'' as one with employment that meets or is below the established size standard, which is 1,000 employees for ''Small Arms Ammunition Manufacturing'' businesses (NAICS 332992). In 2010, the U.S. Census Bureau shows that about 93 percent of the 112 Small Arms Ammunition Manufacturing establishments qualify as small businesses (fewer than 1,000 employees). We receive an average of only about one application per year, and in some years we receive none. Less than one percent of affected small businesses would be impacted.

The rule has minimal impacts on the application process for nontoxic shot. Applicants already submit the additional application information that the regulations will require. Therefore, the information in an application would change minimally.

The rule includes application fees because revised OMB circular A–25 directs Executive Branch agencies to establish ''user charges . . . sufficient to recover the full cost to the Federal Government.'' A large portion of the application costs consist of **Federal Register** publication fees ($17,500, as reflected in table 1 in the proposed rule). Because we are required to publish each approved nontoxic shot application in the **Federal Register**, we will recoup these fees from each company that applies for a nontoxic shot approval.

We have examined this rule's potential effects on small entities, and have determined that it will not have a significant economic impact on a substantial number of small entities because less than one percent of small businesses would be impacted. We certify that this rule will not have a significant economic effect on a substantial number of small entities as defined under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). An initial/final Regulatory Flexibility Analysis is not required. Accordingly, a Small Entity Compliance Guide is not required.

Small Business Regulatory Enforcement Fairness Act

This is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act.

a. This rule does not have an annual effect on the economy of $100 million or more. It will not change the costs for submission of shot types for approval as nontoxic.

b. This rule will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. This rule will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based

enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.), we have determined the following:

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. Regulation of nontoxic shot for migratory bird hunting does not affect small government activities.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, so it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. The regulation revision will not affect State regulations.

Takings

This rule does not affect private property, and has no takings implications. In accordance with Executive Order 12630, a takings implication assessment is not required.

Federalism

This rule does not have sufficient Federalism effects to warrant preparation of a Federalism assessment under Executive Order 13132. It will not interfere with the States' abilities to manage themselves or their funds. No significant economic impacts should result because of these changes to the regulation of nontoxic shot approval.

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule contains a collection of information that we submitted to the Office of Management and Budget (OMB) for review and approval under Sec. 3507(d) of the Paperwork Reduction Act (PRA). OMB has approved the information collection requirements associated with the approval of nontoxic shot for use in waterfowl hunting and assigned OMB Control Number 1018–0067, which expires ____. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number.

The regulations at 50 CFR 20.134 contain the following new information collection requirements:

• Application must document that a shotshell loaded with shot of the alloy can be readily identified as containing nontoxic shot with a standard field shotshell testing device. Wildlife law enforcement officers should be able to use simple, readily available testing devices for nontoxic shotshells.

• For shot types, the application must include a statement of the hardness of the candidate alloy and the method used to determine the hardness. This information will help the public decide about the type of firearm in which the shot type can be used safely.

• Required shot size and number of shot to be used in calculating the Estimated Environmental Concentrations (EECs) in terrestrial and aquatic ecosystems.

• A provision for testing loaded shotshells containing an approved shot type and revoking approval of that shot type if it is not identifiable in loaded shotshells held in the hand in the field. Slight manufacturing changes can alter the chemical and magnetic properties of an approved shot so that it cannot be detected in the field. This has created enforcement problems for law enforcement officers.

• Requirement to weigh all recovered shot and determine shot erosion.

• Specific pH level to be used in calculating the EEC in water.

We expect that the above requirements will add very little to the application preparation time or cost; therefore, we have not increased the completion time for an application. In addition to the above requirements, we move the former Tier 2 solubility testing to Tier 1. This change will allow us to better assess applications and minimize the need for Tier 2 applications.

We are adding fees for different stages of an application sufficient to offset the estimated costs associated with processing the application. We have increased our estimate of the nonhour burden cost by including the $1,630 application fee for Tier 1 applications.

Title: Approval Procedures for Nontoxic Shot and Shot Coatings, 50 CFR 20.134.

OMB Control Number: 1018–0067.

Service Form Number: None.

Description of Respondents: Businesses that produce and/or market approved nontoxic shot types or nontoxic shot coatings.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Respondents: 1.

Estimated Number of Annual Responses: 1.

Estimated Completion Time per Response: 3,200 hours.

Estimated Total Annual Burden Hours: 3,200.

Estimated Total Nonhour Burden Cost: $26,630 ($1,630 for application processing fees, plus $25,000 for solubility testing).

You may send comments on any aspect of these information collection requirements to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 2042–PDM, Arlington, VA 22203 (mail) or *hope_grey@fws.gov* (email).

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment, and does not require the preparation of an environmental impact statement or an environmental assessment. The changes are largely to reorganize the regulations and put them into easier-to-understand language. Because the revision of 50 CFR 20.134 is administrative, it will have no environmental effects. It is categorically excluded from further NEPA requirements (43 CFR 46.210(i)).

Environmental Consequences of the Action

The changes are primarily in the reorganizing and rewriting of the regulations. The environmental impacts of this action are minimal.

Socio-economic. This rule will have no socio-economic impacts.

Wildlife populations. This regulations change does not significantly alter the approval of nontoxic shot in the United States. This rule will not affect wildlife populations.

Endangered and threatened species. The regulations change will not affect threatened or endangered species.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and 512 DM 2, we have determined that there are no potential effects on federally recognized Indian tribes. This rule will not interfere with Tribes' abilities to manage themselves or their funds or to regulate migratory bird hunting on tribal lands.

Energy Supply, Distribution or Use

Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule will not affect energy

supplies, distribution, or use, so it does not require a Statement of Energy Effects.

Compliance With Endangered Species Act Requirements

Section 7 of the Endangered Species Act (ESA) of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that ''The Secretary [of the Interior] shall review other programs administered by him and utilize such programs in furtherance of the purposes of this chapter'' (16 U.S.C. 1536(a)(1)). It further states that the Secretary must ''insure that any action authorized, funded, or carried out. . . is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of [critical] habitat'' (16 U.S.C. 1536(a)(2)). The proposed regulations change would not affect listed species.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

For the reasons discussed in the preamble, we hereby amend part 20, subchapter B, chapter I of title 50 of the Code of Federal Regulations as set forth below.

PART 20—[AMENDED]

■ 1. The authority citation for part 20 continues to read as follows:

Authority: 16 U.S.C. 703–712.

■ 2. Revise § 20.134, including the section heading, to read as follows:

§ 20.134 Approval of nontoxic shot types and shot coatings.

The U.S. Fish and Wildlife Service conducts a process to approve shot material determined not to impose a significant toxicity danger to migratory birds and other wildlife or their habitats. The regulations in this section set forth the approval process. Upon receipt of an application and supporting data submitted in accordance with this section, the Service will review the application materials together with all other relevant available evidence, including public comment. If the Director concludes that the spent shot material will not present a significant toxicity danger to migratory birds and other wildlife or their habitats, we will add the shot material to the list of approved nontoxic shot materials at 50 CFR 20.21(j).

(a) *Information collection approval.* The Office of Management and Budget approved the information collection requirements contained in this section under 44 U.S.C. 3501 *et seq.* and assigned OMB Control No. 1018–0067. We collect this information so that we can conduct a methodical and objective review of a shot type you submit as nontoxic for hunting waterfowl. An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number. You may submit comments on this information collection to the Service Information Collection Officer, U.S. Fish and Wildlife Service, 1849 C Street NW., Washington, DC 20240.

(b) *Limitations on nontoxic shot type approval.* We will not approve as nontoxic any shot type or shot coating with a lead content of 1 percent or more.

(1) Before we will approve any shot type or shot coating as nontoxic, a shotshell loaded with the shot type or coated shot must be demonstrated to be identifiable as not being lead in a portable field testing device for use by enforcement officers.

(2) The testing device can be regular magnets, rare-earth magnets, or the ''HOT*SHOT'' field-testing device from Stream Systems of Concord, CA. We will consider other field-testing devices that may be readily available to law enforcement officers.

(c) *Application submission and review.* We use a 3-tier strategy for approval of nontoxic shot types and shot coatings. You must submit any application for approval under this section with supporting documentation in accordance with the following procedures and must include at least the supporting materials and information for Tier 1 in the approval system. If your application is not complete, we will return it to you with an explanation of the additional information we need to initiate review of your submission.

(d) *Tier 1 application fee.* The fee for consideration of a Tier 1 application is $1,630. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(e) *Tier 1 application.* If you wish to submit a shot type or shot coating for consideration as nontoxic for waterfowl hunting, you must provide statements of use, chemical characterization, production variability, volume of use of the candidate material, and a sample of the shot or shot coating.

(1) Provide a statement of how you propose to use the candidate material in creating waterfowl hunting shotshells.

(2) Provide a description of the chemical composition of the material comprising the shot.

(i) Provide the chemical names, Chemical Abstracts Service numbers (consult the American Chemical Society), and structures of the components of the shot.

(ii) Provide a chemical characterization for organics and organometallics for the core and/or coating, including the empirical formula, melting point, molecular weight, solubility, specific gravity, partition coefficients, hydrolysis half-life, leaching rate in water and in soil, degradation half-life, vapor pressure, stability, and other relevant characteristics for each component.

(iii) Provide data on the composition, weight, and sectional density of the shot material.

(iv) Provide data on the thickness, quantity in milligrams (mg) per shot, and chemical composition of any coating on the shot.

(3) Provide documentation that the shot can be readily identified as nontoxic with a standard field shotshell testing device.

(4) Provide a statement of the hardness of the candidate shot type and the method used to determine the hardness.

(5) Provide a statement of the expected variability of shot during production.

(6) Provide an estimate of yearly volume of candidate shot type and/or coated shot expected to be produced for use in hunting migratory birds in the United States.

(7) Provide 5 pounds (approximately 2.18 kilograms (kg)) of the candidate shot type or shot with the proposed coating in size equivalent to U.S. standard size No. 4 of 0.13 inches (approximately 3.3 millimeters (mm)) in diameter.

(i) We or an independent laboratory may analyze the composition of the shot or the shot coating.

(ii) We will reject your application if the composition of the shot or shot coating differs substantially from what you describe in your application.

(f) *Toxicological effects.* You must provide information on the toxicological effects of the shot or any coating on it.

(1) Provide a summary of the acute and chronic toxicity data of the metals or compounds in the shot or the shot coating, ranking the toxicity of each. Use the following criteria to assess the toxicity of the shot or shot coating. These criteria are based on the estimated median lethal dose of the candidate shot type or shot coating. That is, the statistically derived single dose estimate of the candidate material that can be expected to cause death in 50 percent of the animals tested (LD50).

If the LD50 is	the material is considered
no more than 5 mg/kg,.	super toxic.
over 5 to 50 mg/kg, ...	extremely toxic.
over 50 to 500 mg/kg,	very toxic.
over 500 to 5,000 mg/kg,.	moderately toxic.
over 5,000 to 15,000 mg/kg,.	slightly toxic.
over 15,000 mg/kg, ...	nontoxic.

(2) Provide a summary of known acute, chronic, and reproductive toxicological data of the chemicals comprising the shot or shot coating with respect to birds, particularly waterfowl. Include LD50 or LC50 (concentrations in water lethal to 50 percent of test populations) data, and sublethal effects, with citations.

(3) Provide a narrative description, with citations to relevant data, predicting the toxic effect in waterfowl of complete erosion and absorption of one shot or coated shot in a 24-hour period. Define the nature of the toxic effect, such as mortality, impaired reproduction, substantial weight loss, disorientation, or other relevant associated clinical observations.

(4) Provide a statement with supporting rationale and citations to relevant data about whether ingestion of the shot or shot coating by invertebrates, fish, amphibians, reptiles, or mammals is cause for concern. If there is a recognized impact on invertebrates, fish, amphibians, reptiles, or mammals, we reserve the right to require additional study of the shot or shot coating.

(g) *Environmental fate and transport.* You must provide information on the environmental fate and transport, if any, of the shot and any coating on it.

(1) Provide a statement describing any chemical or physical alteration of the shot and shot coating upon firing.

(2) Provide an estimate of the environmental half-life of the organic or organometallic components of the shot and shot coating, and a description of the chemical form of the breakdown products of the component(s).

(3) For each metal or other component of the shot or shot coating, determine the Estimated Environmental Concentration (EEC).

(i) Determine the EEC in a terrestrial ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 hectare (ha) (107,639 square feet (ft^2)) of soil 5 centimeters (cm) (1.97 in) deep. Assess whether the EEC would exceed the clean soil standards for the Use or Disposal of Sewage Sludge at 40 CFR part 503. Explain how the estimated EEC relates to the toxicity thresholds for plants, invertebrates, and other wildlife.

(ii) Determine the EEC in an aquatic ecosystem if 69,000 U.S. standard size No. 4 shot of 0.13 in (3.3 mm) in diameter are completely dissolved in 1 ha, or 107,639 ft^2, of water 1 ft (30.48 cm) deep. Express the calculated concentrations in standard units such as micrograms per liter, for water with pH of 6.5 to 9.0. Explain how the estimated EEC compares to the U.S. Environmental Protection Agency (EPA) Water Quality Criteria and toxicity thresholds in plants, invertebrates, fish, and wildlife.

(4) Conduct a risk assessment using the Quotient Method. Calculate the risk of the submitted shot material, the EEC/the Toxicological Level of Concern. For example, compare the EEC in parts per million (p/m) to an effect level such as the LD50 in p/m. Use the following criteria to assess the risk of the components of the shot or shot coating.

If the risk ratio is	then
less than 0.1, ...	adverse effects are not likely.
0.1 to 10.0, ...	adverse effects are possible.
greater than 10.0, ...	adverse effects are likely.

(h) *In vitro evaluation.* You must evaluate the candidate shot type or shot coating in a standardized test under conditions that will assess its erosion and any release of components into a liquid medium in an environment simulating the conditions of a waterfowl gizzard (see W.H. Kimball and Z.A. Munir, 1971, The corrosion of lead shot in a simulated waterfowl gizzard, Journal of Wildlife Management 35:360–365) for basic test procedures. Compare the erosion characteristics to those of lead shot and steel shot of comparable size.

(1) *Test materials.* You will need appropriate analysis equipment, such as for atomic absorption spectrophotometry or inductively coupled plasma mass spectrometry, a drilled aluminum block to support test tubes, a thermostatically controlled stirring hot plate, small Teflon®-coated magnets, hydrochloric acid of pH 2.0, pepsin, capped test tubes, and U.S. No. 4 lead, steel, and candidate shot type or shot with the proposed coating.

(2) *Test procedures.*

(i) Add hydrochloric acid and pepsin to each capped test tube at a volume and concentration that will erode a single U.S. No. 4 lead shot at the rate of 5 mg per day.

(ii) Place three test tubes, each containing lead shot, steel shot, or the candidate shot type or shot with the proposed coating in an aluminum block on the stirring hot plate. Add a Teflon®-coated magnet to each test tube and set the hot plate at 42 degrees Centigrade and 500 revolutions per minute.

(iii) Determine the erosion of shot or shot with the proposed coating daily for 14 consecutive days by weighing the shot and analyzing the digestion solution with an atomic absorption spectrophotometer.

(iv) Replicate the 14-day procedure five times.

(3) *Test analyses.* Compare erosion rates of the three types of shot by appropriate analysis of variance and regression procedures. The statistical analyses will determine whether the rate of erosion of the shot and/or shot coating is significantly greater or less than that of lead and/or steel shot. This determination is important to any subsequent toxicity testing.

(i) *Tier 1 application review.* Upon receipt of your completed Tier 1 application, we will promptly perform an overview. We will notify you within 30 days of receipt that our thorough review of the application will commence, and we will complete our review within 60 days of the date of publication. We will use half of the LD50/ft^2 in terrestrial and aquatic systems as the level of concern in evaluating your application.

(j) *Approval after Tier 1 testing.* If we determine that the Tier 1 data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating as nontoxic and provide the public with the opportunity to comment on our decision. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 1.

(2) If, after considering public comment on the proposed rule, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and addition of the shot or coating to the list in § 20.21(j).

(k) *Additional testing.* If we conclude that the Tier 1 data are inconclusive, or if we conclude that the shot or shot

coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will advise you to proceed with some or all of the additional testing described for Tier 2, Tier 3, or both.

(1) We will inform you that we consider the Tier 1 test results to be inconclusive. We will request Tier 2, and possibly Tier 3, testing before we evaluate the shot any further.

(2) If you choose not to do further testing, we will deny approval of the candidate shot type or shot coating.

(l) *Tier 2 application fee.* The fee for consideration of a Tier 2 application is $1,530. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(m) *Tier 2 testing.* Your Tier 2 testing procedures must be in compliance with the Good Laboratory Practice Standards (40 CFR part 160) except where they conflict with the requirements in this section or with a provision of an approved plan. We reserve the right for us or an authorized representative to inspect your laboratory facilities. We will not approve the plan and will cease further consideration of the candidate shot type if the laboratory does not meet the Good Laboratory Practice Standards.

(n) *Tier 2 plan review.* We will review the Tier 2 testing plan you submit within 30 days of the day on which we receive it. We may decline to approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will inform you regarding what parts, if any, of the submitted testing procedures to disregard and any modifications to incorporate into the Tier 2 testing plan to gain plan approval. After we accept your plan, you may conduct Tier 2 testing.

(o) *Tier 2 in vivo evaluation.* Conduct a 30-day acute toxicity test in mallards using the following method unless we specify otherwise. The testing should be done in accordance with Good Laboratory Practices Standards at 40 CFR part 160.

(1) *Test materials.* You will need 30 male and 30 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 60 elevated outdoor pens equipped with feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; commercial duck maintenance mash; and lead, steel, and candidate shot type.

(2) *Test procedures.*

(i) House the mallards individually in pens and give them unrestricted access to food and water.

(ii) After 3 weeks, randomly assign them to 3 groups of 10 males and 10 females per group. Dose each duck with 8 pellets of either U.S. No. 4 lead shot (positive control), steel shot (negative control), or the candidate shot type or shot with the proposed coating.

(iii) Fluoroscope each bird at 1 week after dosing to check for shot retention.

(iv) For 30 days, observe the birds daily for signs of intoxication and mortality.

(v) Determine the body weight for each bird at the time of dosing and at days 15 and 30.

(vi) On days 15 and 30, collect blood by venipuncture and determine hematocrit, hemoglobin concentration, and other measures of blood chemistry.

(vii) Euthanize all survivors on day 30. Remove the liver and other appropriate organs from each bird and those from birds that died prior to day 30.

(viii) Analyze the organs for lead and compounds contained in the candidate shot type or shot with the proposed coating.

(ix) Perform a necropsy of all birds to determine any gross and/or microscopic pathological conditions.

(x) Weigh all recovered shot and determine shot erosion.

(3) *Test analyses.*

(i) Analyze mortality among the specified groups with appropriate statistical procedures, such as chi-square, with $\alpha = 0.05$, and $\beta = 0.8$.

(ii) Analyze physiological data and tissue contaminant data by analysis of variance or other appropriate statistical procedures to include the factors of shot type and sex, with $\alpha = 0.05$ and $\beta = 0.8$.

(iii) Compare euthanized birds and birds that died prior to day 30 whenever sample sizes are adequate for meaningful comparison.

(p) *Daphnia and fish early-life toxicity tests.* Determine the toxicity of the compounds that comprise the shot or shot coating (at conditions maximizing solubility without adversely affecting controls) to selected invertebrates and fish. These methods are subject to the environmental effects test regulations developed under the authority of the Toxic Substances Control Act (15 U.S.C. 2601 et seq.), as follows:

(1) The first test, the Daphnia *(Daphnia species)* Acute Toxicity Test, must be conducted in accordance with 40 CFR 797.1300. It provides data on the acute toxicity of chemical substances. The guideline prescribes an acute toxicity test in which Daphnia are exposed to a chemical in static and flow-through systems for assessing the hazard the compound(s) may present to an aquatic environment.

(2) The second test, the Daphnia Chronic Toxicity Test, must be conducted in accordance with 40 CFR 797.1330. It provides data on the chronic toxicity of chemical substances in which Daphnia are exposed to a chemical in a renewal or flow-through system. The data from this test also are used to assess the hazard that the compound(s) may present to an aquatic environment.

(3) The third test, the Fish Early-Life-Stage Toxicity Test, must be conducted in accordance with 40 CFR 797.1600. It assesses the adverse effects of chemical substances to fish in the early stages of their growth and development. Data from this test also are used to determine hazards of the compound(s) in an aquatic environment.

(q) *Evaluation of Tier 2 testing.* If, after Tier 2 testing, you wish to continue the application process, send the Tier 2 testing results and analyses to us. You must ensure that copies of all the raw data and statistical analyses accompany the laboratory reports and final comprehensive report of this test. We will review the data within 60 days of the day on which we receive your Tier 2 application materials.

(r) *Approval after Tier 2 testing.* If we determine that the Tier 2 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 2.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and subsequent addition of the shot or coating to the list in § 20.21(j).

(s) *Additional testing.* If we conclude that the Tier 2 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, or if public comment on the proposed rule indicates that we should require further testing, we will advise you to proceed with the

additional testing described for Tier 3. We will require Tier 3 testing before we evaluate the shot any further. If you choose not to do Tier 3 testing, we will deny approval of the candidate shot type or shot coating.

(t) *Tier 3 application fee.* The fee for consideration of a Tier 3 application is $1,530. Submit the fee, payable to the U.S. Fish and Wildlife Service, with your application.

(u) *Tier 3 testing.* We will review your Tier 3 testing plan within 30 days of the day on which we receive it. All testing procedures in the plan should be in compliance with the Good Laboratory Practice Standards (40 CFR part 160), except where they conflict with the requirements in this section or with a provision of an approved plan. We, or our authorized representative, may elect to inspect your laboratory facilities and may decline to approve the plan and further consideration of the candidate shot type and/or shot coating if the facility is not in compliance with the Good Laboratory Practice Standards.

(1) We will not approve the plan, or any part of it, if we deem it deficient in any manner with regard to timing, format, or content. We will tell you what parts, if any, of the submitted testing procedure to disregard, and any modifications to incorporate into the Tier 3 plan needed for us to approve it.

(2) After acceptance of the plan, you may conduct the Tier 3 testing. You must ensure that copies of the raw data and the statistical analyses accompany the laboratory reports and final comprehensive report on this test.

(i) *Chronic toxicity test.* This is a long-term toxicity test under depressed temperature conditions using a nutritionally deficient diet. Conduct a chronic exposure test under adverse conditions that complies with the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 36 male and 36 female hand-reared mallards approximately 6 to 8 months old with plumage and body conformation of wild mallards; 72 elevated outdoor pens equipped with feeders and waterers; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn; and lead, steel, and candidate shot type or shot with the proposed coating.

(B) *Test procedures.*

(*1*) Conduct this test at a location where the mean monthly low temperature during December through March is between 20 and 40 degrees Fahrenheit (−6.6 and 4.4 degrees Centigrade, respectively).

(*2*) Assign individual mallards to elevated outdoor pens during the first week of December and give them an unrestricted diet of whole kernel corn for 2 weeks.

(*3*) Randomly assign birds to five groups—a lead group of 4 males and 4 females, and 4 other groups of 8 males and 8 females per group.

(*4*) Dose each bird in the lead group (the positive control) with one U.S. No. 4 pellet of lead shot. Dose each bird in one group of 8 males and 8 females with 8 U.S. No. 4 pellets of steel shot (the negative control). Dose each bird in 1 remaining group of 8 males and 8 females with one U.S. No. 4 pellet of the candidate shot type or shot with the proposed coating, each bird in 1 of the remaining 2 groups of 8 males and 8 females with 4 U.S. No. 4 pellets of the candidate shot type or shot with the proposed coating, and each bird in the final group of 8 males and 8 females with 8 U.S. No. 4 pellets of the candidate shot type or shot with the proposed coating.

(*5*) Weigh and fluoroscope the birds weekly.

(*6*) Weigh all recovered shot and determine shot erosion.

(*7*) Determine blood parameters given in the 30-day acute toxicity test. Provide body weight and blood parameter measurements on samples drawn at 24 hours after dosing, and at the end of days 30 and 60.

(*8*) Remove the liver and other appropriate organs from all birds that die prior to day 60.

(*9*) At the end of 60 days, euthanize all survivors. Remove the liver and other appropriate organs from the euthanized birds. Analyze the organs for lead and other metals in the candidate shot type or shot coating.

(*10*) Necropsy all birds that died prior to day 60 to determine any gross and/or microscopic pathological conditions associated with their deaths.

(C) *Test analyses.*

(*1*) Analyze mortality among the specified groups with appropriate chi-square statistical procedures. Any effects on the previously mentioned physiological parameters caused by the shot or shot coating must be significantly less than those caused by lead shot and must not be significantly greater than those caused by steel shot, with $\alpha = 0.05$, and $\beta = 0.8$.

(*2*) Analyze physiological data and tissue contaminant data by analysis of variance or appropriate statistical procedures to include the factors of shot type, dose, and sex with $\alpha = 0.05$, and $\beta = 0.8$.

(*3*) Compare euthanized birds and birds that died prior to being euthanized whenever sample sizes are adequate for a meaningful comparison.

(ii) *Chronic dosing study.* This moderately long-term study includes an assessment of reproduction. Conduct a chronic exposure reproduction trial within the following general guidelines unless we tell you otherwise.

(A) *Test materials.* You will need 44 male and 44 female hand-reared first-year mallards with plumage and body conformation of wild mallards; pens suitable for quarantine and acclimation and for reasonably holding 5 to 10 ducks each; 44 elevated pens equipped with feeders, waterers, and nest boxes; a laboratory equipped to perform fluoroscopy, required blood and tissue assays, and necropsies; whole kernel corn, and commercial duck maintenance and breeder mash; and U.S. No. 4 lead, steel, and candidate shot type or shot with the proposed coating.

(B) *Test procedures.*

(*1*) In December, randomly assign the mallards to 3 groups—a positive control group of 4 males and 4 females that will be tested with lead; a negative control group of 20 males and 20 females that will be tested with steel; and a final group with 20 males and 20 females that will be tested with the candidate shot type or shot with the proposed coating. Hold the ducks in same-sex groups until mid-January. If the test is not conducted in the northern United States or comparable latitudes, the test must be completed in low-temperature units.

(*2*) After a 3-week acclimation period in which the ducks are fed with commercial maintenance mash, provide them an unrestricted diet of corn for 60 days and then pair them, put one pair in each pen, and provide them with commercial breeder mash.

(*3*) After the acclimation period, dose each bird in the lead group with 1 pellet of U.S. No. 4 lead shot, each bird in one of the groups of 20 males and 20 females with 8 pellets of U.S. No. 4 steel shot, and each bird in the remaining group of 20 males and 20 females with 8 pellets of U.S. No. 4 candidate shot type or shot with the proposed coating.

(*4*) Redose each bird with the appropriate shot after 30, 60, and 90 days. Few, if any, of the lead-dosed birds should survive and reproduce.

(*5*) Fluoroscope each bird 1 week after dosing it to check for shot retention.

(*6*) Weigh each bird the day of initial dosing (day 0), at each subsequent dosing, and at death.

(*7*) Collect a blood sample from each bird on the days on which it is dosed and immediately prior to euthanizing it.

(*8*) Check nests daily and collect any eggs laid. Note the date of first egg laid

and the mean number of days per egg laid. Conclude monitoring of laying after 21 normal, uncracked eggs are laid or after 150 days.

(*9*) Collect eggs and discard any eggs laid before pairing.

(*10*) Euthanize the adults after they complete laying or after 150 days.

(*11*) Remove the liver and other appropriate organs from each euthanized bird and from each bird that dies prior to being euthanized.

(*12*) Analyze the organs and the eleventh egg for compounds contained in the shot or shot coating.

(*13*) Necropsy all the birds to determine any gross and/or microscopic pathological conditions that affected them.

(*14*) Artificially incubate the normal eggs and calculate the percent shell thickness for each (compared to typical shell thickness), the percent of eggs cracked, the percent fertility (as determined by candling), and the percentage of fertile eggs hatched for each female.

(*15*) Provide ducklings that hatch with starter mash. Euthanize all ducklings at 14 days of age.

(*16*) Determine survival to day 14 and weight of the ducklings at hatching and at being euthanized.

(*17*) Measure duckling blood for hemoglobin concentration and other blood chemistries using blood samples drawn when the ducklings are euthanized.

(C) *Test analyses.* Any mortality, reproductive inhibition, or effects on physiological parameters due to the shot or shot coating must not be significantly greater than those caused by steel shot. If necessary, transform percentage data with an arcsine, square root, or other suitable transformation prior to statistical analyses. Analyze the physiological and reproductive data with one-tailed *t*-tests or other appropriate statistical procedures with $\alpha = 0.05$, and $\beta = 0.8$.

(v) *Evaluation of Tier 3 testing.* Report the results of your Tier 3 testing to us. We will review the data within 60 days of the day on which we receive your Tier 3 application materials. You must ensure that copies of the raw data and the statistical analyses accompany the laboratory reports and final comprehensive report on this test.

(w) *Approval after Tier 3 testing.* If we determine that the Tier 3 test data show that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you and request payment of a $20,000 final review and publication fee (payable to the U.S. Fish and Wildlife Service).

(1) After receipt of payment, we will publish a proposed rule in the **Federal Register** stating that we intend to approve this shot or shot coating and provide the public with the opportunity to comment. The proposed rule will include a description of the chemical composition of the shot or shot coating and a synopsis of findings under the standards required by Tier 3.

(2) If, at the end of the comment period, we conclude that the shot or shot coating does not pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will approve the shot or coating as nontoxic with publication of a final rule in the **Federal Register** and subsequent addition of the shot or coating to the list in § 20.21(j).

(x) *Additional testing after Tier 3.* If we conclude that the Tier 3 data are inconclusive, or if we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we may ask you to repeat tests we deem inconclusive. If you choose not to repeat the tests, we will deny approval of the candidate shot type or shot coating.

(y) *Denial after Tier 3 testing.* If we conclude that the shot or shot coating may pose a significant toxicity danger to migratory birds, other wildlife, or their habitats, we will notify you that we deny approval of the candidate shot type or shot coating.

(z) *Withdrawal of the approval of a shot type or shot coating.* If we find that an approved shot type or shot coating is not readily detectable in the field or has environmental effects or direct toxicological effects on biota, we may withdraw our approval of the shot type or shot coating. This includes any previously approved shot type or shot coating.

(1) We may consult the Service Law Enforcement Laboratory to determine whether any particular shot type or shot coating is readily detectable in the field by law enforcement officers. If the shot type is not readily detectable in the field, we will give the shotshell producer 180 days to remedy the situation by improving either the shot or the detection method.

(2) We may consider new evidence, consistent with the provisions of the Migratory Bird Treaty Act and the Information Quality Act (Pub. L. 106–554, 2001; Office of Management and Budget Guidance, 67 FR 8452–8460, February 22, 2002) that shows that an approved shot type or shot coating has significant environmental effects or direct toxicological effects that were not known when we approved the shot type or shot coating.

(3) After the 180-day period for a shot type that cannot be tested in the field (see paragraph (z)(1) of this section), or at any time after we learn of significant environmental effects or direct toxicological effects, we will publish a notice in the **Federal Register** informing manufacturers and the public of our pending withdrawal of the approval of the shot type or shot coating. We will revise the table of approved shot types at § 20.21(j) to reflect the withdrawal of the approval, to be effective on January 1st, after allowing manufacturers 1 full calendar year to prepare for the change.

Dated: December 19, 2013.

Rachel Jacobson,

Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2013–30873 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–55–P

Proposed Rules

Federal Register
Vol. 78, No. 248
Thursday, December 26, 2013

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 72

[NRC–2012–0052]

RIN 3150–AJ12

List of Approved Spent Fuel Storage Casks: HI–STORM 100 Cask System; Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule; correction and extension of comment period.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a proposed rule that appeared in the **Federal Register** on December 6, 2013, and is extending the public comment period. The document proposed to amend the NRC's spent fuel storage regulations by revising the Holtec International HI–STORM 100 Cask System listing within the ''List of Approved Spent Fuel Storage Casks'' to include Amendment No. 9 to Certificate of Compliance (CoC) No. 1014. This action is necessary to correct the NRC's Agencywide Documents Access and Management System (ADAMS) accession numbers for the CoC and the ADAMS document package containing the CoC, the Safety Evaluation Report (SER), and the Technical Specifications (TSs) for this amendment; and to extend the public comment period.

DATES: The comment period for the proposed rule published December 6, 2013, at 78 FR 73456, is extended. Comments are due by January 27, 2014.

ADDRESSES: Please refer to Docket ID NRC–2012–0052 when contacting the NRC about the availability of information for this action. You may access publicly-available information related to this action by any of the following methods:

• *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2012–0052. Address questions about NRC dockets to Carol Gallagher, telephone: 301–287–3422, email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library 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.*

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O–1F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Naiem S. Tanious, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–6103, email: *Naiem.Tanious@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Corrections

The NRC is correcting the ADAMS accession numbers for the CoC and the ADAMS document package containing the CoC, SER, and the TSs for this amendment because the documents referenced by accession numbers in the proposed rule the NRC published on December 6, 2013 (78 FR 73456; Fr. Doc. 2013–29160), do not clearly display the proposed changes to the documents.

In Fr. Doc. 2013–29160, on page 73456, in the second column, second line from the bottom of the page, ''ML120530246'' is corrected to read ''ML13351A224.'' On page 73456, in the third column, second line from the top of the page, ''ML120530271'' is corrected to read ''ML13351A205.''

In the Rules and Regulations section of this issue of the **Federal Register**, the NRC is publishing a document to correct and delay the effective date of the direct final rule (78 FR 73379; December 6, 2013). Specifically, ADAMS accession numbers for the CoC, the SER, and the ADAMS document package containing the CoC, the SER, and the TSs for this amendment will be corrected and the effective date will be delayed from February 19, 2014, to March 11, 2014.

Extension of Comment Period

The public comment period is being extended from January 6, 2014, to January 27, 2014, to provide the public the opportunity to review all information related to the rulemaking.

Dated at Rockville, Maryland, this 19th day of December, 2013.

For the Nuclear Regulatory Commission.

Leslie Terry,

Acting Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2013–30864 Filed 12–24–13; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1064; Directorate Identifier 2012–NM–101–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2005–23–08 that applies to certain Airbus Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R airplanes; and Model A300 C4–605R Variant F airplanes. AD 2005–23–08 required repetitive inspections to detect cracks of certain attachment holes, installation of new fasteners, follow-on inspections or repair if necessary, and modification of the angle fittings of fuselage frame FR47. Since we issued AD 2005–23–08, we have received reports of cracks found on the horizontal flange of the Frame 47 internal corner angle fitting while accomplishing the modification required by AD 2005–23–08. This proposed AD would add new repetitive ultrasonic inspections for cracks of the center wing box lower panel; and repair if necessary. This proposed AD also removes certain airplanes from the applicability. We are proposing this AD to detect and correct fatigue cracking of

the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

DATES: We must receive comments on this proposed AD by February 10, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–2125; fax: (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1064; Directorate Identifier 2012–NM–101–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On October 31, 2005, we issued AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005). That AD required actions intended to address an unsafe condition on certain Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R airplanes; and Model A300 C4–605R Variant F airplanes.

Since we issued AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005), the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2012–0092, dated May 25, 2012; correction dated June 4, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Prompted by cracks found on the Frame 47 angle fitting, DGAC France published AD 2000–533–328 [(*http://ad.easa.europa.eu/ad/F-2000-533-328R1*)] to require [a] repetitive inspection programme for fuselage frame 47. If not detected and corrected, these cracks could affect the structural integrity of the Centre Wing Box (CWB) of the aeroplane.
>
> Subsequent to the publication of a new repetitive inspection programme for fuselage frame 47 at certain fasteners of the CWB angle fitting, DGAC France issued AD F–2004–159 [(*http://ad.easa.europa.eu/ad/F-2004-159*)] [which corresponds to AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005)], superseding AD 2000–533–328.
>
> After DGAC France AD F–2004–159 was issued, cracks were reportedly found on the horizontal flange of the Frame 47 internal corner angle fitting during accomplishment of routine maintenance structural inspection and modification in accordance with Airbus SB A300–57–6050.
>
> Prompted by these findings, Airbus reviewed and amended the inspection programme for the internal lower angle fitting flange (horizontal face). The inspection programme for the lower angle fitting web (vertical face) related to SB A300–57–6049 and internal lower angle fitting modification programme related to SB A300–57–6050 remain unchanged.
>
> For the reasons explained above, this new [EASA] AD retains the requirements of DGAC France AD F–2004–159, which is superseded, and requires additional repetitive [ultrasonic] inspections [for cracks] of the CWB lower panel through the ultrasonic method and, depending on findings, [repair, e.g.,] re-installation of removed fasteners in transition fit instead of interference.
>
> This [EASA] AD has been republished to correct a typographical error * * *.

The repetitive interval for the new ultrasonic inspection is either 1,260 flight cycles or 2,720 flight hours, whichever occurs first; or 1,360 flight cycles or 2,200 flight hours, whichever occurs first; depending on average flight time of the airplane. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Airbus has issued Mandatory Service Bulletins A300–57–6049, Revision 07, dated December 22, 2006, and A300–57–6086, Revision 05, dated January 30, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Difference Between This Proposed AD and the MCAI or Service Information

Although the MCAI and service information specify to contact the manufacturer for instructions to repair certain conditions, this proposed AD would require repairing those conditions using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA (or its delegated agent; or the Design Approval Holder with EASA's design organization approval), as applicable.

Explanation of Changes to AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005)

In many FAA transport ADs, when the service information specifies to contact the manufacturer for further instructions if certain discrepancies are found, we typically include in the AD a requirement to accomplish the action using a method approved by either the FAA or the State of Design Authority (or its delegated agent).

We have recently been notified that certain laws in other countries do not allow such delegation of authority, but some countries do recognize design approval organizations. In addition, we have become aware that some U.S. operators have used repair instructions that were previously approved by a State of Design Authority or a Design Approval Holder (DAH) as a method of compliance with this provision in FAA ADs. Frequently, in these cases, the previously approved repair instructions come from the airplane structural repair manual or the DAH repair approval statements that were not specifically developed to address the unsafe condition corrected by the AD. Using repair instructions that were not specifically approved for a particular AD creates the potential for doing repairs that were not developed to address the unsafe condition identified by the MCAI AD, the FAA AD, or the applicable service information, which could result in the unsafe condition not being fully corrected.

To prevent the use of repairs that were not specifically developed to correct the unsafe condition, this proposed AD would require that the repair approval specifically refer to the FAA AD. This change is intended to clarify the method of compliance and to provide operators with better visibility of repairs that are specifically developed and approved to correct the unsafe condition. In addition, we use the phrase ''its delegated agent, or by the DAH with State of Design Authority design organization approval, as applicable'' in this proposed AD to refer to an DAH authorized to approve required repairs for this proposed AD.

Explanation of Change to Applicability

AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005), includes Airbus Model A300 B4–601 airplanes in the applicability. However, this proposed AD does not include Model A300 B4–601 airplanes because these airplanes are no longer in service.

Costs of Compliance

We estimate that this proposed AD affects about 65 products of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane
Inspection [retained action from existing AD] AD 2005-23-08, Amendment 39-14366 (70 FR 69056, November 14, 2005).	13	$85	$0	$1,105.
Inspection [retained action from existing AD] AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005).	30	85	Between $6,637 and $19,091.	Between $9,187 and $21,641, per inspection cycle.
Modification [retained action from existing AD] AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005).	Between 65 and 365	85	$3,370	Between $8,895 and $34,395.
New ultrasonic inspection	35	85	Between $11,750 and $18,720.	Between $14,725 and $21,695 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this proposed AD.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave., SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005) and adding the following new AD:

Airbus: Docket No. FAA–2013–1064; Directorate Identifier 2012–NM–101–AD.

(a) Comments Due Date

We must receive comments by February 10, 2014.

(b) Affected ADs

This AD supersedes AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005).

(c) Applicability

This AD applies to Airbus Model B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R airplanes; and Model A300 C4–605R Variant F airplanes; certificated in any category; except airplanes on which Airbus Modification 12171 or 12249 has been embodied in production, or on which Airbus Service Bulletin A300–57–6069 has been embodied in service.

(d) Subject

Air Transport Association (ATA) of America Code 57: Wings.

(e) Reason

This AD was prompted by reports of cracks found on the horizontal flange of the Frame 47 internal corner angle fitting while accomplishing the modification required by AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005). We are issuing this AD to detect and correct fatigue cracking of the forward fitting of fuselage frame FR47, which could result in reduced structural integrity of the frame.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Inspections for Attachment Holes on the Internal Angles of the Wing Center Box, and Corrective Action

This paragraph restates the requirements of paragraphs (f), (g), and (h) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005), with revised service information. Perform a rotating probe inspection to detect cracking of the applicable attachment holes on the left and right internal angles of the wing center box in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; or Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006. Do the inspection at the applicable time specified by paragraph 1.E.(2), Accomplishment Timescale, of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; except as required by paragraph (j) of this AD. Repeat the rotating probe inspection specified in this paragraph thereafter at intervals not to exceed the applicable interval specified in Airbus Mandatory Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006, may be used to accomplish the actions required by this paragraph.

(1) If no cracking is found during any inspection required by paragraph (g) of this AD: Prior to further flight, install new fasteners in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; or Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006, may be used to accomplish the actions required by this paragraph.

(2) If any cracking is found during any inspection required by paragraph (g) of this AD: Prior to further flight, perform applicable corrective actions (including reaming, drilling, drill-stopping holes, chamfering, performing follow-on inspections, and installing new or oversize fasteners) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6049, Revision 06, dated July 15, 2004; or Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006; except as required by paragraph (k) of this AD. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6049, Revision 07, dated December 22, 2006, may be used to accomplish the actions required by this paragraph.

(h) Retained Inspections for Attachment Holes in the Horizontal Flange of the Internal Corner Angle Fitting of Fuselage Frame FR47, and Corrective Action

This paragraph restates the requirements of paragraphs (i), (j), and (k) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005), with revised service information. Perform a rotating probe inspection to detect cracking of the applicable attachment holes in the horizontal flange of the internal corner angle fitting of fuselage frame FR47, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002; or Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012. Do the inspection at the applicable time specified in paragraph 1.E., Compliance, of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002, except as provided by paragraph (j) of this AD; or within 1,500 flight cycles after July 8, 2002 (the effective date of AD 2002–11–04, amendment 39–12765 (67 FR 38193, June 3, 2002)); whichever occurs later. Repeat the rotating probe inspection specified in this paragraph thereafter at intervals not to exceed the applicable interval specified in Airbus Service Bulletin A300–57–6086, dated June 6, 2000, except that all touch-and-go landings must be counted in determining the total number of flight cycles between consecutive inspections. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012, may be used to accomplish the actions required by this paragraph.

(1) If no cracking is found during any inspection required by paragraph (h) of this AD: Prior to further flight, install new fasteners in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002; or Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012, may be used to accomplish the actions required by this paragraph.

(2) If any cracking is found during any inspection required by paragraph (h) of this AD: Prior to further flight, perform applicable corrective actions (including inspecting hole T if any cracking is found at hole G, reaming the holes, and installing oversize fasteners) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6086, Revision 01, dated April 2, 2002; or Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012; except as required by paragraph (k) of this AD. As of the effective date of this AD, only Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012, may be used to accomplish the actions required by this paragraph.

(i) Retained Modification of Angle Fittings of the Wing Center Box

This paragraph restates the requirements of paragraph (l) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005).

Modify the left and right internal angle fittings of the wing center box. The modification includes performing a rotating probe inspection to detect cracking, repairing cracks, cold expanding holes, and installing medium interference fitting bolts. Perform the modification in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001; and at the applicable time specified by paragraph 1.B.(4), Accomplishment Timescale, of Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001; except as required by paragraphs (j) and (k) of this AD.

(j) Retained Compliance Time Exception to Service Information Specified in Paragraphs (g), (h), and (i) of This AD

This paragraph restates the requirements of paragraph (m) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005). Where the service information specified in paragraphs (g), (h), and (i) of this AD specify a grace period relative to receipt of the service bulletin, this AD requires compliance within the applicable grace period following December 19, 2005, (the effective date of AD 2005–23–08), if the threshold has been exceeded.

(k) Retained Corrective Action Exception to Service Information Specified in Paragraphs (g), (h), and (i) of This AD

This paragraph restates the requirements of paragraph (n) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005). If any crack is detected during any inspection required by paragraph (g), (h), or (i) of this AD, and the applicable service information specifies to contact the manufacturer for disposition of certain corrective actions: Prior to further flight, repair in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

(l) Credit for Previous Actions

(1) This paragraph restates the credit provided by paragraph (o) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005): This paragraph provides credit for actions required by paragraph (h) of this AD, if those actions were performed before December 19. 2005, (the effective date of AD 2005–23–08) using Airbus Service Bulletin A300–57–6086, dated June 6, 2000.

(2) This paragraph restates the credit provided by paragraph (p) of AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005): This paragraph provides credit for the modification required by paragraph (i) of this AD, if the modification was performed before December 19, 2005, (the effective date of AD 2005–23–08) using Airbus Service Bulletin A300–57–6050, Revision 02, dated February 10, 2000.

(m) New Requirements of This AD: Repetitive Ultrasonic Inspections and Corrective Action

(1) For airplanes on which Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001, has not been done, or on which Airbus Modification 10155 has been done: Perform an ultrasonic inspection for cracking of the left- and right-hand aft bottom panel of the center wing box (CWB) in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012. Do the inspection at the later of the times specified in paragraphs (m)(1)(i) and (m)(1)(ii) of this AD. If any cracking is found, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent, or the Design Approval Holder with EASA's design organization approval, as applicable. For a repair method to be approved, the repair approval must specifically refer to this AD. Repeat the inspection thereafter at intervals not to exceed the applicable interval specified in paragraph 1.E.(2), Accomplishment Timescale, of Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012.

(i) Within 13,400 flight cycles or 34,600 flight hours after the first flight of the airplane, whichever occurs first.

(ii) Within 650 flight cycles or 8 months after the effective date of this AD, whichever occurs first.

(2) For airplanes on which Airbus Service Bulletin A300–57–6050, Revision 03, dated May 31, 2001, has been done: Perform an ultrasonic inspection for cracking of the left- and right-hand aft bottom panel of the center wing box (CWB), in accordance with the Accomplishment Instructions of Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012. Do the inspection at the later of the times specified in paragraphs (m)(2)(i) and (m)(2)(ii) of this AD. If any cracking is found, before further flight repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA (or its delegated agent, or the Design Approval Holder with EASA's design organization approval), as applicable. For a repair method to be approved, the repair approval must specifically refer to this AD. Repeat the inspection thereafter at intervals not to exceed the applicable interval specified in paragraph 1.E.(2), Accomplishment Timescale, of Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012.

(i) Within 13,400 flight cycles or 34,600 flight hours after accomplishing Airbus Service Bulletin A300–57–6050, whichever occurs first.

(ii) Within 650 flight cycles or 8 months after the effective date of this AD, whichever occurs first.

(n) New Reporting Requirement

Submit a report of the findings (both positive and negative) of the inspection required by paragraph (m) of this AD to the Design Approval Holder, at the applicable time specified in paragraph (n)(1) or (n)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of flight cycles and flight hours on the airplane. The inspection report form in Appendix 01 of Airbus Mandatory Service Bulletin A300–57–6086, Revision 05, dated January 30, 2012, may be used.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(o) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: (425) 227–2125; fax: (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2005–23–08, Amendment 39–14366 (70 FR 69056, November 14, 2005), are approved as AMOCs for the corresponding provision of this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or the Design Approval Holder with a State of Design Authority's design organization approval), as applicable. For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(p) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information EASA Airworthiness Directive 2012–0092, dated May 25, 2012: Correction dated June 4, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov.*

(2) For service information identified in this AD, contact Airbus SAS—EAW (Airworthiness Office), 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com*; Internet *http://www.airbus.com.*

(3) You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information

on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 17, 2013.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30893 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–1088; Directorate Identifier 2008–NE–15–AD]

RIN 2120–AA64

Airworthiness Directives; Dowty Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to revise airworthiness directive (AD) 2008–21–07 that applies to certain Dowty Propellers model R408/6–123–F/17 propellers. AD 2008–21–07 requires initial and repetitive inspections of the blade bonded metallic leading edge (L/E) guards for correct bonding until they accumulate more than 1,200 flight hours (FH) time in service. Since we issued AD 2008–21–07, Dowty Propellers has introduced updated service bulletins that identify terminating action to the requirements of AD 2008–21–07. This proposed AD would maintain the inspection and replacement requirements of AD 2008–21–07, provide an optional terminating action to those requirements, and add a new part number to the list of affected parts. We are proposing this AD to prevent the loss of the bonded metallic L/E guard of the propeller, which could result in damage to the propeller or to the airplane, or injury to personnel.

DATES: We must receive comments on this proposed AD by February 24, 2014.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; phone 44 (0) 1452 716000; fax 44 (0) 1452 716001. You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2008–1088; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Michael Schwetz, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7761; fax: 781–238–7170; email: *michael.schwetz@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–1088; Directorate Identifier 2008–NE–15–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On October 3, 2008, we issued AD 2008–21–07, Amendment 39–15691 (73 FR 61346, October 16, 2008), (''AD 2008–21–07''), for all Dowty Propellers model R408/6–123–F/17 propellers. AD 2008–21–07 requires initial and repetitive inspections of the blade bonded metallic L/E guards for correct bonding until they accumulate more than 1,200 FH time in service. AD 2008–21–07 resulted from three in-service occurrences of blades losing the bonded metallic L/E guard. We issued AD 2008–21–07 to prevent the loss of the bonded metallic L/E guard of the propeller, which could result in damage to the propeller or to the airplane, or injury to personnel.

Actions Since Existing AD Was Issued

Since we issued AD 2008–21–07, Dowty Propellers has introduced updated service bulletins that identify terminating action to the repetitive inspection requirements of AD 2008–21–07. Dowty has also informed us of the need to add blade part number 697071278–18 to the list of affected parts. Also since we issued AD 2008–21–07, the European Aviation Safety Agency (EASA) has issued AD 2007–0223R4, dated September 30, 2013, which requires repetitive inspections of the affected propellers and clarifies terminating action.

Relevant Service Information

We reviewed Dowty Propellers Alert Service Bulletin (ASB) No. D8400–61–A69, Revision 1, dated September 18, 2007. The ASB describes procedures for initial and repetitive inspections of blade bonded metallic L/E guards, and repair or replacement of blades that fail inspection. We also reviewed Service Bulletin (SB) No. D8400–61–70, Revision 3, dated June 3, 2013, and SB No. D8400–61–83, Revision 4, dated June 3, 2013, which provide optional terminating action for the repetitive inspection requirement of this proposed AD.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would maintain the initial and repetitive inspections of the propeller blade bonded metallic L/E guards required by AD 2008–21–07 (73 FR 61346, October 16, 2008). This proposed AD would also provide an

optional terminating action to the repetitive inspection requirements of AD 2008–21–07, and would add a new part number to the list of affected parts.

Costs of Compliance

We estimate that this proposed AD would affect 174 propellers installed on airplanes of U.S. registry. We also estimate that it would take about 4 hours per propeller to comply with this proposed AD. The average labor rate is $85 per hour. Required parts cost about $352 per product. Based on these figures, we estimate the total cost of this proposed AD to U.S. operators is $120,408.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2008–21–07, Amendment 39–15691 (73 FR 61346, October 16, 2008), and adding the following new AD:

Dowty Propellers (formerly Dowty Aerospace Propellers): Docket No. FAA–2008–1088; Directorate Identifier 2008–NE–15–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by February 24, 2014.

(b) Affected Ads

This AD revises AD 2008–21–07, Amendment 39–15691 (73 FR 61346, October 16, 2008).

(c) Applicability

This AD applies to Dowty Propellers model R408/6–123–F/17 propellers with blades, part numbers 697071200–18, 697071210–18, 697071227–18, 697071240–18, 697071245–18, 697071257–18, or 697071278–18, installed.

(d) Unsafe Condition

This AD was prompted by three in-service occurrences of blades losing the bonded metallic leading edge (L/E) guard. We are issuing this AD to prevent the loss of the bonded metallic L/E guard of the propeller, which could result in damage to the propeller or to the airplane, or injury to personnel.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) Within the next 50 flight hours (FH) or within 30 days after the effective date of this AD, whichever occurs first, inspect all affected blade assemblies where the bonded metallic L/E guard has accumulated 1,200 FH time in service or less since installation, in accordance with the instructions of Dowty Propellers Alert Service Bulletin (ASB) No. D8400–61–A69, Revision 1, dated September 18, 2007.

(2) Within 50 FH or 30 days, whichever occurs first, after installing a replacement blade, inspect the affected blade assembly where the bonded metallic L/E guard has accumulated 1,200 FH time in service or less since installation, in accordance with the instructions of Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007.

(3) Thereafter, at intervals not to exceed 100 FH, repeat the inspection of the affected blade assemblies in accordance with the instructions of Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007, until the blade bonded metallic L/E guard has accumulated more than 1,200 FH time in service since installation.

(4) If, during any of the inspections required by this AD, disbonding is found, apply the criteria in Appendix A of Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007 and, within the associated time period, repair or replace the affected blade assembly in accordance with Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007.

(5) Blades that were repaired within the first 101.6 mm (4.0 inches) of the tip of the blade as specified in Appendix D of Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007, are eligible to continue in service for another 500 FH after accomplishment of the repair. Repair does not terminate the repetitive inspection requirements of paragraph (e)(3) of this AD.

(f) Optional Terminating Action

As optional terminating action to the repetitive inspection requirements of paragraph (e)(3) of this AD, modify the affected propeller using Dowty Propellers Service Bulletin (SB) No. D8400–61–70, Revision 3, dated June 3, 2013, or SB No. D8400–61–83, Revision 4, dated June 3, 2013, as applicable.

(g) Alternative Methods of Compliance (AMOCs)

The Manager, Boston Aircraft Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(h) Related Information

(1) For more information about this AD, contact Michael Schwetz, Aerospace Engineer, Boston Aircraft Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7761; fax: 781–238–7170; email: *michael.schwetz@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2007–0223R4, dated September 30, 2013, for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov/#!docketDetail;D=FAA-2008-1088.*

(3) Dowty Propellers SB No. D8400–61–70, Revision 3, dated June 3, 2013, and SB No. D8400–61–83, Revision 4, dated June 3, 2013, which are not incorporated by reference in this AD, can be obtained from Dowty Propellers, using the contact information in paragraph (h)(5) of this AD.

(4) Dowty Propellers ASB No. D8400–61–A69, Revision 1, dated September 18, 2007, pertains to the subject of this AD and can be obtained from Dowty Propellers, using the

contact information in paragraph (h)(5) of this AD.

(5) For service information identified in this AD, contact Dowty Propellers, Anson Business Park, Cheltenham Road East, Gloucester GL2 9QN, UK; phone: 44 (0) 1452 716000; fax: 44 (0) 1452 716001.

(6) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on December 11, 2013.

Frank P. Paskiewicz,

Acting Director, Aircraft Certification Service.

[FR Doc. 2013–30882 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1032; Directorate Identifier 2012–NM–121–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Aviation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede airworthiness directive (AD) 2011–13–07 that applies to all Dassault Aviation Model FALCON 7X airplanes. AD 2011–13–07 requires revising the airplane flight manual (AFM) to include a procedure to power off a radio-altimeter or revert to the correct radio-altimeter output. Since we issued AD 2011–13–07, an analysis showed that AFM procedures could be simplified. This proposed AD would require revising the AFM to include a simpler procedure to revert to the correct radio-altimeter output. We are proposing this AD to ensure that the flightcrew has procedures in the event of a radio-altimeter lock-up, which inhibits the display of warnings along with certain abnormal conditions, during the switch into landing mode during altitude cruise. If not corrected, this could result in the flightcrew being unaware of possible system failures that require immediate action by the flightcrew, leading to possible loss of control of the airplane.

DATES: We must receive comments on this proposed AD by February 10, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, NJ 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the MCAI, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1032; Directorate Identifier 2012–NM–121–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On June 14, 2011, we issued AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011). AD 2011–13–07 requires actions intended to address an unsafe condition on the products listed above.

Since we issued AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), the European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2009–0208R2, dated May 22, 2012 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> Several occurrences of untimely radio-altimeter lock-up have been reported, where the failed radio-altimeter (RA) indicated a negative distance to the ground despite the aircraft was flying at medium or high altitude.
>
> A locked RA #1 leads to untimely inhibition of warnings that could be displayed along with certain abnormal conditions while the avionic system switches into landing mode during altitude cruise.
>
> This condition, if not corrected, may cause the flight crew to be unaware of possible system failures that could require immediate actions, which could ultimately lead to loss of control of the aeroplane.
>
> To address this unsafe condition, Dassault Aviation developed an Airplane Flight Manual (AFM) operational procedure that, in case of RA #1 lock-up, allows the crew to restore the system warning performance by depowering the RA #1. EASA issued AD 2009–0208 [*http://ad.easa.europa.eu/ad/2009-0208R3*] to require application of that new abnormal procedure when RA #1 lock-up occurs. That EASA AD also prohibited dispatch of the aeroplane with any radio-altimeter inoperative.
>
> Since issuance of EASA AD 2009–0208, Dassault Aviation developed Easy avionics load 10 which is embodied through Dassault Aviation production modification M0566 or in-service through Service Bulletin (SB) Falcon 7X n°100. This modification provides new features to display a ''RA miscompare'' flag on both Primary Display Units (PDU) and allows a commanded system reversion to the correct RA output.
>
> Prompted by this modification, EASA issued AD 2009–0208R1 [*http://ad.easa.europa.eu/ad/2009-0208R3*], to allow not deactivating RA #1 in case lock-up conditions occurred in flight, for aeroplanes on which M0566 or SB Falcon 7X n°100 was embodied.

Since issuance of EASA AD 2009–0208R1, further analysis shows that, for aeroplanes with M0566 applied in production, or SB Falcon 7X N°100 applied in service, the RA#2 lock-up occurrence should be addressed through a commanded system reversion, now only contained in a simplified Falcon 7X AFM procedure 3–140–70A.

For the reasons described above, this [EASA] AD revises EASA AD 2009–0208R1 to reduce the requirement to amend the AFM by deleting the reference to procedure 3–140–65B. In addition, Dassault Aviation have confirmed that all Falcon 7X have been or are being modified with Mod M0566 applied in production, or SB Falcon 7X n°100 applied in service. For this reason, paragraph (1) of this [EASA] AD has been deleted. Finally, many editorial changes have been made to align the writing of the AD with the current writing standards.

You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Dassault has issued Falcon 7X Airplane Flight Manual, DGT 105608, Revision 15, dated January 30, 2012. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 35 products of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision [retained actions from AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011)].	1 work-hour × $85 per hour = $85.	None	$85	$2,975
New AFM revision [new proposed action]	1 work-hour × $85 per hour = $85.	None	85	2,975

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This proposed regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing airworthiness directive (AD) 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), and adding the following new AD:

Dassault Aviation: Docket No. FAA–2013–1032; Directorate Identifier 2012–NM–121–AD.

(a) Comments Due Date

We must receive comments by February 10, 2014.

(b) Affected ADs

This AD supersedes AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011).

(c) Applicability

This AD applies to Dassault Aviation Model FALCON 7X airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by reports of untimely radio-altimeter lock-ups, where the failed radio-altimeter indicated a negative distance to the ground when the airplane was flying at medium or high altitude. We are issuing this AD to ensure that the flightcrew has procedures in the event of a radio-altimeter lock-up, which inhibits the display of warnings along with certain abnormal conditions, during the switch into landing mode during altitude cruise. If not corrected, this could result in the flightcrew being unaware of possible system failures that require immediate action by the flightcrew, leading to possible loss of control of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Retained Airplane Flight Manual (AFM) Revision

This paragraph restates the requirements of paragraph (h) of AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), with editorial changes. For airplanes on which M0566 or Dassault Service Bulletin Falcon 7X–100 has been accomplished: Within 14 days after July 27, 2011 (the effective date of AD 2011–13–07), revise the Limitations Section of the Dassault Falcon 7X AFM to include the statement in figure 1 to paragraph (g) of this AD. This may be done by inserting a copy of this AD in the AFM. When a statement identical to that in figure 1 to paragraph (g) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM. Accomplishing the revision required by paragraph (h) of this AD terminates the requirements of this paragraph, and after the revision required by paragraph (h) of this AD has been done, before further flight, remove the revision required by this paragraph.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD

If radio-altimeter #1 lock-up conditions occur in flight, revert to the correct radio-altimeter output, in accordance with the instructions of Falcon 7X AFM procedure 3–140–65B and 3–140–70A.
Dispatch of the airplane with any radio-altimeter inoperative is prohibited.

(h) New Requirement of This AD: Revision of Airplane Flight Manual

For airplanes on which M0566 or Dassault Service Bulletin Falcon 7X–100 has been accomplished: Within 30 days after the effective date of this AD, do the action specified in paragraphs (h)(1) and (h)(2) of this AD.

(1) Revise the Limitations Section of the Dassault Falcon 7X AFM to include the statement in figure 2 to paragraph (h) of this AD. This may be done by inserting a copy of this AD in the AFM. Doing this revision terminates the requirements of paragraph (g) of this AD and the revision required by paragraph (g) of this AD must be removed. When a statement identical to that in figure 2 to paragraph (h) of this AD has been included in the general revisions of the AFM, the general revisions may be inserted into the AFM, and the copy of this AD may be removed from the AFM.

FIGURE 2 TO PARAGRAPH (h) OF THIS AD

If radio-altimeter miscompare indication occurs in flight, revert to the correct radio-altimeter output, in accordance with the instructions of Falcon 7X AFM procedure 3–140–70A.
Dispatch of the airplane with any radio-altimeter inoperative is prohibited.

(2) Revise the Abnormal Procedures section to include procedure 3–140–70A of the Dassault Falcon 7X Airplane Flight Manual, DGT105608, Revision 15, dated January 30, 2012, into the AFM.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone (425) 227–1137; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD. AMOCs approved previously in accordance with AD 2011–13–07, Amendment 39–16730 (76 FR 36283, June 22, 2011), are approved as alternative methods of compliance with this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the DAH with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2009–0208R2, dated May 22, 2012, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov.*

(2) For service information identified in this AD, contact Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606; telephone 201–440–6700; Internet *http://www.dassaultfalcon.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 12, 2013.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30853 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–1031; Directorate Identifier 2013–NM–155–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Airbus Model A330–200, A330–200 Freighter, and A330–300 series airplanes; and Model A340–200, A340–300, A340–500, and A340–600 series airplanes. This proposed AD was prompted by the failure of the generator control unit-constant speed motor/generator (GCU–CSM/G) during a final assembly operational test. This proposed AD would require a detailed inspection of the connector wires for GCU–CSM/G connector 1XE–A for discrepancies (evidence of arcing or overheating damage), and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct incorrect locking of contacts into connector 1XE–A of the GCU–CSM/G, which could result in a loss of contact continuity and lead to the CSM/G not operating, which, in conjunction with an emergency electrical configuration loss of the main electrical system or total engine flame out, could adversely affect the airplane's safe flight.

DATES: We must receive comments on this proposed AD by February 10, 2014.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email a*irworthiness.A330–A340@airbus.com*; Internet *http://www.airbus.com*. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2013–1031; Directorate Identifier 2013–NM–155–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Members of the European Community, has issued EASA Airworthiness Directive 2013–0175, dated August 2, 2013 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

> During Final Assembly Line tests on an A330 aeroplane, the Generator Control Unit—Constant Speed Motor/Generator (GCU–CSM/G) failed the operational test.
>
> Investigations revealed that it is due to incorrect locking of some contacts (pins) into the GCU–CSM/G connector 1XE–A. An inspection of other aeroplanes confirmed this production quality issue. Among the 26 pins used in GCU–CSM/G connector 1XE–A, 6 pins have been identified as potentially affected by this issue.
>
> A badly locked contact could result in a loss of continuity and lead to the non-operation of the CSM/G.
>
> This condition, if not detected and corrected, and in conjunction with either an emergency electrical configuration loss of main electrical system or total engine flame out, could jeopardize the aeroplane's safe flight.
>
> To address this condition, Airbus developed Alert Operator Transmission (AOT) A24L001–13, to provide instructions for a one-time inspection.
>
> For the reasons described above, this AD requires a one-time [detailed] inspection of the potentially affected connector wires of GCU–CSM/G connector 1XE–A and, depending on [the] finding, accomplishment of [a related investigative action] and applicable corrective actions.

The related investigative action is a detailed inspection of the receptacle contacts of the GCU–CSM/G for proper engagement and evidence of arcing or overheating damage. The corrective actions include replacing damaged (evidence of arcing or overheating) contacts, and if necessary the electrical connector; and replacement of the GCU–CSM/G if the receptacle contacts show evidence of arcing or overheating damage.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1031.

Relevant Service Information

Airbus has issued Alert Operators Transmission A24L001–13, dated July 25, 2013. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 76 airplanes of U.S. registry.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $6,460, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 1 work-hour and require parts costing up to $17,314, for a cost of up to $17,399 per product. We have no way of determining the number of aircraft that might need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. 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.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this proposed AD would not have federalism implications

under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: *Docket No. FAA–2013–1031; Directorate Identifier 2013–NM–155–AD.*

(a) Comments Due Date

We must receive comments by February 10, 2014.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus Model A330–201, –202, –203, –223, –223F, –243, –243F, –301, –302, –303, –321, –322, –323, –341, –342, –343 airplanes; and A340–211, –212, –213, –311, –312, –313, –541, and –642 airplanes; certificated in any category; manufacturer serial numbers (MSNs) 1 through 1391 inclusive, except MSNs 0925 and 1382.

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical Power.

(e) Reason

This AD was prompted by the failure of the generator control unit-constant speed motor/generator (GCU–CSM/G) during a final assembly operational test. We are issuing this AD to detect and correct incorrect locking of contacts into connector 1XE–A of the GCU–CSM/G, which could result in a loss of contact continuity and lead to the CSM/G not operating, which, in conjunction with an emergency electrical configuration loss of the main electrical system or total engine flame out, could adversely affect the airplane's safe flight.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspections and Corrective Actions

(1) Within 1,000 flight hours after the effective date of this AD: Do a detailed inspection for discrepancies (proper engagement and evidence of arcing or overheating) of the affected connector wires of GCU–CSM/G connector 1XE–A, in accordance with Airbus Alert Operators Transmission A24L001–13, dated July 25, 2013.

(2) If, during the inspection required by paragraph (g)(1) of this AD, any discrepancy is detected, before further flight, do all applicable related investigative and corrective actions, in accordance with Airbus Alert Operators Transmission A24L001–13, dated July 25, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1138; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they were approved by the State of Design Authority (or its delegated agent, or by the Design Approval Holder with a State of Design Authority's design organization approval). For a repair method to be approved, the repair approval must specifically refer to this AD. You are required to ensure the product is airworthy before it is returned to service.

(i) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) European Aviation Safety Agency Airworthiness Directive 2013–0175, dated August 2, 2013, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2013–1031.

(2) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330–A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 17, 2013.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2013–30897 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0987; Airspace Docket No. 13–AWP–19]

Proposed Establishment of Class E Airspace; Needles, CA

AGENCY: Federal Aviation Administration (FAA), Department of Transportation DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Needles VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Needles, CA, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Los Angeles Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of aircraft operations within the National Airspace System.

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0987; Airspace Docket No. 13–AWP–19, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–0987 and Airspace Docket No. 13–AWP–19) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0987 and Airspace Docket No. 13–AWP–19''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Needles VORTAC navigation aid, Needles, CA. This action would contain aircraft while in IFR conditions under control of Los Angeles ARTCC by vectoring aircraft from en route airspace to terminal areas.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at the Needles VORTAC, Needles, CA.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AWP CA E6 Needles, CA [New]

Needles VORTAC, CA

(Lat. 34°45′58″ N., long. 114°28′27″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 35°01′00″ N., long. 114°07′00″ W.; to lat. 34°56′00″ N., long. 113°38′00″ W.; to lat. 35°05′00″ N., long. 113°20′00″ W.; to lat. 35°04′30″ N., long. 113°18′00″ W.; to lat. 34°54′00″ N., long. 113°39′00″ W.; to lat. 34°40′00″ N., long. 114°00′00″ W.; to lat. 33°37′00″ N., long. 114°00′00″ W.; to lat. 33°36′00″ N., long. 114°10′00″ W.; to lat. 33°51′00″ N., long. 114°32′00″ W.; to lat. 34°05′00″ N., long. 114°32′00″ W.; to lat. 34°10′00″ N., long. 114°13′00″ W.; to lat. 34°24′00″ N., long. 114°18′00″ W.; lat. 34°58′00″ N., long. 114°13′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on December 11, 2013.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–30676 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0956; Airspace Docket No. 13–AWP–17]

Proposed Establishment of Class E Airspace; Phoenix, AZ

AGENCY: Federal Aviation Administration (FAA), Department of Transportation DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Phoenix VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Phoenix, AZ, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Albuquerque Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of aircraft operations within the National Airspace System.

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0956; Airspace Docket No. 13–AWP–17, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–0956 and Airspace Docket No. 13–AWP–17) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0956 and Airspace Docket No. 13–AWP–17''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Phoenix VORTAC navigation aid, Phoenix, AZ. This action would contain aircraft while in IFR conditions under control of Albuquerque ARTCC by vectoring aircraft from en route airspace to terminal areas.

Class E airspace designations are published in paragraph 6006 of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII,

Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at the Phoenix VORTAC, Phoenix, AZ.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AWP AZ E6 Phoenix, AZ [New]

Phoenix VORTAC, AZ
(Lat. 33°25′59″ N., long. 111°58′13″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 34°01′00″ N., long. 114°00′00″ W.; to lat. 33°33′12″ N., long. 111°51′21″ W.; to lat. 33°29′30″ N., long. 110°45′45″ W.; to lat. 33°52′30″ N., long. 108°45′00″ W.; to lat. 33°50′00″ N., long. 108°00′00″ W.; to lat. 33°35′00″ N., long. 107°36′00″ W.; to lat. 33°35′00″ N., long. 107°28′00″ W.; to lat. 32°25′00″ N., long. 108°00′00″ W.; to lat. 32°25′00″ N., long. 108°12′00″ W.; to lat. 31°20′00″ N., long. 108°12′00″ W.; to lat. 31°20′00″ N., long. 111°05′00″ W.; to lat. 32°06′00″ N., long. 113°30′30″ W.; to lat. 32°44′15″ N., long. 113°41′05″ W.; to lat. 32°41′00″ N., long. 114°00′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on December 11, 2013.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–30685 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0995; Airspace Docket No. 13–ASW–30]

Proposed Establishment of Class E Airspace; Truth or Consequences, NM

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Truth or Consequences VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Truth or Consequences, NM, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Albuquerque Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of aircraft operations within the National Airspace System.

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0995; Airspace Docket No. 13–ASW–30, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–0995 and Airspace Docket No. 13–ASW–30) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0995 and Airspace Docket No. 13–ASW–30''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center,

Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Truth or Consequences VORTAC navigation aid, Truth or Consequences, NM. This action would contain aircraft while in IFR conditions under control of Albuquerque ARTCC by vectoring aircraft from en route airspace to terminal areas.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at the Truth or Consequences VORTAC, Truth or Consequences, NM.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas

* * * * *

ASW NM E6 Truth or Consequences, NM [New]

Truth or Consequences VORTAC, NM
(Lat. 33°16′57″ N., long. 107°16′50″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 33°38′15″ N., long. 103°29′15″ W.; to lat. 33°24′10″ N., long. 103°41′30″ W.; to lat. 33°23′00″ N., long. 103°48′00″ W.; to lat. 33°00′00″ N., long. 103°48′00″ W.; to lat. 32°28′00″ N., long. 103°56′00″ W.; to lat. 32°02′00″ N., long. 103°48′00″ W.; to lat. 31°39′00″ N., long. 103°20′00″ W.; to lat. 31°35′00″ N., long. 103°07′00″ W.; to lat. 31°17′00″ N., long. 102°09′00″ W.; to lat. 30°57′08″ N., long. 102°58′33″ W.; to lat. 30°17′54″ N., long. 103°57′17″ W.; to lat. 30°42′00″ N., long. 105°00′00″ W.; to lat. 31°45′00″ N., long. 106°23′00″ W.; to lat. 31°48′00″ N., long. 106°32′00″ W.; to lat. 31°47′00″ N., long. 108°12′00″ W.; to lat. 32°25′00″ N., long. 108°12′00″ W.; to lat. 32°25′00″ N., long. 108°00′00″ W.; to lat. 33°35′00″ N., long. 107°28′00″ W.; to lat. 33°35′00″ N., long. 106°48′10″ W.; to lat. 33°49′45″ N., long. 106°45′20″ W.; to lat. 33°49′30″ N., long. 106°16′30″ W.; to lat. 33°44′45″ N., long. 106°04′00″ W.; to lat. 34°17′00″ N., long. 106°04′00″ W.; to lat. 34°17′00″ N., long. 105°51′00″ W.; to lat. 33°58′00″ N., long. 105°27′00″ W.; to lat. 34°08′45″ N., long. 105°09′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on December 11, 2013.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–30681 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0994; Airspace Docket No. 13–ASW–29]

Proposed Establishment of Class E Airspace; Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), Department of Transportation DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace at the Albuquerque VHF Omni-Directional Radio Range Tactical Air Navigation Aid (VORTAC), Albuquerque, NM, to facilitate vectoring of Instrument Flight Rules (IFR) aircraft under control of Albuquerque Air Route Traffic Control Center (ARTCC). The FAA is proposing this action to enhance the safety and management of aircraft operations within the National Airspace System.

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2013–0994; Airspace Docket No. 13–ASW–29, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2013–0994 and Airspace Docket No. 13–ASW–29) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0994 and Airspace Docket No. 13–ASW–29''. The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E en route domestic airspace extending upward from 1,200 feet above the surface at the Albuquerque VORTAC navigation aid, Albuquerque, NM. This action would contain aircraft while in IFR conditions under control of Albuquerque ARTCC by vectoring aircraft from en route airspace to terminal areas.

Class E airspace designations are published in paragraph 6006, of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in this Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This proposed regulation is within the scope of that authority as it would establish controlled airspace at the Albuquerque VORTAC, Albuquerque, NM.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

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

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013, and effective September 15, 2013 is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas

* * * * *

ASW NM E6 Albuquerque, NM [New]

Albuquerque VORTAC, NM
(Lat. 35°02′38″ N., long. 106°48′59″ W.)

That airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 35°41′00″ N., long. 109°38′30″ W.; to lat. 35°51′00″ N., long. 109°19′00″ W.; to lat. 36°02′00″ N., long. 108°13′00″ W.; to lat. 36°12′00″ N., long. 107°28′00″ W.; to lat. 36°37′37″ N., long. 106°21′00″ W.; to lat. 36°43′00″ N., long. 106°05′00″ W.; to lat. 36°43′00″ N., long. 105°20′30″ W.; to lat. 35°12′30″ N., long. 105°28′30″ W.; to lat. 35°00′00″ N., long. 105°04′00″ W.; to lat. 35°00′00″ N., long. 104°33′00″ W.; to lat. 34°43′00″ N., long. 104°33′00″ W.; to lat. 34°30′00″ N., long. 105°09′00″ W.; to lat. 34°08′45″ N., long. 105°09′00″ W.; to lat. 33°58′00″ N., long. 105°27′00″ W.; to lat. 34°17′00″ N., long. 105°51′00″ W.; to lat. 34°17′00″ N., long. 106°04′00″ W.; to lat. 33°44′45″ N., long. 106°04′00″ W.; to lat. 33°49′30″ N., long.

106°16′30″ W.; to lat. 33°49′45″ N., long. 106°45′20″ W.; to lat. 33°35′00″ N., long. 106°48′10″ W.; to lat. 33°35′00″ N., long. 107°36′00″ W.; to lat. 33°50′00″ N., long. 108°00′00″ W.; to lat. 34°00′00″ N., long. 108°00′00″ W.; to lat. 34°21′00″ N., long. 108°00′00″ W.; to lat. 34°25′27″ N., long. 109°08′37″ W.; to lat. 34°17′28″ N., long. 109°17′27″ W.; to lat. 34°30′00″ N., long. 109°35′00″ W.; to lat. 34°47′52″ N., long. 110°18′52″ W., thence to the point of beginning.

Issued in Seattle, Washington, on December 11, 2013.

Christopher Ramirez,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2013–30691 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0990; Airspace Docket No. 13–AGL–8]

RIN 2120–AA66

Proposed Modification and Establishment of Air Traffic Service (ATS) Routes in the Vicinity of Huntingburg, IN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify a VOR Federal airway (V–243) and establish an area navigation (RNAV) route (T–325) in the vicinity of Huntingburg, IN. The FAA is proposing this action due to the scheduled decommissioning of the Huntingburg, IN (HNB), VHF Omnidirectional Range (VOR)/Distance Measuring Equipment (DME) facility that provides navigation guidance for a portion of V–243. This action would enhance the safety and efficient management of aircraft within the National Airspace System (NAS).

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2013–0990 and Airspace Docket No. 13–AGL–8 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and Regulations Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0990 and Airspace Docket No. 13–AGL–8) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov*.

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0990 and Airspace Docket No. 13–AGL–8.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified comment closing date will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the comment closing date. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov*.

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

The Huntingburg, IN, (HNB) VOR/DME facility is currently out of service. As a result, aircraft that file V–243 are being vectored between the Bowling Green, KY (BWG), VOR Tactical Air Navigation (VORTAC) and the Terre Haute, IN (TTH), VORTAC. In response to the proponent responsible for the HNB VOR/DME requesting the FAA decommission of the facility, the FAA conducted the required non-rulemaking study and public notice circularization actions to propose decommissioning the facility. As a result, a determination was made to permanently decommission the HNB VOR/DME due to maintenance issues associated with keeping the facility operational. Additionally, the HNB VOR/DME is not on the list of VORs planned for retention in the VOR Minimum Operational Network (MON). Therefore, the ATS routes, fixes, and procedures that utilize the HNB VOR/DME must be amended. With the decommissioning of the HNB VOR/DME, the ground-based navigation aid (NAVAID) coverage is insufficient to ensure the continuity of V–243. The proposed modification to V–243 would result in the segment between BWG and TTH being cancelled, but the remaining segments supported by other NAVAIDs being retained. To cover the cancelled segment of V–243, an RNAV route, T–325, would be established between BWG and TTH.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend VOR Federal airway V–243 and establish RNAV route T–325. The scheduled decommissioning of the HNB VOR/DME facility has made this action necessary. The proposed route modification and establishment actions are outlined below.

V–243: V–243 currently extends between Craig, FL (CRG) and TTH. The route segment between BWG and TTH would be cancelled. A new RNAV route, T–325, is proposed, as described below, to replace the cancelled Federal airway route segment, thereby furthering the

transition to an RNAV route structure in support of the NextGen initiative.

T–325: This proposed new route would extend between BWG and TTH to replace the cancelled Federal airway route segment of V–243 between BWG and TTH described above. The proposed routing of T–325 between BWG and the APALO, IN, waypoint (WP), and between the new BUNKA, IN, WP and TTH, are exact overlays of the route segments of V–243 proposed for cancellation.

The navigation aid radials cited in the proposed VOR Federal airway route description, below, are stated relative to True north.

Domestic VOR Federal airways are published in paragraph 6010(a) and low altitude RNAV routes (T) are published in paragraph 6011, respectively, of FAA Order 7400.9X dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The VOR Federal airway and low altitude RNAV route listed in this document would be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, dated August 7, 2013 and effective September 15, 2013, is amended as follows:

Paragraph 6010 VOR Federal Airways

* * * * *

V–243 [Amended]

From Craig, FL; Waycross, GA; Vienna, GA; LaGrange, GA; INT LaGrange 342° and Choo Choo, GA, 189° radials; Choo Choo; to Bowling Green, KY.

* * * * *

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–325 Bowling Green, KY to Terre Haute, IN [New]

Bowling Green, KY (BWG)	VORTAC	(Lat. 36°55′43″ N., long. 086°26′36″ W.)
RENRO, KY	WP	(Lat. 37°28′51″ N., long. 086°39′19″ W.)
LOONE, KY	WP	(Lat. 37°44′14″ N., long. 086°45′18″ W.)
APALO, IN	WP	(Lat. 38°00′21″ N., long. 086°51′35″ W.)
BUNKA, IN	WP	(Lat. 39°04′57″ N., long. 087°09′07″ W.)
Terre Haute, IN (TTH)	VORTAC	(Lat. 39°29′20″ N., long. 087°14′56″ W.)

* * * * *

Issued in Washington, DC, on December 18, 2013.

Gary A. Norek,

Manager, Airspace Policy & Regulations Group.

[FR Doc. 2013–30698 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2013–0952; Airspace Docket No. 13–AGL–18]

RIN 2120–AA66

Proposed Modification of Area Navigation (RNAV) Route T–265, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify RNAV route T–265 in support of the O'Hare Modernization Project (OMP)/Chicago Airspace Project (CAP). This proposed action would insert a dogleg and re-align T–265 slightly to the west to provide appropriate lateral spacing from a new Rockford Airport Traffic Control Tower (RFD) and Chicago Terminal Radar Approach Control (C90) airspace boundary and to maintain the efficiency and safety of aircraft transitioning around the Chicago Class B airspace area.

DATES: Comments must be received on or before February 10, 2014.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001; telephone: (202) 366–9826. You must identify FAA Docket No. FAA–2013–0952 and Airspace Docket No. 13–AGL–18 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy and ATC Procedures Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2013–0952 and Airspace Docket No. 13–AGL–18) and be submitted in triplicate to the Docket Management Facility (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2013–0952 and Airspace Docket No. 13–AGL–18.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.*

You may review the public docket containing the proposal, any comments received and any final disposition in person in the Dockets Office (see ADDRESSES section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the office of the Central Service Center, Operations Support Group, Federal Aviation Administration, 2601 Meacham Blvd., Fort Worth, TX 76137.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Proposal

The FAA is proposing an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to modify T–265 in support of the OMP/CAP. As part of the OMP/CAP, the RFD/C90 airspace boundary will be moved to the west. This proposed action would re-align T–265 slightly to the west by replacing the first two waypoints in the existing route, KELSI and SIMMN, with two airway intersection fixes, AHMED and START, respectively, and then re-designating the remaining waypoints in the route, BULLZ and VEENA, as airway intersection fixes also. The proposed route modification would ensure appropriate lateral spacing from the new RFD/C90 airspace boundary and eliminate the need for manual air traffic control (ATC) coordination or aircraft to accomplish frequency changes between the two facilities. This modification would shorten T–265 by almost two nautical miles while providing the same level of convenience to the flying public with an easy way to file and fly around the Chicago Class B airspace area between Chicago/Rockford International Airport, IL, and Chicago O'Hare International Airport, IL.

Low altitude RNAV routes are published in paragraph 6011 of FAA Order 7400.9X, dated August 7, 2013, and effective September 15, 2013, which is incorporated by reference in 14 CFR 71.1. The RNAV route listed in this document would be subsequently published in the Order.

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

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify the route structure as required to enhance the safe and efficient flow of air traffic within the National Airspace System.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9X, Airspace Designations and Reporting Points, Dated August 7, 2013, and effective September 15, 2013, is amended as follows:

Paragraph 6011 United States Area Navigation Routes

* * * * *

T–265 AHMED, IL to VEENA, WI [Amended]

AHMED, IL	Fix	(Lat. 41°29′52″ N., long. 88°51′52″ W.)
START, IL	Fix	(Lat. 41°45′25″ N., long. 89°00′22″ W.)
BULLZ, IL	Fix	(Lat. 42°27′27″ N., long. 88°46′17″ W.)
VEENA, WI	Fix	(Lat. 42°42′18″ N., long. 88°18′14″ W.)

* * * * *

Issued in Washington, DC, on December 18, 2013.

Gary A. Norek,

Manager, Airspace Policy and ATC Procedures Group.

[FR Doc. 2013–30693 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Parts 1260 and 1274

RIN 2700–AE12

Removal of Procedures for Delegation of Administration of Grants and Cooperative Agreements

AGENCY: National Aeronautics and Space Administration.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** of November 14, 2013, regarding Procedures for Delegation of Administration of Grants and Cooperative Agreements. This correction provides the correct regulatory identification number (RIN) for the proposed rule.

FOR FURTHER INFORMATION CONTACT: Leigh Pomponio, 202–358–0592.

Correction

In proposed rule FR Doc. 2013–27232, beginning on page 68376 in the issue of November 14, 2013, make the following corrections in the RIN and Addresses sections:

- On page 68376 in the 1st column, remove the RIN 2700–AE11 and add in its place the RIN 2700–AE12.
- On page 68376 in the 2nd column, remove the RIN 2700–AE11 and add in its place the RIN 2700–AE12.

Nanette Jennings,

NASA Liaison Officer.

[FR Doc. 2013–30793 Filed 12–24–13; 8:45 am]

BILLING CODE 7510–13–P

FEDERAL TRADE COMMISSION

16 CFR Part 305

[3084–AB15]

Energy and Water Use Labeling for Consumer Products Under the Energy Policy and Conservation Act (''Energy Labeling Rule'')

AGENCY: Federal Trade Commission (FTC or Commission).

ACTION: Proposed rule.

SUMMARY: The Commission proposes conforming amendments to the Energy Labeling Rule (''Rule'') to require a new Department of Energy (DOE) test procedure for televisions and establish data reporting requirements for those products.

DATES: Comments must be received by February 10, 2014.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Television Labels, Matter No. R611004'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/televisionlabels* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex F), 600 Pennsylvania Avenue NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Room M–8102B, 600 Pennsylvania Avenue NW., Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Commission's Energy Labeling Rule (Rule) (16 CFR Part 305), issued pursuant to the Energy Policy and Conservation Act (EPCA), requires energy labeling for major household appliances and other consumer products to help consumers compare competing models. When first published in 1979, the Rule applied to eight product categories: Refrigerators, refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners, and furnaces. The Commission has since expanded the Rule's coverage to include central air conditioners, heat pumps, plumbing products, lighting products, ceiling fans, certain types of water heaters, and televisions.

The Rule requires manufacturers to attach yellow EnergyGuide labels on many of these products, and prohibits retailers from removing the labels or rendering them illegible. In addition, the Rule directs sellers, including retailers, to post label information on Web sites and in paper catalogs from which consumers can order products. EnergyGuide labels for covered appliances must contain three key disclosures: Estimated annual energy cost (for most products); a product's energy consumption or energy efficiency rating as determined from Department of Energy (DOE) test procedures; and a comparability range displaying the highest and lowest energy costs or efficiency ratings for all similar models.[1] For energy cost calculations, the Rule specifies national average costs for applicable energy sources (*e.g.,* electricity, natural gas, oil) as calculated by DOE. The Rule sets a five-year schedule for updating range of comparability and average unit energy cost information.[2] The Commission updates the range information based on manufacturer data submitted pursuant to the Rule's reporting requirements.

[1] Where no ''applicable'' DOE test exists for televisions, EPCA authorizes the Commission to use ''adequate non-Department of Energy test procedures'' to obtain information for energy disclosures. 42 U.S.C. 6294(a)(2)(I)(ii). During FTC's television labeling proceeding, DOE announced plans to develop a new test procedure. 74 FR 53640, 53641 (Oct. 20, 2009).

[2] 16 CFR 305.10.

II. Proposed Amendments

The Commission now proposes conforming amendments to revise the Rule's television testing and reporting requirements in response to a new DOE television test procedure published on October 25, 2013 (78 FR 63823). These amendments will ensure the Rule's television labeling requirements are consistent with EPCA, which mandates that FTC labels reflect applicable DOE test procedures when available.[3]

When the Commission first issued labeling requirements for televisions in 2011 (76 FR 1038 (Jan. 6, 2011)), no DOE test procedure existed for such products. Accordingly, the FTC required manufacturers to use the Environmental Protection Agency's (EPA's) ENERGY STAR test procedure to measure television energy use. However, as discussed in several previous **Federal Register** Notices, the Commission has anticipated that amendments would be necessary after completion of the DOE test procedure.[4] DOE's recently completed test procedure supersedes the ENERGY STAR procedure and triggers EPCA's directive for manufacturers to begin using the new procedure 180 days after its issuance.[5]

To conform the labeling rule to the new DOE test procedure, the Commission proposes three amendments. First, consistent with EPCA's mandate requiring DOE test procedures for labeling, the Commission plans to remove the Rule's reference to the ENERGY STAR test in section 305.5 and replace it with the DOE procedure.[6] Second, the Commission proposes a new reporting requirement for televisions consistent with requirements for most other labeled products, such as refrigerators and clothes washers.[7] Manufacturers may submit their new television data through the DOE's web-based reporting tool, the Compliance and Certification Management System (CCMS).[8] To ensure that EPCA's 180-day period (*i.e.,* April 23, 2014) is complete before requiring the first round of data reports, the Commission proposes a May 1 date for annual submissions pursuant to the Rule's reporting schedule (section 305.8). After the Commission reviews the new data, it will consider issuing updated comparability ranges for television labels.[9] Finally, the proposed amendments update the definition of ''television'' in section 305.3 to incorporate DOE's definition of that term as well as limit labeling coverage to the scope of DOE's test procedure. For the most part, DOE's definition of ''television'' and the coverage of its test procedure are consistent with FTC's current rule. However, DOE determined not to cover very small models with screen sizes of 15 inches or fewer in its procedure because consumers often do not use such devices as typical televisions.[10]

III. Paperwork Reduction Act

The current Rule contains recordkeeping, disclosure, testing, and reporting requirements that constitute information collection requirements as defined by 5 CFR 1320.3(c), the definitional provision within the Office of Management and Budget (OMB) regulations that implement the Paperwork Reduction Act (PRA). OMB has approved the Rule's existing information collection requirements through February 29, 2016 (OMB Control No. 3084 0069). The Commission accounted for the burden of testing and labeling televisions when it first issued the labeling requirements (76 FR 1038 (Jan. 6, 2011)). However, the new DOE test procedure triggers EPCA's requirement that manufacturers retest their televisions for any energy representations made 180 days after DOE publishes the test, including those on the FTC label. This creates an additional, one-time burden. In issuing the television labels, FTC staff estimated that 2,000 basic models exist in the marketplace, that manufacturers test two units per model, and that testing requires one hour per unit tested. Using these estimates, the Commission expects the new testing will require a one-time burden of 4,000 additional hours of burden. Annualized over a 3-year PRA clearance cycle, this one-time burden amounts to 1,333 hours. Assuming further that this testing will be implemented by electrical engineers, and applying an associated hourly wage rate of $44.14 per hour, labor costs for testing would annualized total of $58,839.[11] In addition, the amendments would increase the Rule's reporting requirements. Staff estimates that the average reporting burden for these manufacturers is approximately two minutes per basic model to enter information into DOE's online database. Based on this estimate, multiplied by an estimated total of 2,000 basic television models, the annual reporting burden for manufacturers is an estimated 67 hours (2 minutes × 2,000 models ÷ 60 minutes per hour). Assuming further that these filing requirements will be implemented by data entry workers at an hourly wage rate of $15.11 per hour, the associated labor cost for recordkeeping would be approximately $1,012 per year.[12] Any non-labor costs associated with the amendments are likely to be minimal.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, requires that the Commission provide an Initial Regulatory Flexibility Analysis (IRFA) with a Proposed Rule and a Final Regulatory Flexibility Analysis (FRFA), if any, with the final Rule, unless the Commission certifies that the Rule will not have a significant economic impact on a substantial number of small entities.[13]

The Commission does not anticipate that the Proposed Rule will have a significant economic impact on a substantial number of small entities. Consistent with past analysis (76 FR at 1049), the Commission estimates that these new requirements will apply to about 30 product manufacturers. Out of these companies, the Commission expects that no manufactures qualify as

[3] 42 U.S.C. 6294(c).

[4] For example, the Commission explained in 2011 that ''[w]hen DOE completes its own rulemaking to develop a television test procedure for use in that agency's efficiency standards program, the Commission will issue conforming amendments consistent with EPCA's requirements that the labels use information from DOE test procedures when such procedures are available.'' 76 FR 1038, 1040 (Jan. 6, 2011). *See also* 78 FR 43974, 43975 (July 23, 2013); 78 FR 1779, 1780 (Jan. 9, 2013).

[5] Any energy representation, including those made on a label, for a covered product must fairly reflect the results of a new DOE test procedure 180 days after that test's issuance. *See* 42 U.S.C. 6293(c)(2). In its October 25, 2013 Notice, DOE identified April 23, 2014 as the date for revised representations.

[6] EPCA gives Commission no discretion to retain the ENERGY STAR procedure. 42 U.S.C. 6294(a)(2)(I).

[7] The new DOE test procedure triggers EPCA's reporting provisions, which require manufacturers to submit energy reports to the Commission derived from DOE test procedures for all new models and annually for models in current production. 42 U.S.C. 6296(b)(1) and (4). Consistent with the Rule's required reports for other covered products, the content for the television reports in the proposed amendments include brand name; model number; screen size (diagonal in inches); power (in watts) consumed in on mode, standby-passive mode, in standby-active mode, low mode, and off mode; and annual energy consumption (kWh/year) for each basic model in current production.

[8] *See https://www.regulations.doe.gov/ccms.*

[9] Section 305.17 contains the television ranges.

[10] *See* 10 CFR 430.2 and App. H, sec. 1; 78 FR at 63825–63826. The proposed amendments also would delete obsolete § 305.17(h), which contains specific labeling directions for televisions of nine inches or fewer. The Commission will consider revisions to the ranges in § 305.17 once data based on the DOE test procedure becomes available.

[11] *See* Bureau of Labor Statistics, U.S. Department of Labor, Occupational Employment and Wages—May 2012, Table 1 (National employment and wage data from the Occupational Employment Statistics survey by occupation, May 2012), available at: *http://www.bls.gov/news.release/ocwage.t01.htm.*

[12] *See id.*

[13] 5 U.S.C. 603–605.

small businesses.[14] Furthermore, the Commission does not expect that the requirements specified in the Proposed Rule will have a significant impact on these entities. In addition, the Commission does not expect that the label design and other requirements specified in the Proposed Rule will have a significant economic impact on these entities.

Accordingly, this document serves as notice to the Small Business Administration of the FTC's certification of no effect. To ensure the accuracy of this certification, however, the Commission requests comment on whether the Proposed Rule will have a significant impact on a substantial number of small entities, including specific information on the number of entities that would be covered by the Proposed Rule, the number of these companies that are ''small entities,'' under the RFA, and the average annual burden for each entity. Although the Commission certifies under the RFA that the Rule proposed in this Notice would not, if promulgated, have a significant impact on a substantial number of small entities, the Commission has determined, nonetheless, that it is appropriate to publish an IRFA in order to inquire into the impact of the Proposed Rule on small entities. Therefore, the Commission has prepared the following analysis:

A. Description of the Reasons That Action by the Agency Is Being Taken

The Commission is proposing amendments to conform the Rule to a recently published DOE test procedure for televisions.

B. Statement of the Objectives of, and Legal Basis for, the Proposed Rule

The objective of the Proposed Rule is to provide television energy use information to consumers. EPCA provides the Commission with authority to require energy disclosures for televisions and other consumer electronics.

C. Small Entities To Which the Proposed Rule Will Apply

Under the Small Business Size Standards issued by the Small Business Administration, television manufacturers qualify as small businesses if they have fewer than 1,000 employees (for other household appliances the figure is 500 employees) or if their sales are less than $8.0 million annually. The Commission estimates that no manufacturers subject to the Proposed Rule qualify as small businesses. The Commission seeks comment and information with regard to the estimated number or nature of small business entities for which the Proposed Rule would have a significant economic impact

D. Projected Reporting, Recordkeeping, and Other Compliance Requirements

The Commission recognizes that the proposed rule will involve some increased costs related to reporting these products, and maintaining test records. All of these burdens and the skills required to comply are discussed in the previous section of this document, regarding the Paperwork Reduction Act, and there should be no difference in that burden as applied to small businesses. The Commission invites comment and information on these issues.

E. Duplicative, Overlapping, or Conflicting Federal Rules

The Commission has not identified any other federal statutes, rules, or policies that would duplicate, overlap, or conflict with the Proposed Rule. The Commission invites comment and information on this issue.

F. Significant Alternatives to the Proposed Rule

The Commission seeks comment and information on the need, if any, for alternative compliance methods that would reduce the economic impact of the Rule on such small entities. As one alternative to reduce burden, the Commission could delay the proposed Rule's reporting date to provide additional time for small business compliance. If the comments filed in response to this Notice identify small entities that would be affected by the Rule, as well as alternative methods of compliance that would reduce the economic impact of the Rule on such entities, the Commission will consider the feasibility of such alternatives and determine whether they should be incorporated into the final rule.

V. Request for Comments

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 10, 2014. Write ''Television Labels, Matter No. R611004'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission Web site, at *http://www.ftc.gov/os/publiccomments.shtm.* As a matter of discretion, the Commission tries to remove individuals' home contact information from comments before placing them on the Commission Web site.

Because your comment will be made public, you are solely responsible for making sure that your comment does not include any sensitive personal information, such as anyone's Social Security number, date of birth, driver's license number or other state identification number or foreign country equivalent, passport number, financial account number, or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, do not include any ''[t]rade secret or any commercial or financial information which is . . . privileged or confidential,'' as discussed in § 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). In particular, do not include competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

If you want the Commission to give your comment confidential treatment, you must file it in paper form, with a request for confidential treatment, and you have to follow the procedure explained in FTC Rule 4.9(c), 16 CFR 4.9(c). Your comment will be kept confidential only if the FTC General Counsel, in his or her sole discretion, grants your request in accordance with the law and the public interest.

Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/televisionlabels,* by following the instruction on the web-based form. If this Notice appears at *http://www.regulations.gov,* you also may file a comment through that Web site.

If you file your comment on paper, write ''Television Labels, Matter No. R611004'' on your comment and on the envelope, and mail or deliver it to the following address: Federal Trade Commission, Office of the Secretary, Room H–113 (Annex F), 600 Pennsylvania Avenue NW., Washington, DC 20580. If possible, submit your paper comment to the Commission by courier or overnight service.

[14] *See also* 78 FR at 63838 (DOE's conclusion that no television manufacturers qualify as small businesses).

Visit the Commission Web site at *http://www.ftc.gov* to read this NPRM and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 10, 2014. You can find more information, including routine uses permitted by the Privacy Act, in the Commission's privacy policy, at *http://www.ftc.gov/ftc/privacy.htm*.

Because written comments appear adequate to present the views of all interested parties, the Commission has not scheduled an oral hearing regarding these proposed amendments. Interested parties may request an opportunity to present views orally. If such a request is made, the Commission will publish a document in the **Federal Register** stating the time and place for such oral presentation(s) and describing the procedures that will be followed. Interested parties who wish to present oral views must submit a hearing request, on or before January 15, 2014, in the form of a written comment that describes the issues on which the party wishes to speak. If there is no oral hearing, the Commission will base its decision on the written rulemaking record.

VI. Communications by Outside Parties to the Commissioners or Their Advisors

Written communications and summaries or transcripts of oral communications respecting the merits of this proceeding, from any outside party to any Commissioner or Commissioner's advisor, will be placed on the public record. See 16 CFR 1.26(b)(5).

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, reporting and recordkeeping requirements.

Proposed Rule Language

For the reasons set out above, the Commission proposes to amend 16 CFR Part 305 as follows:

PART 305—ENERGY AND WATER USE LABELING FOR CONSUMER PRODUCTS UNDER THE ENERGY POLICY AND CONSERVATION ACT (''ENERGY LABELING RULE'')

■ 1. The authority citation for Part 305 continues to read as follows:

Authority: 42 U.S.C. 6294.

■ 2. In § 305.3, revise paragraph (y) and add paragraph (z) to read as follows:

§ 305.3 Description of covered products.

* * * * *

(y) *Television* means a product that is designed to produce dynamic video, contains an internal TV tuner encased within the product housing, and is capable of receiving dynamic visual content from wired or wireless sources including but not limited to:

(1) Broadcast and similar services for terrestrial, cable, satellite, and/or broadband transmission of analog and/or digital signals; and/or

(2) Display-specific data connections, such as HDMI, Component video, Svideo, Composite video; and/or

(3) Media storage devices such as a USB flash drive, memory card, or a DVD; and/or

(4) Network connections, usually using Internet Protocol, typically carried over Ethernet or Wi-Fi.

(z) The requirements of this part are limited to those televisions for which the Department of Energy has adopted and published test procedures for measuring energy use.

■ 3. In § 305.5, remove paragraph (d), redesignate paragraph (e) as paragraph (d), and revise newly redesignated paragraph (d) to read as follows:

§ 305.5 Determinations of estimated annual energy consumption, estimated annual operating cost, and energy efficiency rating, water use rate, and other required disclosure content.

* * * * *

(d) Representations for ceiling fans under § 305.13 and televisions under § 305.17 must be derived from applicable procedures in 10 CFR parts 429, 430, and 431.

■ 4. In § 305.8, revise paragraph (a)(1); redesignate paragraph (a)(3) as paragraph (a)(4); add new paragraph (a)(3), and revise newly redesignated paragraph (a)(4) and paragraph (b)(1) to read as follows:

§ 305.8 Submission of data.

(a)(1) Except as provided in paragraphs (a)(2) through (4) of this section, each manufacturer of a covered product subject to the disclosure requirements of this part and subject to Department of Energy certification requirements in 10 CFR part 429 shall submit annually a report for each model in current production containing the same information that must be submitted to the Department of Energy pursuant to 10 CFR part 429 for that product, and that the Department has identified as public information pursuant to 10 CFR part 429. In lieu of submitting the required information to the Commission as required by this section, manufacturers may submit such information to the Department of Energy via the Compliance and Certification Management System (CCMS) at *https://regulations.doe.gov/ccms* as provided by 10 CFR 429.12.

* * * * *

(3) Manufacturers of televisions shall submit annually a report containing the brand name; model number; screen size (diagonal in inches); power (in watts) consumed in on mode, standby-passive mode, in standby-active mode, low mode, and off mode; and annual energy consumption (kWh/year) for each basic model in current production. The report should also include a starting serial number, date code, or other means of identifying the date of manufacture with the first submission for each basic model. In lieu of submitting the required information to the Commission as required by this section, manufacturers may submit such information to the Department of Energy via the Compliance and Certification Management System (CCMS) at *https://regulations.doe.gov/ccms* as provided by 10 CFR 429.12.

(4) This section does not require reports for general service light-emitting diode (LED or OLED) lamps.

(b)(1) All data required by § 305.8(a) except serial numbers shall be submitted to the Commission annually, on or before the following dates:

Product category	Deadline for data submission
Refrigerators	Aug. 1.
Refrigerators-freezers	Aug. 1.
Freezers	Aug. 1.
Central air conditioners	July 1.
Heat pumps	July 1.
Dishwashers	June 1.
Water heaters	May 1.
Room air conditioners	July 1.
Furnaces	May 1.
Pool heaters	May 1.
Clothes washers	Oct. 1.
Fluorescent lamp ballasts	Mar. 1.
Showerheads	Mar. 1.
Faucets	Mar. 1.
Water closets	Mar. 1.
Ceiling fans	Mar. 1.
Urinals	Mar. 1.
Metal halide lamp fixtures	Sept. 1.
General service fluorescent lamps.	Mar. 1.
Medium base compact fluorescent lamps.	Mar. 1.
General service incandescent lamps.	Mar. 1.
Televisions	May 1.

* * * * *

§ 305.17 [Amended]

■ 5. In § 305.17, remove paragraph (h).

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2013–30633 Filed 12–24–13; 8:45 am]

BILLING CODE 6750–01–P

LIBRARY OF CONGRESS

U.S. Copyright Office

37 CFR Parts 201 and 210

[Docket No. 2012–7]

Mechanical and Digital Phonorecord Delivery Compulsory License

AGENCY: U.S. Copyright Office, Library of Congress.

ACTION: Request for additional comments.

SUMMARY: The U.S. Copyright Office (''Office'' or ''Copyright Office'') of the Library of Congress requests additional public comments on clarifying the terms in the Monthly and Annual Statements of Account for the making and distribution of phonorecords.

DATES: Additional comments on the proposed rule published July 27, 2012 (77 FR 44179), must be received in the Office of the General Counsel of the Copyright Office no later than 5 p.m. Eastern Daylight Time (EDT) on January 30, 2014. Reply comments must be received no later than 5 p.m. EDT on February 14, 2014.

ADDRESSES: The Copyright Office strongly prefers that comments be submitted electronically. A comment submission page is posted on the Copyright Office Web site at *http://www.copyright.gov/docs/section115/soa/comments/.* The Web site interface requires submitters to complete a form specifying name and other required information, and to upload comments as an attachment. To meet accessibility standards, all comments must be uploaded in a single file in either the Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The maximum file size is 6 megabytes (MB). The name of the submitter and organization should appear on both the form and the face of the comments. All comments will be posted publicly on the Copyright Office Web site exactly as they are received, along with names and organizations if provided. If electronic submission of comments is not feasible, please contact the Copyright Office at (202) 707–8380 for special instructions.

FOR FURTHER INFORMATION CONTACT: William Roberts, Senior Counsel to the Register of Copyrights, or Stephen Ruwe, Attorney Advisor, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024. *Telephone:* (202) 707–8380. *Telefax:* (202) 707–8366.

SUPPLEMENTARY INFORMATION: On July 27, 2012, the Copyright Office published a notice of proposed rulemaking (''NPRM'') and request for comments concerning new regulations that would amend the requirements for reporting Monthly and Annual Statements of Account for the making and distribution of phonorecords under the compulsory license, 17 U.S.C. 115, to bring the regulations up to date to accommodate certain rates and terms proposed by the Copyright Royalty Judges (''Judges'') that provided for a multi-step process for calculating royalties for certain new services, including limited offerings, mixed service bundles, paid locker services and purchased content locker services. *Mechanical and Digital Phonorecord Delivery Compulsory License; Notice of proposed rulemaking,* 77 FR 44179, July 27, 2012.

The NPRM noted that the existing regulations addressing Statements of Account are designed to address flat penny rates, such as those that are still applicable for the making and distribution of physical phonorecords, permanent digital downloads and ringtones. The Office also observed that the current regulations do not specifically accommodate the more complex methods for calculating the royalties contained in the Judges' May 17, 2012 proposed rule, announced in the context of the Judges' royalty rate adjustment proceeding in Docket No. 2011–3 CRB Phonorecords II. *See,* 77 FR 29259, May 17, 2012. In order to address this concern, the Copyright Office, acting under the authority set forth in 17 U.S.C. 115(c)(5), initiated a rulemaking to amend the Statement of Account provisions. In large part, the proposed regulations incorporate by reference the methodology adopted by the Judges in their 2009 determination, which are mirrored in the regulations adopting new rates and terms for the current licensing period. However, the NPRM identified a number of issues associated with the new rate structure that require careful consideration before adoption. *See,* 77 FR at 44181–185.

In response to joint motions by several parties requesting more time to provide input, the Office decided to extend the comment and reply comment periods. *Mechanical and Digital Phonorecord Delivery Compulsory License; Notice of proposed rulemaking: Extension of comment and reply comment periods.* 77 FR 55783, Sept. 11, 2012; *Mechanical and Digital Phonorecord Delivery Compulsory License; Extension of reply comment periods.* 77 FR 68075, Nov. 15, 2012. The Office withheld further action in this rulemaking pending the Judges' adoption of final rates and terms.

On November 13, 2013, the Judges issued final rates and terms for the section 115 license. *Adjustment of Determination of Compulsory License Rates for Mechanical and Digital Phonorecord, Final rule.* 78 FR 67938, Nov. 13, 2013. The final rates and terms differed from the 2012 proposed rates and terms in certain respects, due in part to actions taken by the Judges. Specifically, the Judges referred material questions of law to the Register of Copyrights concerning their authority to adopt certain terms relating to statements of account. *Order Referring Material Questions of Law and Setting Briefing Schedule* (March 27, 2013). The Judges also referred novel material questions of substantive law to the Register concerning their authority to adopt certain terms. *Order Referring Novel Questions of Law and Setting Briefing Schedule* (May 17, 2013). In light of the Register's timely responses to these referred questions, the Judges declined to adopt certain terms contained in the May 17, 2012 proposed rule. *Adjustment of Determination of Compulsory License Rates for Mechanical and Digital Phonorecord. Final rule.* 78 FR 67938, Nov. 13, 2013.

The Office finds that the conclusion of the recent proceeding and adoption of new rates and terms for the current licensing period may be pertinent to the issues raised in this rulemaking. Likewise, due to the passage of time since the issuance of the NPRM, marketplace developments and changes in business models may be relevant to the amendment of the regulations. Consequently, the Office has decided to extend an opportunity for such additional comments and supporting information. Interested parties are strongly encouraged to offer information and/or documentation to support arguments or conclusions offered in their comments. Any additional comments must be received in the Office of the General Counsel of the Copyright Office no later than January 30, 2014, and reply comments no later than February 14, 2014.

Dated: December 17, 2013.

Maria A. Pallante,

Register of Copyrights.

[FR Doc. 2013–30777 Filed 12–24–13; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2013–0629; FRL–9904–42–Region–4]

Approval and Promulgation of Implementation Plans; North Carolina; Transportation Conformity Memorandum of Agreement Update

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the North Carolina State Implementation Plan submitted on July 12, 2013, through the North Carolina Department of Environment and Natural Resources. This submission adopts a memorandum of agreement establishing transportation conformity criteria and procedures related to interagency consultation and enforceability of certain transportation-related control measures and mitigation measures. This proposed action streamlines the conformity process to allow direct consultation among agencies at the Federal, state and local levels. This proposed action is being taken pursuant to section 110 of the Clean Air Act.

In the Final Rules Section of this **Federal Register,** EPA is approving the State's implementation plan revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this document. Any parties interested in commenting on this document should do so at this time.

DATES: Written comments must be received on or before January 27, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R04–OAR–2013–0629 by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *Email: R4-RDS@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* EPA–R04–OAR–2013–0629, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Ms. Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Kelly Sheckler of the Air Quality Modeling and Transportation Section at the Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Ms. Sheckler's telephone number is 404–562–9222. She can also be reached via electronic mail at *Sheckler.Kelly@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register.**

Dated: December 10, 2013.

Beverly H. Banister,

Acting Regional Administrator, Region 4.

[FR Doc. 2013–30544 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2013–0058; FRL–9904–48–Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Update of the Motor Vehicle Emissions Budgets for the Lancaster 1997 8-Hour Ozone Maintenance Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Commonwealth of Pennsylvania's (Pennsylvania) State Implementation Plan (SIP). One revision consists of an update to the SIP-approved Motor Vehicle Emissions Budgets (MVEBs) for nitrogen oxides (NO_X) and volatile organic compounds (VOCs) for the 1997 8-Hour Ozone National Ambient Air Quality Standard (NAAQS) SIP for Lancaster County (also referred to as the ''Lancaster Maintenance Area''). The other SIP revision updates the point source inventory for NO_X and VOCs. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by January 27, 2014.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2013–0058 by one of the following methods:

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

B. *Email: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2013–0058, Cristina Fernandez, Associate Director, Office of Air Program Planning, Mailcode 3AP30, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

D. *Hand Delivery:* At the previously-listed EPA Region III address. 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–R03–OAR–2013–0058. EPA's policy is that all comments received will be included in the public docket without change, and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your

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

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Asrah Khadr, (215) 814–2071, or by email at *khadr.asrah@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: December 9, 2013.

W.C. Early,

Acting Regional Administrator, Region III.

[FR Doc. 2013–30712 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket #: EPA–R10–OAR–2013–0713; FRL–9904–63–Region 10]

Approval and Promulgation of Implementation Plans; Washington: Kent, Seattle, and Tacoma Second 10-Year PM_{10} Limited Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a limited maintenance plan submitted by the State of Washington, dated November 25, 2013, for the Kent, Seattle, and Tacoma maintenance areas for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM_{10}). A limited maintenance plan is used to meet Clean Air Act requirements for formerly designated nonattainment areas with little risk of violating the PM_{10} National Ambient Air Quality Standard (PM_{10} NAAQS) again. All three areas currently have monitored PM_{10} levels that are roughly one-third of the PM_{10} NAAQS, with steady declines in PM_{10} levels since the areas were first identified as potentially violating the PM_{10} NAAQS in 1987.

DATES: Comments must be received on or before January 27, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2013–0713, by any of the following methods:

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

B. *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle WA, 98101.

C. *Email: R10-Public_Comments@epa.gov.*

D. *Hand Delivery:* EPA Region 10 Mailroom, 9th Floor, 1200 Sixth Avenue, Suite 900, Seattle WA, 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT—107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2013–0713. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at (206) 553–0256, *hunt.jeff@epa.gov*, or by using the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used, it is intended to refer to the EPA.

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I. This Action

The EPA is proposing to approve the limited maintenance plan submitted by the State of Washington (Washington or the State), dated November 25, 2013, for the Kent, Seattle, and Tacoma PM_{10} maintenance areas, including approval of a monitoring system modification for the area. If finalized, the EPA's approval of this limited maintenance plan will satisfy the section 175A Clean Air Act requirements for all three areas, including the portion of the Puyallup Indian Reservation that falls within the Tacoma PM_{10} maintenance area.

II. Background

On August 7, 1987, the EPA identified portions of Kent, Seattle, and Tacoma as ''Group I'' areas of concern for having a greater than 95% probability of violating the 24-hour PM_{10} NAAQS (52 FR 29383). On November 15, 1990, the Group I areas of Kent, Seattle, and Tacoma were designated as nonattainment for PM_{10} by operation of law upon enactment of the Clean Air Act Amendments. The Washington Department of Ecology (Ecology) and the Puget Sound Clean Air Agency (PSCAA) worked with the communities to establish PM_{10} pollution control strategies. Primary control strategies for the three areas included a residential wood smoke control program, a fugitive dust program, a prohibition on open burning, and industrial emission controls. These control measures were highly successful with monitoring data showing Kent, Seattle, and Tacoma meeting the PM_{10} NAAQS since 1987, 1990, and 1989, respectively, with continuing declines in PM_{10} levels ever since.

The EPA fully approved the PM_{10} attainment plans for Kent, Seattle, and Tacoma on July 27, 1993, October 26, 1995, and October 25, 1995, respectively (58 FR 40059, 60 FR 54812, and 60 FR 54599). The EPA then approved a 10-year maintenance plan redesignating all three areas from nonattainment to attainment, making them maintenance areas effective May 14, 2001 (66 FR 14492, published March 13, 2001). The purpose of the current limited maintenance plan is to fulfill the second 10-year planning requirement, section 175A(b) of the Clean Air Act, to ensure compliance through 2020.

III. Public and Stakeholder Involvement in Rulemaking Process

Section 110(a)(2) of the Clean Air Act requires that each State Implementation Plan (SIP) revision offer a reasonable opportunity for notice and public hearing. The State provided notice and an opportunity for public comment beginning September 27, 2013, and ending November 4, 2013. Under the requirements of 40 CFR 51.102(a), the State held a public hearing at 6:30 p.m. on October 30, 2013 in the Mill Creek Room of the Kent Commons, 525 Fourth Avenue N, Kent, Washington. Two sets of comments were received. The first comment discussed the burning of coal in Asia generally, and requested stronger action to address international pollution. The second comment requested that Ecology expand the Kent maintenance area boundary and consider more stringent control measure in the future. The EPA reviewed both sets of comments and determined that Ecology's responses were appropriate and adequate. This SIP revision was submitted by the Governor's designee and was received by the EPA on November 29, 2013. The EPA evaluated Ecology's submittal and determined that the State met the requirements for reasonable notice and public hearing under section 110(a)(2).

IV. The Limited Maintenance Plan Option for PM_{10} Areas

A. Requirements for the Limited Maintenance Plan Option

On August 9, 2001, the EPA issued guidance on streamlined maintenance plan provisions for certain moderate PM_{10} nonattainment areas. See memo from Lydia Wegman, Director, Air Quality Standards and Strategies Division, entitled ''Limited Maintenance Plan Option for Moderate PM_{10} Nonattainment Areas'' (limited maintenance plan option memo). The limited maintenance plan option memo contains a statistical demonstration that areas meeting certain air quality criteria will, with a high degree of probability, maintain the standard ten years into the future. Thus, the EPA provided the maintenance demonstration for areas meeting the criteria outlined in the memo. It follows that future year emission inventories for these areas, and some of the standard analyses to determine transportation conformity with the SIP, are no longer necessary.

To qualify for the limited maintenance plan option the State must demonstrate the area meets the criteria described below. First, the area should have attained the PM_{10} NAAQS. Second, the most recent five years of air quality data at all monitors in the area, called the 24-hour average design value, should be at or below 98 $\mu g/m^3$. Third, the State should expect only limited growth in on-road motor vehicle PM_{10} emissions (including fugitive dust) and should have passed a motor vehicle regional emissions analysis test. Lastly, the memo identifies core provisions that must be included in all limited maintenance plans. These provisions include an attainment year emissions inventory, assurance of continued operation of an EPA-approved air quality monitoring network, and contingency provisions.

B. Conformity Under the Limited Maintenance Plan Option

The transportation conformity rule and the general conformity rule (40 CFR parts 51 and 93) apply to nonattainment areas and maintenance areas covered by an approved maintenance plan. Under either conformity rule, an acceptable method of demonstrating a Federal action conforms to the applicable SIP is to demonstrate that expected emissions from the planned action are consistent with the emissions budget for the area.

While qualification for the limited maintenance plan option does not exempt an area from the need to affirm conformity, conformity may be demonstrated without submitting an emissions budget. Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the length of the maintenance period because it is unreasonable to expect that the qualifying areas would experience so much growth in that period that a violation of the PM_{10} NAAQS would result. For transportation conformity purposes, the EPA would conclude that emissions in these areas need not be capped for the maintenance period and therefore a regional emissions analysis would not be required. Similarly, Federal actions subject to the general conformity rule could be considered to satisfy the ''budget test'' specified in 40 CFR 93.158(a)(5)(i)(A) for the same reasons that the budgets are essentially considered to be unlimited.

V. Review of the State's Submittal

A. Has the State demonstrated that the maintenance areas qualify for the limited maintenance plan option?

As discussed above, the limited maintenance plan option memo outlines the requirements for an area to qualify. First, the area should be attaining the PM_{10} NAAQS. Monitoring data shows that all three areas attained the PM_{10} NAAQS by 1990, with declining levels of PM_{10} ever since. The EPA formally redesignated the areas from nonattainment to attainment, making them maintenance areas effective May 14, 2001 (66 FR 14492, published March 13, 2001).

Second, the average design value for the past five years of monitoring data must be at or below the critical design value of 98 μg/m³ for the 24-hour PM_{10} NAAQS. The critical design value is a margin of safety in which an area has a one in ten probability of exceeding the NAAQS. The design values for Kent, Seattle, and Tacoma based on 24-hour PM_{10} monitoring data from 2003 through 2007 are 57 ± 3 μg/m³, 68 ± 4 μg/m³, and 72 ± 9 μg/m³. As discussed later in this proposal, in these three areas PM_{10} levels can be estimated with a high degree of accuracy using fine particulate matter ($PM_{2.5}$) concentrations. In 2007, the EPA approved the State's request to shift from PM_{10} specific monitoring in Kent, Seattle, and Tacoma to rely on the more stringent and environmentally relevant $PM_{2.5}$ NAAQS monitoring effort. PM_{10} design values estimated using $PM_{2.5}$ concentration levels from 2008 to 2012 are 46 ± 3 μg/m³, 50 ± 5 μg/m³, and 58 ± 8 μg/m³, respectively. The EPA reviewed the data and methodology provided by the State and finds that all three areas meet the design value criteria of 98 μg/m³ outlined in the limited maintenance plan option memo.

Third, the area must meet the motor vehicle regional emissions analysis test described in Attachment B of the limited maintenance plan option memo. The State submitted an analysis showing that growth in on-road mobile PM_{10} emissions sources was minimal and would not threaten the assumption of maintenance that underlies the limited maintenance plan policy. Using the EPA's methodology, the State calculated total growth in on-road motor vehicle PM_{10} emissions over the ten-year period for Kent, Seattle, and Tacoma of 1.5 μg/m³, 2.7 μg/m³, and 2.9 μg/m³, respectively. This calculation is derived using Attachment B of the EPA's limited maintenance plan memo, where the projected percentage increase in vehicle miles traveled over the next ten years (VMT_{pi}) is multipled by the on-road mobile portion of the attainment year inventory (DV_{mv}), including both primary and secondary PM_{10} emissions and re-entrained road dust. The EPA reviewed the calculations in the State's limited maintenance plan submittal and concurs with the determination that all three areas meet the motor vehicle regional emissions analysis test. This test is met when ($VMT_{pi} \times DV_{mv}$) plus the design value for the most recent five years of quality assured data is below the limited maintenance plan threshold of 98 μg/m³. The results for Kent, Seattle, and Tacoma were 61.5 μg/m³, 74.7 μg/m³, and 83.9 μg/m³, respectively. Please see Appendix A of the State's submission for the full analysis.

Lastly, the limited maintenance plan option memo requires all controls relied on to demonstrate attainment remain in place for the areas to qualify. The EPA confirmed that the underlying control measures for Kent, Seattle, and Tacoma remain in place, thus qualifying for the limited maintenance plan option.

As described above, the Kent, Seattle, and Tacoma maintenance areas meet the qualification criteria set forth in the limited maintenance plan option memo. Under the limited maintenance plan option, the State will be expected to determine on an annual basis that the criteria are still being met. If the State determines that the limited maintenance plan criteria are not being met, it should take action to reduce PM_{10} concentrations enough to requalify. One possible approach the State could take is to implement contingency measures. Section V. I. provides a description of contingency provisions submitted as part of the limited maintenance plan submittal. To ensure this requirement is met, the State commits to reporting to the EPA on continued qualification for the limited maintenance plan option in the annual monitoring network report.

B. Does the State have an approved attainment emissions inventory?

Pursuant to the limited maintenance plan option memo, the State's submission should include an emissions inventory which can be used to demonstrate attainment of the NAAQS. The inventory should represent emissions during the same five-year period associated with air quality data used to determine whether the area meets the applicability requirements of the limited maintenance plan option.

The limited maintenance plan submittal includes an emissions inventory based on the State's draft 2011 Triennial Emissions Inventory. This inventory is prepared as part of the 2011 National Emissions Inventory under the EPA's Air Emissions Reporting Rule (73 FR 76539, December 17, 2008). The information was supplemented with annual 2011 industrial emissions reported to PSCAA and Ecology. The 2011 base years represent the most recent emissions inventory data available and is consistent with the data used to determine applicability of the limited maintenance plan option (i.e., having no violations of the PM_{10} NAAQS). The emissions inventory focused on seven significant source categories chosen based on a review of the original maintenance plan. The 2011 emission categories are shown along with source categories from the original maintenance plan in parentheses. These categories are: On-road mobile (gasoline exhaust); port and marine, on-road mobile (diesel exhaust); port and marine (ships); locomotives, including fugitive dust (locomotives); residential wood combustion (wood burning); paved road dust, unpaved road dust (road dust); and industrial (allowable industrial). Other source categories, including outdoor burning, construction dust, aircraft emissions, wildfires, cigarette smoke, commercial charbroiling, and secondary particulate matter, are insignificant. The EPA reviewed and is proposing to approve the emissions inventory and methodology. The emissions inventory data supports the State's conclusion that the existing control measures in place will continue to protect and maintain the PM_{10} NAAQS.

C. Does the limited maintenance plan include an assurance of continued operation of an appropriate EPA-approved air quality monitoring network, in accordance with 40 CFR Part 58?

PM_{10} monitoring was established in the Kent, Seattle, and Tacoma areas between 1985 and 1987, with many changes to the monitoring technology and requirements since. Beginning in 1999, the State collocated $PM_{2.5}$ monitors with the existing PM_{10} Federal Equivalent Method (FEM) monitors to establish correlation data and confirm that PM_{10} levels could be accurately predicted using $PM_{2.5}$ concentrations for the areas. Due to the high level of correlation between the $PM_{2.5}$ and PM_{10} monitors, the State requested discontinuing the PM_{10} specific monitors as part of the 2007 annual network monitoring report under 40 CFR part 58. The EPA approved this request in a letter dated November 16, 2007, included in the docket for this action.

A full description of the correlation data and the estimation model is included in the limited maintenance plan submittal. The EPA is proposing to approve this monitoring system modification, using $PM_{2.5}$ monitoring data to estimate PM_{10} concentrations, under 40 CFR 58.14(c) for the second 10-year maintenance plan period. This estimation method is a reproducible approach to representing air quality in all three maintenance areas, and all three areas continue to meet the applicable Appendix D requirements evaluated as part of the annual network approval process. As detailed in the limited maintenance plan, the State will calculate the PM_{10} design value estimate annually from $PM_{2.5}$ monitoring data through 2020 to confirm the area continues to meet the PM_{10} NAAQS. The State also makes a commitment to continue operation of $PM_{2.5}$ monitoring in the three maintenance areas through the 2020, the end of the maintenance period, to determine PM_{10} levels. In the unlikely event that after exceptional events are taken into account, the calculated design value for PM_{10} exceeds the limited maintenance plan threshold of 98 $\mu g/m^3$, the State will re-establish PM_{10} monitoring.

D. Does the plan meet the clean air act requirements for contingency provisions?

Clean Air Act section 175A states that a maintenance plan must include contingency provisions, as necessary, to ensure prompt correction of any violation of the NAAQS which may occur after redesignation of the area to attainment. Puget Sound Clean Air Agency's Regulation I—Article 13.07(b) provides for prohibition of the use of uncertified woodstoves for the sole purpose of meeting Clean Air Act requirements for contingency measures. The EPA approved Article 13.07(b) as a contingency measure for all three areas on March 13, 2001 (66 FR 14492). Regulation I—Article 13.07(b) remains in effect today and the entire Article 13 was re-approved by the EPA on May 29, 2013 (78 FR 32131).

E. Has the State met conformity requirements?

(1) Transportation Conformity

Under the limited maintenance plan option, emissions budgets are treated as essentially not constraining for the maintenance period because it is unreasonable to expect that qualifying areas would experience so much growth in that period that a NAAQS violation would result. While areas with maintenance plans approved under the limited maintenance plan option are not subject to the budget test, the areas remain subject to the other transportation conformity requirements of 40 CFR part 93, subpart A. Thus, the metropolitan planning organization (MPO) in the area or the State must document and ensure that:

(a) Transportation plans and projects provide for timely implementation of SIP transportation control measures (TCMs) in accordance with 40 CFR 93.113;

(b) transportation plans and projects comply with the fiscal constraint element as set forth in 40 CFR 93.108;

(c) the MPO's interagency consultation procedures meet the applicable requirements of 40 CFR 93.105;

(d) conformity of transportation plans is determined no less frequently than every four years, and conformity of plan amendments and transportation projects is demonstrated in accordance with the timing requirements specified in 40 CFR 93.104;

(e) the latest planning assumptions and emissions model are used as set forth in 40 CFR 93.110 and 40 CFR 93.111;

(f) projects do not cause or contribute to any new localized carbon monoxide or particulate matter violations, in accordance with procedures specified in 40 CFR 93.123; and

(g) project sponsors and/or operators provide written commitments as specified in 40 CFR 93.125.

Upon approval of the limited maintenance plan for the Kent, Seattle, and Tacoma areas, the three PM_{10} maintenance areas are exempt from performing a regional emissions analysis, but must meet project-level conformity analyses as well as the transportation conformity criteria mentioned above.

(2) General Conformity

For Federal actions required to address the specific requirements of the general conformity rule, one set of requirements applies particularly to ensuring that emissions from the action will not cause or contribute to new violations of the NAAQS, exacerbate current violations, or delay timely attainment. One way that this requirement can be met is to demonstrate that ''the total of direct and indirect emissions from the action (or portion thereof) is determined and documented by the state agency primarily responsible for the applicable SIP to result in a level of emissions which, together with all other emissions in the nonattainment area, would not exceed the emissions budgets specified in the applicable SIP'' (40 CFR 93.158(a)(5)(i)(A)).

The decision about whether to include specific allocations of allowable emissions increases to sources is one made by the state air quality agencies. These emissions budgets are different than those used in transportation conformity. Emissions budgets in transportation conformity are required to limit and restrain emissions. Emissions budgets in general conformity allow increases in emissions up to specified levels. The State has not chosen to include specific emissions allocations for Federal projects that would be subject to the provisions of general conformity.

VI. Proposed Action

The EPA is proposing to approve the limited maintenance plan submitted by the State of Washington, dated November 25, 2013, for the Kent, Seattle, and Tacoma PM_{10} maintenance areas, including approval of a monitoring system modification for the area. If finalized, the EPA's approval of this limited maintenance plan will satisfy the section 175A Clean Air Act requirements for all three areas, including the portion of the Puyallup Indian Reservation that falls within the Tacoma PM_{10} maintenance area.

VII. Statutory and Executive Order Reviews

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

- Is not a ''significant regulatory action'' subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described

in the Unfunded Mandates Reform Act of 1995 (Pub. L.104–4);

• Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

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

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

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

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because it will not impose substantial direct costs on tribal governments or preempt tribal law. The SIP is not approved to apply in Indian country located in the State, except for non-trust land within the exterior boundaries of the Puyallup Indian Reservation, also known as the 1873 Survey Area. Under the *Puyallup Tribe of Indians Settlement Act of 1989,* 25 U.S.C. 1773, Congress explicitly provided state and local agencies in Washington authority over activities on non-trust lands within the 1873 Survey Area and the EPA is therefore approving this SIP on such lands. Consistent with EPA policy, the EPA nonetheless provided a consultation opportunity to the Puyallup Tribe in a letter dated October 18, 2013. The EPA did not receive a request for consultation.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Particulate matter, and Reporting and recordkeeping requirements.

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

Dated: December 12, 2013.

Dennis J. McLerran,

Regional Administrator, Region 10.

[FR Doc. 2013–30878 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R10–OAR–2013–0002; FRL–9904–53–Region 10]

Revision to the Idaho State Implementation Plan; Approval of Fine Particulate Matter Control Measures; Franklin County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On December 14, 2012, the Idaho Department of Environmental Quality (IDEQ) submitted a revision to the State Implementation Plan (SIP) to address Clean Air Act (CAA) requirements for the Idaho portion (hereafter referred to as ''Franklin County'') of the cross border Logan, Utah-Idaho fine particulate matter ($PM_{2.5}$) nonattainment area (Logan UT–ID). The EPA is proposing a limited approval of $PM_{2.5}$ control measures contained in the December 2012 submittal because incorporation of these measures would strengthen the Idaho SIP and reduce sources of $PM_{2.5}$ emissions in Franklin County that contribute to violations of the 2006 $PM_{2.5}$ NAAQS in the Logan UT–ID nonattainment area. Consequently, the EPA is not acting on the entire contents of the December 2012 SIP submission revision at this time.

DATES: Written comments must be received on or before January 27, 2014.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R10–OAR–2013–0002, by any of the following methods:

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

• *Email: R10-Public_Comments@epa.gov.*

• *Mail:* Jeff Hunt, EPA Region 10, Office of Air, Waste and Toxics (AWT–107), 1200 Sixth Avenue, Suite 900, Seattle, WA 98101.

• *Hand Delivery/Courier:* EPA Region 10, 1200 Sixth Avenue, Suite 900, Seattle, WA 98101. Attention: Jeff Hunt, Office of Air, Waste and Toxics, AWT–107. Such deliveries are only accepted during normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R10–OAR–2013–0002. The EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *www.regulations.gov* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

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, the disclosure of which is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Office of Air, Waste and Toxics, EPA Region 10, 1200 Sixth Avenue, Seattle WA, 98101.

FOR FURTHER INFORMATION CONTACT: Jeff Hunt at telephone number: (206) 553–0256, email address: *hunt.jeff@epa.gov,* or the above EPA, Region 10 address.

SUPPLEMENTARY INFORMATION: Throughout this document whenever ''we,'' ''us,'' or ''our'' is used, we mean the EPA.

The following outline is provided to aid in locating information in this preamble.

I. Background
II. Description of the Franklin County $PM_{2.5}$ Control Measures
III. Proposed Action
IV. Statutory and Executive Order Reviews

I. Background

The 2006 $PM_{2.5}$ National Ambient Air Quality Standard (NAAQS), set forth at 40 CFR 50.13, effective December 18, 2006, include 24-hour standards of 35 micrograms per cubic meter ($\mu g/m^3$) based on a 3-year average of the 98th percentile of 24-hour concentrations (71 FR 61144, Oct. 17, 2006). Effective December 14, 2009, the EPA designated the Logan UT–ID area (cross state, partial county designation) as a nonattainment area for the 2006 24-hour $PM_{2.5}$ standards (74 FR 58688, Nov. 13, 2009). The EPA included a portion of Franklin County, Idaho within the Logan UT–ID nonattainment area because emissions from sources in Idaho contribute to violations of the 2006 24-hour $PM_{2.5}$ NAAQS in the Logan, UT–ID area as a whole.[1]

In March 2012, the EPA issued guidance to states for implementation of the 2006 $PM_{2.5}$ NAAQS (March 2012 Implementation Guidance).[2] In this guidance, the EPA recommended that states submit SIP revisions to meet the nonattainment area planning requirements of the CAA within three years of the effective date of the nonattainment area designation. The EPA also recommended in the guidance that states make submissions for the 2006 $PM_{2.5}$ NAAQS consistent with the substantive requirements of 40 CFR part 51, subpart Z (*Provisions for Implementation of $PM_{2.5}$ National Ambient Air Quality Standards,* 40 CFR 51.1000 *et seq.*). Accordingly, in December 2012, IDEQ submitted a SIP revision intended to address the nonattainment planning requirements for the Franklin County portion of the Logan UT–ID nonattainment area (also referred to as ''Cache Valley'').

On January 4, 2013, however, the Court of Appeals for the District of Columbia remanded to the EPA the ''Final Clean Air Fine Particle Implementation Rule'' which forms the basis of the 40 CFR part 51, subpart Z nonattainment planning requirements in *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013). The Court concluded that the EPA had improperly based the implementation rule for the 1997 $PM_{2.5}$ NAAQS solely upon the requirements of part D, subpart 1 of the CAA, and had failed to address the requirements of part D, subpart 4. As a result of the Court's decision with respect to the statutory implementation requirements for $PM_{2.5}$ nonattainment areas the EPA withdrew its March 2012 Implementation Guidance because it was based largely on the remanded rule promulgated to implement the 1997 $PM_{2.5}$ NAAQS.[3] The EPA is currently engaged in rulemaking to address the remand from the Court. In the interim, however, the EPA believes that it may still be appropriate to take certain actions on SIP submissions from states intended to address nonattainment planning requirements for the 2006 $PM_{2.5}$ NAAQS.

IDEQ's December 2012 SIP submission presented the state's evaluation of the $PM_{2.5}$ nonattainment problem in the area. IDEQ explained that the Franklin County portion of the overall Logan UT–ID nonattainment area is rural and sparsely populated, containing only 10% of the overall Logan UT–ID nonattainment population base. Franklin County contains no major point sources of $PM_{2.5}$ or $PM_{2.5}$ precursors, defined by IDEQ for purposes of this SIP revision as a facility with the potential to emit annual emissions of 100 tons or more. Additionally, IDEQ stated that Franklin County accounts for roughly one-tenth of the overall mobile source emissions from cars and trucks and generally small area source contributions in the Logan UT–ID nonattainment area. Because the majority of emission sources impacting the nonattainment area are located outside Franklin County, IDEQ's December 2012 SIP submittal acknowledged that control measures either already promulgated or required as part of the Utah SIP are necessary to demonstrate attainment for the entire Logan UT–ID area.

As part of its December 2012 submission, IDEQ included a modeled attainment test conducted by the Utah Department of Environmental Quality Division of Air Quality (UDAQ). This modeled attainment test predicted the Logan UT–ID area would attain by the end of 2014 based solely on control measures adopted in the Utah portion of the area, with the Idaho controls providing additional reductions. Because the Idaho submission relies on the Utah control measures in demonstrating attainment, however, the EPA must also complete a comprehensive review of Utah's SIP submission for the Logan UT–ID area before the EPA can act on the entire SIP submission for the Franklin County portion of the area. Moreover, the EPA's evaluation of the SIP submissions from both states would need to include the emissions inventory, approach to $PM_{2.5}$ precursors, analysis and adoption of reasonably available control measures and reasonably available control technology (RACM and RACT), reasonable further progress (RFP) and quantitative milestones, contingency measures, and the attainment demonstration. The EPA will need to evaluate these submissions against the statutory requirements of part D, subpart 4.

In light of the court's decision in *Natural Resources Defense Council* v. *EPA,* and the need to evaluate the IDEQ submission in conjunction with the SIP submission for the Utah portion of the Logan UT–ID nonattainment area, the EPA is not at this time making a determination whether IDEQ's December 2012 SIP submission satisfies all of the statutory nonattainment planning requirements for the 2006 $PM_{2.5}$ NAAQS. Instead, the EPA's proposed action on IDEQ's December 2012 SIP revision is limited to approving specific control measures included in the submission that are expected to strengthen the SIP. These measures independently meet requirements for control measures in attainment plans and the emissions reductions they achieve will contribute to attainment of the 2006 $PM_{2.5}$ NAAQS in the Logan UT–ID area. Despite the limited nature of this proposed approval, the EPA believes that approval and incorporation of the control measures in the December 2012 SIP submission strengthen the Idaho SIP and provide important $PM_{2.5}$ emission reductions.

II. Description of the Franklin County $PM_{2.5}$ Control Measures

IDEQ, in close coordination with UDAQ, completed an emissions inventory for directly emitted $PM_{2.5}$ (primary $PM_{2.5}$) and the $PM_{2.5}$ precursors sulfur dioxide (SO_2), nitrogen oxides (NO_X), volatile organic compounds (VOC), and ammonia. An analysis of the baseline year emissions inventory indicated that sources in Franklin County contribute about one-fifth of the overall area primary $PM_{2.5}$ emissions during wintertime episodes when the area is most likely to violate the 24-hour $PM_{2.5}$ NAAQS. The important source categories identified for this contribution of primary $PM_{2.5}$ consist of 70% reintrained dust from winter road sanding, 14% residential wood burning emissions, and 6% mobile source primary $PM_{2.5}$ emissions.

[1] Technical Support for State and Tribal Air Quality 24-Hour Fine Particulate ($PM_{2.5}$) Designations, Sections 4.8.2 and 4.10.2 (Dec. 2008).

[2] Memorandum from Stephen D. Page, Implementation Guidance for the 2006 24-Hour Fine Particulate ($PM_{2.5}$) National Ambient Air Quality Standards (Mar. 2, 2012).

[3] Memorandum from Stephen D. Page, Withdrawal of Implementation Guidance for the 2006 24-Hour Fine Particle ($PM_{2.5}$) National Ambient Air Quality Standards (Jun. 6, 2013).

It is important to note that the EPA is not in this action evaluating whether IDEQ's or UDAQ's evaluation of which $PM_{2.5}$ precursors should be controlled within Franklin County, or within the entire Logan UT–ID area, is correct and consistent with the statutory requirements of part D, subpart 4. Nevertheless, the EPA agrees with IDEQ's determination that control of direct $PM_{2.5}$ emissions in this area is a necessary and appropriate step that will contribute to attainment of the 2006 $PM_{2.5}$ NAAQS in this area.

To reduce the contribution of primary $PM_{2.5}$ from reentrained dust on paved roads, IDEQ entered into road sanding agreements with Franklin County Road and Bridge and the Idaho Transportation Department as part of the SIP. The Franklin County Road and Bridge agreement reduces the amount of sand used on paved roads by substituting a brine solution when appropriate. For those times when antiskid treatment is required, Franklin County Road and Bridge agreed to use a 4-to-1 sand to salt ratio instead of the 10-to-1 ratio used in past years. Similarly, the Idaho Transportation Department agreed to use straight salt and liquid salt brine throughout Franklin County, except for occasional extenuating circumstances that warrant additional anti-skid materials. IDEQ used the EPA's AP–42 road dust emission estimation methodology in calculating future $PM_{2.5}$ reductions and found that the road sanding agreements would reduce primary $PM_{2.5}$ emissions from 0.47 tons per day in an uncontrolled scenario to 0.37 tons per day by 2014, for a typical winter weekday. Although the road sanding agreements are expected to reduce emissions of $PM_{2.5,}$ they are not directly enforceable. However, the road sanding agreements are similar to agreements previously approved by the EPA as voluntary measures in the Idaho SIP (70 FR 29247), and consistently implemented by the relevant state, county and municipal governments. Accordingly, the EPA is proposing to approve the road sanding agreements as voluntary measures in accordance with existing guidance.[4]

IDEQ also worked with local jurisdictions in Franklin County to establish residential woodstove ordinances to control primary $PM_{2.5}$ and VOC emissions from non-EPA certified devices during mandatory burn ban days. IDEQ's Air Quality Index (AQI) program supports the local jurisdictions by calling mandatory burn bans for uncertified woodstoves when $PM_{2.5}$ concentration levels are at or forecasted to reach 25.4 $\mu g/m^3$. The ordinances also ban open burning of any kind during burn ban days. Lastly, the ordinances prohibit the sale or installation of non-EPA certified devices in new or existing buildings, and prohibit the construction of any building for which a solid fuel burning device is the sole source of heat. Because the residential woodstove burn ban program for Franklin County was newly launched in the 2012–2013 heating season, to estimate the $PM_{2.5}$ reductions are difficult and were not included in the emission reduction modeling runs. Lastly, IDEQ conducted two woodstove change-out programs in 2006 and 2011 replacing a total of 152 uncertified residential wood combustion devices in Franklin County. In developing the emissions inventory for Franklin County, IDEQ calculated an estimated 5.78 tons per year of primary $PM_{2.5}$ emissions reductions from these change-out programs. The recently enacted woodstove ordinances prohibit the sale or installation of uncertified devices which will help to assure that the 2006, 2011, and any future change-out programs will continue to provide lasting emissions reductions benefits over time.

TABLE 1—FRANKLIN COUNTY $PM_{2.5}$ CONTROL MEASURES

Title	State or local effective date
Letter of Intent $PM_{2.5}$ Reduction, Franklin County Road Department to Department of Environmental Quality (Voluntary Measure).	July 16, 2012.
Road Sanding Agreement, Idaho Transportation Department to Idaho Department of Environmental Quality (Voluntary Measure).	October 25, 2012.
Ordinance No. 120, City of Clifton, Idaho	August 11, 2012.
Ordinance No. 287, City of Dayton, Idaho	August 8, 2012.
Franklin City Ordinance, Solid Fuel Heating Appliances, No. 2012–9–12	September 12, 2012.
Franklin County Ordinance, Solid Fuel Heating Appliances, No. 2012–6–25	June 25, 2012.
Memorandum of Understanding, Solid Fuel Heating Appliances, City of Oxford, Idaho	October 22, 2012.
Ordinance No. 2012–1, City of Preston, Idaho	June 11, 2012.
Ordinance No. 2012–01, City of Weston, Idaho	August 1, 2012.

III. Proposed Action

The EPA proposes to approve and incorporate into the SIP the specific control measures submitted by IDEQ on December 14, 2012. These control measures are listed in Table 1 and full copies are included in Appendix E of Idaho's SIP revision and in the docket for this proposed action. If finally approved by the EPA, these specific control measures will become part of the Idaho SIP for purposes of the 2006 $PM_{2.5}$ NAAQS. As described above, at this time the EPA is not making a determination that these control measures satisfy RACM or any other statutory nonattainment area planning requirements under part D, subpart 4. However, the control measures adopted by IDEQ in the Franklin County portion of the Logan UT–ID area provide important $PM_{2.5}$ reductions that strengthen the existing Idaho SIP. Due to the cross-state nature of the Logan UT–ID nonattainment area, the EPA will act on the remainder of Idaho's December 2012 SIP submission following a complete review of the corresponding Utah SIP submission.

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 CAA and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action

[4] Incorporating Emerging and Voluntary Measures in a State Implementation Plan (Sept. 2004).

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 the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and the 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, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 13, 2013.

Dennis J. McLerran,

Regional Adminstrator, Region 10.

[FR Doc. 2013–30857 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 13–302, RM–11709; DA 13–2391]

Television Broadcasting Services; Oklahoma City, Oklahoma

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has before it a petition for rulemaking filed by Family Broadcasting Group, Inc. (''Family Broadcasting''), the licensee of station KSBI(TV), channel 51, Oklahoma City, Oklahoma, requesting the substitution of channel 23 for channel 51 at Oklahoma City. While the Commission instituted a freeze on the acceptance of full power television rulemaking petitions requesting channel substitutions in May 2011, it subsequently announced that it would lift the freeze to accept such petitions for rulemaking seeking to relocate from channel 51 pursuant to a voluntary relocation agreement with Lower 700 MHz A Block licensees. Family Broadcasting has entered into such a voluntary relocation agreement with U.S. Cellular Corporation and states that operation on channel 23 would eliminate potential interference to and from wireless operations in the adjacent Lower 700 MHZ A Block.

DATES: Comments must be filed on or before January 10, 2014, and reply comments on or before January 27, 2014.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve counsel for petitioner as follows: John W. Bagwell, Esq., Lerman Senter PLLC, 2000 K Street NW., Suite 600, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Joyce Bernstein, *Joyce.Bernstein@fcc.gov,* Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MB Docket No. 13–302, adopted December 16, 2013, and released December 16, 2013. The full text of this document is available for public inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. This document will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–478–3160 or via email *www.BCPIWEB.com.* To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an email to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden ''for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts (other than *ex parte* presentations exempt under 47 CFR 1.1204(a)) are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1208 for rules governing restricted proceedings.

For information regarding proper filing procedures for comments, see §§ 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for Part 73 continues to read as follows:

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

§ 73.622 [Amended]

■ 2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Oklahoma is amended by adding channel 23 and removing channel 51 at Oklahoma City.

[FR Doc. 2013–30827 Filed 12–24–13; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 79

[MB Docket No. 11–154; DA 13–2392]

Media Bureau Seeks Comment on Application of the IP Closed Captioning Rules to Video Clips

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks updated information on the closed captioning of video clips delivered by Internet protocol (''IP''), including the extent to which industry has voluntarily captioned IP-delivered video clips. The Commission directed the Media Bureau to issue this document to seek comment on the industry's progress in captioning IP-delivered video clips. The Commission stated that, if the resulting record demonstrates that lack of captioning of IP-delivered video clips denies consumers access to critical areas of video programming, then the Commission may reconsider the need for a requirement to provide closed captioning on IP-delivered video clips.

DATES: Comments may be filed on or before January 27, 2014; reply comments may be filed on or before February 26, 2014.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Diana Sokolow, *Diana.Sokolow@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120. Press contact: Janice Wise, *Janice.Wise@fcc.gov,* (202) 418–8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Media Bureau's *Public Notice,* MB Docket No. 11–154, DA 13–2392, released December 13, 2013. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., Room CY–A257, Washington, DC 20554. This document will also be available via ECFS at *http://fjallfoss.fcc.gov/ecfs/.* Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW., Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary

1. Through this document, the Media Bureau seeks updated information on the closed captioning of video clips delivered by Internet protocol (''IP''), including the extent to which industry has voluntarily captioned IP-delivered video clips.[1]

2. In the *IP Closed Captioning Order,* pursuant to the Twenty-First Century Communications and Video Accessibility Act of 2010 (''CVAA''),[2] the Commission imposed closed captioning requirements on the owners, providers, and distributors of IP-delivered video programming. The Commission determined that the IP closed captioning rules initially should apply to full-length programming and not to video clips, but it also stated its belief that Congress intended ''to leave open the extent to which [video clips] should be covered under this section at some point in the future.'' [3] Specifically, the Commission noted that statements in the legislative history of the CVAA that Congress ''intends, *at this time,* for the regulations to apply to full-length programming and not to video clips or outtakes,'' [4] suggested that Congress only intended to exclude video clips initially.[5] Given Congress's intent to ''update the communications laws to help ensure that individuals with disabilities are able to . . . better access video programming,'' [6] the Commission stated that it may later determine that this intent is best served by requiring captioning of IP-delivered video clips.[7] Although not required by the *IP Closed Captioning Order,* the Commission also encouraged video programming owners, providers, and distributors to provide closed captions for IP-delivered video clips, especially news clips.[8] The Commission stated that if it finds that consumers who are deaf or hard of hearing are denied access to critical areas of programming, such as news, it may reconsider the need for a requirement to provide closed captioning on video clips to achieve Congressional intent.[9]

3. A coalition of consumer groups filed a petition for reconsideration of this issue.[10] Shortly thereafter, in support of their request, the consumer groups submitted a report on the state of closed captioning of IP-delivered video programming, in which they asserted a lack of captioning of video clips.[11] Consumers expressed particular concern about the unavailability of captioned news clips.[12] In an order addressing other petitions for reconsideration of the IP closed captioning rules, the Commission deferred a final decision on whether to reconsider the issue of requiring closed captioning of video clips, noting that since such live and near-live programming only became subject to the IP closed captioning requirements less than three months before the *IP Closed*

[1] *See Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* Order on Reconsideration and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8785, 8803–04, ¶ 30 (2013) (''*IP Closed Captioning Order on Recon and FNPRM*'').

[2] Pub. L. No. 111–260, 124 Stat. 2751 (2010). *See also* Amendment of the Twenty-First Century Communications and Video Accessibility Act of 2010, Pub. L. No. 111–265, 124 Stat. 2795 (2010) (making technical corrections to the CVAA); *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* Report and Order, 27 FCC Rcd 787 (2012) (''*IP Closed Captioning Order*'').

[3] *IP Closed Captioning Order,* 27 FCC Rcd at 816, 818, ¶¶ 44, 48. ''Full-length programming'' is defined as video programming that appears on television and is distributed to end users, substantially in its entirety, via IP. *Id.* at 816, ¶ 44. ''Video clips'' are defined as excerpts of full-length programming. *Id.* at 816, ¶ 45.

[4] S. Rep. No. 111–386, 111th Cong., 2d Sess. at 13–14 (2010) (''Senate Committee Report'') (emphasis added); H.R. Rep. No. 111–563, 111th Cong., 2d Sess. at 30 (2010) (''House Committee Report'') (emphasis added).

[5] *IP Closed Captioning Order,* 27 FCC Rcd at 817–18, ¶ 48. The authors of the CVAA have expressed their support for the Commission ''reconsidering its decision to exempt video clips from the IP closed captioning rules.'' *See* Letter from Sen. Mark Pryor and Sen. Edward J. Markey to the Honorable Tom Wheeler, Chairman, FCC (Dec. 6, 2013).

[6] Senate Committee Report at 1; House Committee Report at 19.

[7] *IP Closed Captioning Order,* 27 FCC Rcd at 818, ¶ 48.

[8] *Id.* at 817–818, ¶¶ 46, 48.

[9] *Id.* at 818, ¶ 48.

[10] Consumer Groups, Petition for Reconsideration of the Commission's Report and Order, at 1–17 (filed Apr. 27, 2012).

[11] Consumer Groups and California Coalition of Agencies Serving the Deaf and Hard of Hearing, Report on the State of Closed Captioning of Internet Protocol-Delivered Video Programming, MB Docket No. 11–154, at ii-iii, 5–13, 18–20 (May 16, 2013).

[12] *See id.* at ii-iii, 20.

Captioning Order on Recon and FNPRM was adopted, the Commission expected the volume of captioned IP-delivered news clips to increase.[13] Accordingly, the Commission stated that it would ''monitor industry actions with respect to captioning of video clips'' and directed the Media Bureau to issue a Public Notice within six months of the release date of the *IP Closed Captioning Order on Recon and FNPRM,* seeking comment on the industry's progress in captioning IP-delivered video clips.[14] The Commission stated that, ''[i]f the record developed in response to the Public Notice demonstrates that consumers are denied access to critical areas of video programming due to lack of captioning of IP-delivered video clips, [the Commission] may reconsider [its] decision on this issue.'' [15]

4. We now invite comment on the current state of captioning of IP-delivered video clips. What portion of IP-delivered video clips generally, and IP-delivered news clips specifically, are captioned? Has the availability of captioned versions of such clips been increasing? What is the quality of the captioning on IP-delivered video clips?

5. We ask whether, as a legal and/or policy matter, the Commission should require captioning of IP-delivered video clips. Commenters should explain how their positions are consistent with the CVAA, its legislative history, and the intent of Congress to provide video programming access to people with disabilities. What are the potential costs and benefits of requiring captioning of IP-delivered video clips? How have consumers been affected by the absence of closed captioning on IP-delivered video clips, particularly news clips? Commenters should explain what exact steps must be taken in order to caption IP-delivered video clips. To the extent that some entities have already captioned these clips, what technical challenges, if any, had to be addressed? How does the captioning of IP-delivered video clips differ from the captioning of full-length IP-delivered video programming? Similarly, what are the differences between captioning live or near-live IP-delivered video clips, such as news clips, and prerecorded IP-delivered video clips? If the Commission imposes closed captioning obligations for IP-delivered video clips, should the requirements apply to all video clips, or only to a subset of such clips? If only to a subset, what subsets would be most appropriate and what would be the rationale for excluding others?

6. We invite comment on any additional issues relevant to the Commission's determination of whether it should require closed captioning of IP-delivered video clips.

7. Interested parties may file comments and reply comments on or before the dates indicated on the first page of this document.[16] Comments may be filed using the Commission's Electronic Comment Filing System (''ECFS''). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- Electronic Filers: Comments may be filed electronically using the Internet by accessing the ECFS: *http://fjallfoss.fcc.gov/ecfs2/.*
- Paper Filers: Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St. SW., Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW., Washington, DC 20554.

8. Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street SW., CY–A257, Washington, DC, 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.

9. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

10. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules.[17] Persons making *ex parte* presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during *ex parte* meetings are deemed to be written *ex parte* presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written *ex parte* presentations and memoranda summarizing oral *ex parte* presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's *ex parte* rules.

[13] *IP Closed Captioning Order on Recon and FNPRM,* 28 FCC Rcd at 8803–04, ¶ 30.

[14] *Id.* at 8804, ¶ 30.

[15] *Id.*

[16] The Notice of Proposed Rulemaking in this proceeding included an Initial Regulatory Flexibility Analysis (IRFA) pursuant to 5 U.S.C. 603, exploring the potential impact of the Commission's proposals on small entities. *Closed Captioning of Internet Protocol-Delivered Video Programming: Implementation of the Twenty-First Century Communications and Video Accessibility Act of 2010,* Notice of Proposed Rulemaking, 26 FCC Rcd 13734, 13774–87 (2011).

[17] 47 CFR 1.1200 *et seq.*

Federal Communications Commission.

William T. Lake,

Chief, Media Bureau.

[FR Doc. 2013–30835 Filed 12–24–13; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Parts 573, 577, and 579

[Docket No. NHTSA—2012–0068; Notice 3]

RIN 2127–AK72

Early Warning Reporting, Foreign Defect Reporting, and Motor Vehicle and Equipment Recall Regulations; Meeting

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Meeting Notice—Technical Specification for Vehicle Identification Number (VIN) Look-up Interface.

SUMMARY: On August 20, 2013, NHTSA published a final rule requiring certain vehicle manufacturers to allow the secure electronic transfer of manufacturer recall data to NHTSA when a consumer submits VIN information to the agency's Web site for purposes of learning recall information about the vehicle. NHTSA will host a public meeting on the technical specifications that vehicle manufacturers will' need in order to support the VIN-based safety recalls look-up tool that will be housed on the NHTSA Web site *www.safercar.gov*. The purpose of this meeting is to discuss the details of the technical specifications, answer any technical concerns or questions, and hear feedback on the technical specifications.

DATES: The meeting will be held on January 22, 2014, from 1 p.m. to 3 p.m. EST.

ADDRESSES: The meeting will be an online web meeting available at *https://www.teleconference.att.com/servlet/AWMlogin*. Attendees must register by C.O.B. January 17, 2014. To register please send an email to *alexander.ansley@dot.gov* with the names of your participants and how many web meeting connections you require (e.g. 5 participants logging in between 2 computers). In order to permit sufficient access to all those that wish to attend, we request that each manufacturer, company, or group, as applicable, limit the number of its meeting connections to three.

Login instructions will be provided to registered attendees on or about January 21, 2014.

FOR FURTHER INFORMATION CONTACT: Jennifer Timian, Chief, Recall Management Division, National Highway Traffic Safety Administration, telephone 202–366–0209, email *jennifer.timian@dot.gov*.

SUPPLEMENTARY INFORMATION: On August 20, 2013, NHTSA published a final rule requiring certain vehicle manufacturers to allow the secure electronic transfer of manufacturer recall data to NHTSA when a consumer submits VIN information to the agency's Web site for purposes of learning vehicle recall information. *See* 78 FR 51382, 51401. This requirement applies to manufacturers who manufacture 25,000 light vehicles annually or 5,000 motorcycles annually. Further information about the requirement to transfer recall data to NHTSA based upon a consumer's VIN may be found in the August 20, 2013 final rule. Id.

Manufacturers with early warning reporting (EWR) accounts may obtain a copy of the VIN look-up interface technical specifications through the agency's Web site. To obtain the technical specifications, these manufacturers should use their EWR account credentials to access the secure Web page at *http://www-odi.nhtsa.dot.gov/ewr/login.cfm.* After logging in to the EWR system, the document labeled ''NEW—Technical Specifications for VIN Lookup Interface'' can be found on the next page. For any manufacturer, company, or group that does not have an EWR account, please contact Alex Ansley at *alexander.ansley@dot.gov* to receive a copy of the technical specification.

The public meeting will be hosted online at *https://www.teleconference.att.com/servlet/AWMlogin*. However, if there is sufficient interest, we may also host meeting at the DOT headquarters in Washington, DC in tandem with the online web meeting. When registering for the meeting on January 22nd, attendees should indicate if they plan to attend in-person.

Meeting access instructions will be sent to registered participants on or about January 21, 2014.

Please note this meeting will not include discussion or review of the web-based recalls portal manufacturers will soon utilize to manage safety recalls. We will publish another public notice in the **Federal Register** once the recalls portal is developed and we are able to offer the requisite training.

Frank S. Borris II,

Director, Office of Defects Investigation, NHTSA.

[FR Doc. 2013–30669 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R8–ES–2013–0104; 4500030113]

RIN 1018–AY53

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Western Distinct Population Segment of the Yellow-Billed Cuckoo (*Coccyzus americanus*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: On October 3, 2013, we, the U.S. Fish and Wildlife Service (Service), announced a proposal to list the yellow-billed cuckoo in the western portion of the United States, Canada, and Mexico (western yellow-billed cuckoo) as a threatened distinct population segment (DPS) under the Endangered Species Act of 1973, as amended (Act). We now announce the reopening of the comment period for our October 3, 2013, proposed rule to ensure the public has sufficient time to comment on the proposal for this species.

DATES: The comment period for the proposed rule published October 3, 2013 (78 FR 61621), is reopened. We request that comments on this proposal be submitted by the close of business on February 24, 2014.

ADDRESSES: *Document availability:* You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0104, or contact the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**), or by mail from U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Comment Submission: You may submit comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box,

enter FWS–R8–ES–2013–0104, which is the docket number for this rulemaking. Then, in the Search panel on the left side of the screen, under the Document Type heading, click on the Proposed Rule link to locate the document. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R8–ES–2013–0104; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Information Requested section below for more information).

FOR FURTHER INFORMATION CONTACT: For information about the proposed listing, contact Jennifer Norris, Field Supervisor, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825; by telephone 916–414–6600; or by facsimile 916–414–6712. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

On October 3, 2013, we published in the **Federal Register** a proposed rule to list the western yellow-billed cuckoo as a threatened species under the Act (78 FR 61621). During the public comment period, we received numerous requests from Federal and State agencies, and the public to extend or reopen the public comment period on the proposed rule beyond the December 2, 2013, due date. In order to ensure that the public has an adequate opportunity to review and comment on our proposed rule, we are reopening the comment period for an additional 60 days.

Information Requested

We intend that any final action resulting from this proposed rule will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned Federal and State agencies, the scientific community, or any other interested party concerning the proposed listing rule. Please see the Information Requested section of the October 3, 2013, proposed listing for a list of the comments that we particularly seek (78 FR 61621).

For more background on our proposed listing, see the October 3, 2013, **Federal Register** (78 FR 61621). The proposed rule is available at the Federal eRulemaking Portal at *http://www.regulations.gov* (see **ADDRESSES** section above).

If you previously submitted comments or information on the proposed rule, please do not resubmit them. We have incorporated them into the public record, and we will fully consider them in our final rulemakings. Our final determination concerning this proposed rulemaking will take into consideration all written comments and any additional information we receive.

Please note that submissions merely stating support for or opposition to the action under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species, must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your comments and materials concerning the proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in the **ADDRESSES** section. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, 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. We will post all hardcopy submissions on *http://www.regulations.gov*. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed listing, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**). You may obtain copies of the proposed rule on the Internet at *http://www.regulations.gov* at Docket No. FWS–R8–ES–2013–0104, or contact the U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**), or by mail from U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 11, 2013.

Rowan W Gould,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2013–30750 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

RIN 0648–BC09

Atlantic Highly Migratory Species; 2006 Consolidated Highly Migratory Species Fishery Management Plan; Amendment 7

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

ACTION: Notice of additional public hearing conference call and webinar.

SUMMARY: On August 22, 2013, NMFS published a notice of public hearings for Draft Amendment 7 to the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (2006 Consolidated HMS FMP), which included 10 public hearings. Due to the government shut down and NMFS' inability to respond to constituents on this complex rule during that time frame and based on the comments received to date requesting an extension due to the complexity and interplay of the measures covered in the DEIS, NMFS extended the comment period for this action until January 10, 2014. To provide an additional opportunity for interested members of the public from all geographic areas to submit verbal comments, NMFS will host a public hearing conference call and webinar. In this notice, NMFS announces the date, time, and call-in information for the conference call and webinar for management measures proposed in Draft Amendment 7. On August 21, 2013, NMFS published the proposed rule for Draft Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan to control bluefin incidental catch

(landings and dead discards) in the pelagic longline fishery, enhance reporting in all categories, and ensure U.S. compliance with the ICCAT-recommended quota.

DATES: An operator-assisted, public conference call and webinar will be held on January 8, 2014, from 1:00 p.m. to 4:00 p.m., EST. Written comments will be accepted until January 10, 2014.

ADDRESSES: The conference call information is phone number 800–619–7481; participant pass code 5246202. Participants are strongly encouraged to log/dial in fifteen minutes prior to the meeting. NMFS will show a brief presentation via webinar followed by public comment. RSVP at *https://www1.gotomeeting.com/register/470946448.* A confirmation email with webinar log-in information will be sent after your RSVP has been registered.

You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2013–0101,'' by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-101,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments. Do not submit electronic comments to individual NMFS staff.
- *Mail:* Submit written comments to Thomas Warren, Highly Migratory Species Management Division, NMFS, 55 Great Republic Drive, Gloucester, MA 01930. Please mark the outside of the envelope ''Comments on Amendment 7 to the HMS FMP.''
- *Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and generally will be posted for public viewing on *www.regulations.gov* without change. All Personal Identifying Information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word or Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Thomas Warren or Brad McHale at 978–281–9260; Craig Cockrell or Jennifer Cudney at 301–427–8503.

SUPPLEMENTARY INFORMATION: The North Atlantic tuna fisheries are managed under the dual authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Atlantic Tunas Convention Act (ATCA). Under the Magnuson-Stevens Act, NMFS must manage fisheries to maintain optimum yield on a continuing basis while preventing overfishing. ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations as may be necessary and appropriate to carry out recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NMFS. Management of these species is described in the 2006 Consolidated HMS FMP, which is implemented by regulations at 50 CFR part 635. Copies of the 2006 Consolidated HMS FMP and previous amendments are available from NMFS on request (see **FOR FURTHER INFORMATION CONTACT**).

On August 21, 2013 (78 FR 52032), NMFS published proposed regulations to implement Amendment 7 to the 2006 Consolidated HMSFMP to control bluefin landings and dead discards in the pelagic longline fishery, enhance reporting in all categories, and ensure U.S. compliance with the ICCAT-recommended quota. As described in the proposed rule, the proposed management measures include: (1) Allocation measures that would make modifications to how the U.S. bluefin quota is allocated among the quota categories; (2) Area based measures that would implement restrictions on the use of pelagic longline gear in various time and area combinations, modify gear restrictions, or provide conditional access to current pelagic longline closed areas; (3) Bluefin quota controls that would strictly limit the total catch (landings and dead discards) of bluefin in the Longline category using different strategies; (4) Enhanced reporting measures that would implement a variety of new bluefin reporting requirements; and (5) Other measures that would make modifications to the rules that control how the various quota categories utilize quota, and implement a northern albacore tuna quota.

Although the Amendment 7 proposed rule set the end of the comment period to October 23, 2013, NMFS subsequently extended the end of the comment period December 10, 2013 (78 FR 57340; September 18, 2013) and then again to January 10, 2014 (78 FR 75327; December 11, 2013), in order to provide additional time for the public to consider the proposed rule, given its length and complexity.

Status of Public Hearings and Request for Comments

Ten public hearings have been held to date: San Antonio, TX; Gloucester, MA; Manteo, NC; Charleston, SC; Belle Chasse, LA; Portland, ME; Panama City, FL; Fort Pierce, FL; St. Petersburg, FL; and Toms River, NJ. NMFS also conducted consultations with the New England Fishery Management Council, the Gulf of Mexico Fishery Management Council, and the South Atlantic Fishery Management Council.

Additional Public Hearing Conference Call and Webinar

The additional public hearing conference call and webinar will be held on January 8, 2014, from 1:00 p.m. to 4:00 p.m. EST. NMFS is holding this call to allow for an additional opportunity for interested members of the public from all geographic areas to submit verbal comments on the Amendment 7 proposed rule.

Public Hearing Code of Conduct

The public is reminded that NMFS expects participants at public hearings, council meetings, and phone conferences to conduct themselves appropriately. At the beginning of each meeting, a representative of NMFS will explain the ground rules (e.g., all comments are to be directed to the agency on the proposed action; attendees will be called to give their comments in the order in which they registered to speak; each attendee will have an equal amount of time to speak; attendees may not interrupt one another; etc.). NMFS representative(s) will structure the meeting so that all attending members of the public will be able to comment, if they so choose, regardless of the controversial nature of the subject(s). Attendees are expected to respect the ground rules, and those that do not may be asked to leave the meeting.

Authority: 16 U.S.C. 971 *et seq;* 16 U.S.C. 1801 *et seq.*

Dated: December 19, 2013.

Sean F. Corson,

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

[FR Doc. 2013–30643 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 78, No. 248
Thursday, December 26, 2013

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Doc.No. AMS–LPS–13–0088]

National Research, Promotion, and Consumer Information Programs; Request for Extension and Revision of a Currently Approved Information Collection and To Merge the Collections of Softwood Lumber and National Processed Raspberry Promotion, Research, and Information Programs

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this document announces the Agricultural Marketing Service's (AMS) intention to request approval from the Office of Management and Budget (OMB), for an extension of and revision to the currently approved information collection of the National Research, Promotion, and Consumer Information Programs; and request approval to merge two previously approved information collection packages, Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (Order) and National Processed Raspberry Promotion, Research, and Information Program into the National Research, Promotion, and Consumer Information Programs to form a single information collection. This Notice announces AMS' intention to merge the following collections: 0581–0264 ''Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order'' and 0581–0258 ''National Processed Raspberry Promotion, Research, and Information Program'' into 0581–0093 ''National Research, Promotion, and Consumer Information Program.'' This action will keep all research and promotion collections under one generic collection since similar forms are used to collect information and to prevent duplication of burden.

DATES: Comments must be received by February 24, 2014.

ADDRESSES: Interested persons are invited to submit comments concerning this notice. Comments should be submitted online at *www.regulations.gov* or sent to James R. Brow, ANSI U.S. Department of Agriculture (USDA), 1400 Independence Avenue SW., Stop 0251, Room 2610–S1 Washington, DC 20250–0250, or by facsimile to (202) 720–1125. All comments should reference the document number, the date and the page number of this issue of the **Federal Register**. All comments received will be posted without change, including any personal information provided, online at *http://www.regulations.gov* and will be made available for public inspection at the above physical address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James Brow at the above address by telephone at (202) 720–0633, or by email at *james.brow@ams.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: National Research, Promotion, and Consumer Information Programs.

OMB Number: 0581–0093.

Expiration Date of Approval: May 31, 2014.

Type of Request: Extension and Revision of a currently approved information collection.

Abstract: National research and promotion programs are designed to strengthen the position of a commodity in the marketplace, maintain and expand existing domestic and foreign markets, and develop new uses and markets for specified agricultural commodities. AMS has the responsibility for implementing and overseeing programs for a variety of commodities including beef, blueberries, cotton, dairy, eggs, fluid milk, Hass avocados, honey, lamb, mangos, mushrooms, peanuts, popcorn, pork, potatoes, processed raspberries, softwood lumber, sorghum, soybeans, and watermelons. The enabling legislation includes the Beef Promotion and Research Act of 1985 [7 U.S.C. 2901–2911]; the Cotton Research and Promotion Act of 1966 [7 U.S.C. 2101–21181; the Dairy Production Stabilization Act of 1983 [7 U.S.C. 4501–4514]; the Fluid Milk Promotion Act of 1990 [7 U.S.C. 6401–64171; the Egg Research and Consumer Information Act [7 U.S.C. 2701–2718]; the Hass Avocado Promotion, Research, and Information Act [7 U.S.C. 7801–78131; the Mushroom Promotion, Research, and Consumer Information Act of 1990 [7 U.S.C. 6101–61121; the Popcorn Promotion, Research, and Consumer Information Act [7 U.S.C. 7481–74911; the Pork Promotion, Research, and Consumer Information Act of 1985 [7 U.S.C. 4801–4819]; the Potato Research and Promotion Act [7 U.S.C. 2611–26271; the Soybean Promotion, Research, and consumer Information Act [7 U.S.C. 6301–63111; the Watermelon Research and Promotion Act [7 U.S.C. 4901–49161; and the Commodity Promotion, Research, and Information Act of 1996 [7 U.S.C. 7411-7425] (which governs the blueberry, honey, lamb, mango, peanut, processed raspberry, softwood lumber, and sorghum programs). These programs appear in the Code of Federal Regulations 7 CFR, parts 1150 and 1160, and parts 1205 through 1260.

These programs carry out projects relating to research, consumer information, advertising, sales, promotion, producer information, market development, and product research to assist, improve, or promote the marketing, distribution, and utilization of their respective commodities. Approval of the programs is required through referendum of affected parties. The programs are administered by the industry boards composed of producer, handler, processor, manufacturers, and in some cases, importer and public members appointed by the Secretary of Agriculture. Program funding is generated through assessments on designated industry segments.

The Secretary also approves the board's budgets, plans, and projects. These responsibilities have been delegated to AMS. The applicable commodity program areas within AMS have direct oversight of the respective programs.

The information collection requirements in this request are essential to carry out the intents of the various Acts authorizing such programs, thereby providing a means of administering the programs. The

objective in carrying out this responsibility includes assuring the following: (1) Funds are collected and properly accounted for; (2) expenditures of all funds are for the purposes authorized by the enabling legislation; and, (3) the board's administration of programs conforms to USDA policy. The forms covered under this collection require the minimum information necessary to effectively carry out the requirements of the respective orders, and their use is necessary to fulfill the intents of the Acts as expressed in orders. The information collected is used only by authorized employees of the various boards and authorized employees of USDA.

The various boards utilize a variety of forms including: reports concerning status information such as handler and importer reports; transaction reports; exemption from assessment forms and reimbursement forms; forms and information concerning board nominations and selection and acceptance statements; certification of industry organizations; and recordkeeping requirements. The forms and information covered under this information collection require minimum information necessary to effectively carry out the requirements of the programs and their use is necessary to fulfill the intent of the applicable authority.

As part of this renewal collection for the National Research, Promotion, and Consumer Information Programs (0581–0093), AMS is merging the ''Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order (0581–0264),'' and the ''National Processed Raspberry Promotion, Research, and Information Program (0581–0258)'' and including the information collection requirements currently approved into one collection (0581–0093). Upon approval of this revision to 0581–0093, AMS will submit a Discontinuation Request for 0581–0264 and 0581–0258 to retire these collections. This action will keep all research and promotion collections under one generic collection since similar forms are used to collect information and to prevent duplication of burden.

AMS is committed to comply with the E-Government Act, which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible.

For National Research, Promotion, and Consumer Information Program—0581–0093

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.84 hours per response.

Respondents: Producers, processors, handlers, manufacturers, importers, and others in the marketing chain of a variety of agricultural commodities, and recordkeepers.

Estimated Number of Respondents: 429,425

Estimated Total Annual Responses: 509,111

Estimated Number of Responses per Respondent: 1.18

Estimated Total Annual Burden on Respondents: 3.00

For Softwood Lumber Research, Promotion, Consumer Education and Industry Information Order—0581–0264

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.416 hour per response.

Respondents: Domestic manufacturers and importers.

Estimated Number of Respondents: 1,478.

Estimated Total Annual Responses: 4,495.

Estimated Number of Responses per Respondent: 3.04.

Estimated Total Annual Burden on Respondents: 1,871.

For National Processed Raspberry Promotion, Research, and Information Program—0581–0258

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.36 hour per response.

Respondents: Producers, first handlers, importers, foreign producers, and at-large nominees.

Estimated Number of Respondents: 297.

Estimated Total Annual Responses: 788.

Estimated Number of Responses per Respondent: 2.65.

Estimated Total Annual Burden on Respondents: 282.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this document will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Authority: 44 U.S.C. Chapter 35.

Dated: December 17, 2013.

Rex A. Barnes,

Associate Administrator.

[FR Doc. 2013–30377 Filed 12–24–13; 8:45 am]

BILLING CODE M

DEPARTMENT OF AGRICULTURE

Forest Service

Revision of the Land Management Plans for the Inyo, Sierra and Sequoia National Forests

AGENCY: Forest Service, USDA.

ACTION: Notice to initiate the development of land management plan revisions for the Inyo, Sierra, and Sequoia National Forests.

SUMMARY: The Pacific Southwest Region (Region 5) has initiated land management plan revisions for the Inyo, Sierra, and Sequoia National Forests. The Final Assessments and other related information for these forests have been posted to the Region 5 Web site at *http://www.fs.usda.gov/main/r5/landmanagement/planning.* The Forest Service invites the public to help develop a ''need for change'' and desired conditions that will lead to a proposed action for the land management plan revisions.

DATES: Public workshops to share information about the plan revision process will occur the week of January 27t, 2014, and will be announced through press release and on the above Web site shown. The Web site will also provide recommended reading for the public in preparation for these workshops. The recommended reading consists of preliminary staff work by the Forest Service on the need for change to help guide and focus the workshops. The workshops will concentrate on (1) gathering feedback from the public regarding the preliminary need for change topic areas, which will focus the revision process, (2) identifying missing need for change topics, and (3)

developing desired future conditions for the topics identified.

The Notice of Intent to prepare an EIS is scheduled to be published in the **Federal Register** in April 2014. In order to conduct an efficient analysis process, one Environmental Impact Statement (EIS) will be prepared for the plan revision process of the Sierra, Sequoia and Inyo National Forests. In addition, a separate Record of Decision (ROD) and Land Management Plan will be developed for each of these forests.

ADDRESSES: Written comments or questions concerning this notice should be addressed to Land Management Plan Revision, U.S. Forest Service, Ecosystem Planning Staff, 1323 Club Drive, Vallejo, CA 94592.

Comments or questions may also be sent via email to *FS-R5planrevisions@fs.fed.us.* All correspondence received, including names and addresses when provided, are placed in the record and are available for public inspection and copying.

FOR FURTHER INFORMATION CONTACT: Debra Whitall, Regional Social Scientist, 707–562–8823. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m. (Pacific Time), Monday through Friday. More information on the planning process can also be found on the Pacific Southwest Region Plan Revision Web site at *http://www.fs.usda.gov/main/r5/landmanagement/planning.*

SUPPLEMENTARY INFORMATION: Pursuant to the 2012 Forest Planning Rule (36 CFR Part 219), the planning process encompasses three-stages: Assessment, plan revision, and monitoring. The first stage of the planning process involves assessing social, economic, and ecological conditions of the planning area, which is documented in an assessment report. Final assessment reports for the Inyo, Sierra and Sequoia national forests are posted on the Region 5 Web site at *http://www.fs.usda.gov/main/r5/landmanagement/planning.* This Web site also has information on a preliminary need for change that the Forest Service developed based on these assessments. These will be vetted and discussed at public workshops in January 2014. This notice announces the start of the second stage of the planning process, which is revising the land management plans. The first task of plan revision is to develop a preliminary ''need for change'' that identifies the areas that need for change in management direction outlined in the current plans. The preliminary need for change is based on what is important to people, threats to resources, undesirable trends in social, economic, or ecological sustainability, and a need to correct current direction in plans that are not meeting needs to provide benefits sustainably. In addition, it is important to focus on areas where changes to the forest plan can do something substantial to correct concerns identified in the near term. The need for change will be responsive to new information learned through monitoring and assessment.

Based on the public feedback from the public meetings held in January, a proposed action will be developed that responds to needs for change. A Notice of Intent to prepare an environmental impact statement for the land management plan revisions for the Sierra, Sequoia and Inyo National Forests, which will include a description of the preliminary need for change and a description of the proposed action, will be published in April 2014 in the **Federal Register**.

Forest plans developed under the National Forest Management Act (NFMA) of 1976 describe the strategic direction for management of forest resources for ten to fifteen years, and are adaptive and amendable as conditions change over time. The Forest Plan for the Inyo National Forest was approved in 1988, Sierra NF in 1991, and the original Sequoia NF Plan was approved in 1988. A Significant Amendment to these Forest Plans was approved in 2004 as part of the Sierra Nevada Forest Plan Amendment (aka, the Sierra Nevada Framework). The Sequoia NF has a Mediated Settlement Agreement from 1990 that is still in effect on the lands outside the Sequoia National Monument. The portion of the Sequoia NF in the Giant Sequoia National Monument has a Plan, EIS and ROD that amended the Forest Plan that was completed in 2013. Because the Giant Sequoia National Monument Plan was just completed, it will not be addressed in this revision process. On January 31, 2013, a public announcement was made that the Sierra, Sequoia and Inyo NFs were beginning to work on the Assessment for revising their Forest Plan.

This current notice announces the start of the second stage of the planning process, the development of the land management plan revisions. Once the plan revisions are completed, they will be subject to the objection procedures of 36 CFR Part 219, Subpart B, before they can be approved. The third stage of the planning process is monitoring and evaluation that will occur over the life of the revised plans.

Opportunities for public engagement such as public meetings, workshops, and comment periods will be posted at *http://www.fs.usda.gov/main/r5/landmanagement/planning.* This information will be updated as the process continues. Information will also be sent to the Forest's stakeholder mailing list. If anyone is interested in being added to this mailing list to receive these notifications, please contact Debra Whitall, Regional Social Scientist at the email or mailing address identified in the **FOR FURTHER INFORMATION CONTACT** section above.

Responsible Official

The responsible official for each revision of the land management plan is the Forest Supervisor for each forest:

Ed Armenta, Forest Supervisor, Inyo National Forest Service, 351 Pacu Lane, Suite 200, Bishop, CA 93514.

Dean Gould, Forest Supervisor, Sierra National Forest Service, 1600 Tollhouse Road, Clovis, CA 93611.

Kevin Elliott, Forest Supervisor, Sequoia National Forest, 1839 South Newcomb Street, Porterville, CA 93257.

In order to simplify the process, one Notice of Initiation was sent out for all three of these forests and signed by Deputy Regional Forester Barnie Gyant, Pacific Southwest Regional Office, 1323 Club Drive, Vallejo, CA 94592. The responsible officials for these plan revisions are the Forest Supervisors as listed above.

Dated: December 17, 2013.

Barnie Gyant,

Deputy Regional Forester, Pacific Southwest Region.

[FR Doc. 2013–30815 Filed 12–24–13; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Designations for the Circleville, OH; and Decatur, IN Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: GIPSA is announcing the designation of Columbus Grain Inspection, Inc. (Columbus); and Northeast Indiana Grain Inspection, Inc. (Northeast Indiana) to provide official services under the United States Grain Standards Act (USGSA), as amended.

DATES: *Effective Date:* January 1, 2014

ADDRESS: Eric J. Jabs, Chief, USDA, GIPSA, FGIS, QACD, QADB, 10383 North Ambassador Drive, Kansas City, MO 64153

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

Read Applications: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the May 13, 2013 **Federal Register** (78 FR 27949), GIPSA requested applications for designation to provide official services in the geographic areas presently serviced by Columbus and Northeast Indiana. Applications were due by June 12, 2013.

Columbus and Northeast Indiana were the sole applicants for designation to provide official services in these areas. As a result, GIPSA did not ask for additional comments.

GIPSA evaluated all available information regarding the designation criteria in section 79(f) of the USGSA (7 U.S.C. 79(f)) and determined that Columbus and Northeast Indiana are qualified to provide official services in the geographic area specified in the **Federal Register** on May 13, 2013. This designation action to provide official services in these specified areas is effective January 1, 2014 and terminates on December 31, 2016.

Interested persons may obtain official services by contacting these agencies at the following telephone numbers:

Official agency	Headquarters location and telephone	Designation start	Designation end
Columbus	Circleville, OH, (740) 474–3519	1/1/2014	12/31/2016
Northeast Indiana	Decatur, IN, (260) 341–7497	1/1/2014	12/31/2016

Section 79(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)).

Under section 79(g) of the USGSA, designations of official agencies are effective for no longer than three years unless terminated by the Secretary; however, designations may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–30748 Filed 12–24–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity for Designation in the State of Georgia and State of Montana; Request for Comments on the Official Agencies Servicing These Areas

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The designations of the official agencies listed below will end on June 30, 2014. We are asking persons or governmental agencies interested in providing official services in the areas presently served by these agencies to submit an application for designation. In addition, we are asking for comments on the quality of services provided by the following designated agencies: Georgia Department of Agriculture (Georgia) and Montana Department of Agriculture (Montana).

DATES: Applications and comments must be received by January 27, 2014.

ADDRESSES: Submit applications and comments concerning this notice using any of the following methods:

- Applying for Designation on the Internet: Use FGISonline (*https://fgis.gipsa.usda.gov/default_home_FGIS.aspx*) and then click on the Delegations/Designations and Export Registrations (DDR) link.You will need to obtain an FGISonline customer number and USDA eAuthentication username and password prior to applying.
- Submit Comments Using the Internet: Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- Submit Comments Using the Internet: Go to Regulations.gov (*http://www.regulations.gov*). Instructions for submitting and reading comments are detailed on the site.
- Mail, Courier or Hand Delivery: Eric J. Jabs, Chief, USDA, GIPSA, FGIS, QACD, QADB, 10383 North Ambassador Drive, Kansas City, MO 64153
- Fax: Eric J. Jabs, 816–872–1257
- Email: *Eric.J.Jabs@usda.gov*

Read Applications and Comments: All applications and comments will be available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

FOR FURTHER INFORMATION CONTACT: Eric J. Jabs, 816–659–8408 or *Eric.J.Jabs@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 79(f) of the United States Grain Standards Act (USGSA) authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)). Under section 79(g) of the USGSA, designations of official agencies are effective for three years unless terminated by the Secretary, but may be renewed according to the criteria and procedures prescribed in section 79(f) of the USGSA.

Areas Open for Designation

Georgia

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of Georgia, is assigned to this official agency:

The entire State of Georgia, except those export port locations within the State, which are serviced by GIPSA.

Montana

Pursuant to Section 79(f)(2) of the United States Grain Standards Act, the following geographic area, in the State of Montana, is assigned to this official agency:

The entire State of Montana.

Opportunity for Designation

Interested persons or governmental agencies may apply for designation to provide official services in the geographic areas specified above under the provisions of section 79(f) of the USGSA and 7 CFR 800.196. Designation in the specified geographic areas is for the period beginning July 1, 2014, and ending June 30, 2017. To apply for designation or for more information, contact Eric J. Jabs at the address listed above or visit GIPSA's Web site at *http://www.gipsa.usda.gov.*

Request for Comments

We are publishing this notice to provide interested persons the opportunity to comment on the quality of services provided by the Georgia and

Montana official agencies. In the designation process, we are particularly interested in receiving comments citing reasons and pertinent data supporting or objecting to the designation of the applicants. Submit all comments to Eric J. Jabs at the above address or at *http://www.regulations.gov.*

We consider applications, comments, and other available information when determining which applicants will be designated.

Authority: 7 U.S.C. 71–87k.

Larry Mitchell,

Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. 2013–30709 Filed 12–24–13; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35, as amended), the Rural Utilities Service (RUS) invites comments on the following information collection for which RUS intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, 1400 Independence Ave. SW., STOP 1522, Room 5162, South Building, Washington, DC 20250–1522. Telephone: (202) 690–1078. Fax: (202) 720- 8435 or email *Michele.brooks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that RUS is submitting to OMB for revision.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of appropriate automated, electronic, mechanical or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Director, Program Development and Regulatory Analysis, Rural Utilities Service, U.S. Department of Agriculture, STOP 1522, 1400 Independence Ave. SW., Washington, DC 20250–1522. Telephone: (202) 690–1078, Fax: (202) 720–8435 or email: *Michele.brooks@wdc.usda.gov.*

Title: Electric System Emergency Restoration Plan.

OMB Control Number: 0572–0140.

Type of Request: Revision of a currently approved collection.

Abstract: USDA Rural Development administers rural utilities programs through the Rural Utilities Service (Agency). The Agency manages loan programs in accordance with the Rural Electrification Act (RE Act) of 1936, 7 U.S.C. 901 *et sec.,* as amended. One of the Agency's main objectives is to safeguard loan security. An important part of safeguarding loan security is to make sure Agency financed facilities are utilized responsibly, adequately operated and adequately maintained. Accordingly, RUS borrowers have a duty to RUS to maintain their respective systems. In performing this duty, borrowers further the purposes of the RE Act while also preserving the value of electric systems to serve as collateral for repayment of RUS assistance.

A substantial portion of the electric infrastructure of the United States resides in rural America and is maintained by rural Americans. RUS is uniquely coupled with the electric infrastructure of rural America and its electric borrowers serving rural America. To ensure that the electric infrastructure in rural America is adequately protected, electric borrowers conduct a Vulnerability and Risk Assessment (VRA) of their respective systems and utilize the results of this assessment to enhance an existing Emergency Restoration Plan (ERP) or to create an ERP. The VRA is utilized to identify specific assets and infrastructure owned or served by the electric utility, to determine the criticality and the risk level associated with the assets and infrastructure including a risk versus cost analysis, to identify threats and vulnerabilities, if present, to review existing mitigation procedures and to assist in the development of new and additional mitigating procedures, if necessary. The ERP provides written procedures detailing response and restoration efforts in the event of a major system outage resulting from a natural or man-made disaster. The annual exercise of the ERP ensures operability and employee competency and serves to identify and correct deficiencies in the existing ERP. The exercise may be implemented individually by a single borrower, or by an individual borrower as a participant in a multi-party (to include utilities, government agencies and other participants or combination thereof) tabletop execution or actual implementation of the ERP.

Electric borrowers maintain ERPs as part of prudent utilities practices. These ERPs are essential to continuous operation of the electric systems. Each electric borrower provides RUS with an annual self-certification that an ERP exists for the system and that an initial VRA has been performed.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .5 hour per response.

Respondents: Not-for-profit institutions.

Estimated Number of Respondents: 625.

Estimated Number of Responses per Respondent: 1

Estimated Total Annual Burden on Respondents: 313 hours.

Copies of this information collection can be obtained from Rebecca Hunt, Program Development and Regulatory Analysis, at (202) 205–3660, Fax: (202) 720–8435 or email: *Rebecca.hunt@wdc.usda.gov.*

All responses to this notice will be summarized and included in the requests for OMB approval. All comments will also become a matter of public record.

Dated: December 19, 2013.

John Charles Padalino,

Administrator, Rural Utilities Service.

[FR Doc. 2013–30743 Filed 12–24–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Information Collection Activity; Comment Request

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended), the Rural Utilities Service (RUS), invites comments on this information collection for which the Agency intends to request approval from the Office of Management and Budget (OMB).

DATES: Comments on this notice must be received by February 24, 2014.

FOR FURTHER INFORMATION CONTACT: Michele L. Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Ave., SW., STOP 1522, Room 5162–S, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202)720–8435. Email *Michele.Brooks@wdc.usda.gov*.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget's (OMB) regulation (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection that the Agency is submitting to OMB for extension. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Michele L. Brooks, Director, Program Development and Regulatory Analysis, USDA Rural Utilities Service, 1400 Independence Ave., SW., Room 5162–S, STOP 1522, Washington, DC 20250–1522. Telephone: (202) 690–1078, FAX: (202)720–8435.

Title: 7 CFR Part 1776, ''Household Water Well System Grant Program''

OMB Control Number: 0572–0139

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Utilities Service supports the sound development of rural communities and the growth of our economy without endangering the environment. RUS provides financial and technical assistance to help communities bring safe drinking water and sanitary, environmentally sound waste disposal facilities to rural Americans in greatest need.

The Household Water Well System (HWWS) Grant Program makes grants to qualified private non-profit organizations which will help homeowners finance the cost of private wells. As the grant recipient, non-profit organizations will establish a revolving loan fund lending program to provide water well loans to individuals who own or will own private wells in rural areas. The individual loan recipients may use the funds to construct, refurbish, and service their household well systems for an existing home. The collection of information consists of the materials to file a grant application with the agency, including forms, certifications and required documentation.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5.9 hours per response.

Respondents: Non-profit institutions.

Estimated Number of Respondents: 10.

Estimated Number of Responses per Respondent: 17.5

Estimated Total Annual Burden on Respondents: 1,033 Hours.

Copies of this information collection can be obtained from MaryPat Daskal, Management Analyst, Program Development and Regulatory Analysis, at (202) 720–0812; FAX: (202) 720–8435.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 19, 2013.

John Charles Padalino,

Administrator, Rural Utilities Service.

[FR Doc. 2013–30741 Filed 12–24–13; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Hampshire Advisory Committee

Date and Time: Friday, January 10, 2014, 4:30 p.m. [EST].

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code: 35378877.

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the following number: 202–376–7533—or by email at *bdelaviez@usccr.gov*.

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Hampshire Advisory Committee to the Commission will convene via conference call. The purpose of the meeting is project planning to discuss its upcoming briefing meeting on voting rights issues in the Granite state.

The meeting will be conducted via conference call. Members of the public who call-in can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, February 10, 2014. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Barbara Delaviez at *dbelaviez@usccr.gov*. Persons who desire additional information may contact the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov*, or to contact the Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated on: December 19, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–30774 Filed 12–24–13; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Maine Advisory Committee

Date and Time: Thursday, January 9, 2014, 2:30 p.m. [EST].

Place: Via Teleconference. Public Dial-in 1–877–446–3914; Listen Line Code: 4558669.

TDD: Dial Federal Relay Service 1–800–977–8339 give operator the following number: 202–376–7533—or by email at *bdelaviez@usccr.gov*.

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Maine Advisory Committee to the Commission will convene via conference call. The purpose of the meeting is to plan for a spring briefing meeting on racial disparities in the Maine criminal justice system.

The meeting will be conducted via conference call. Members of the public who call-in can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number.

Members of the public are entitled to submit written comments. The comments must be received in the regional office by Monday, February 10, 2014. Comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to *bdelaviez@usccr.gov*. Persons who desire additional information may contact Barbara Delaviez at the Eastern Regional Office at 202–376–7533.

Records generated from this meeting may be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov*, or to contact the Eastern Regional Office at the above phone number, email or street address.

The meetings will be conducted pursuant to the provisions of the rules and regulations of the Commission and FACA.

Dated on: December 19, 2013.

David Mussatt,

Acting Chief, Regional Programs Coordination Unit.

[FR Doc. 2013–30773 Filed 12–24–13; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–836]

Glycine From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2012–2013

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on glycine from the People's Republic of China (the PRC) covering the period of review from March 1, 2012, through February 28, 2013. The Department has preliminarily applied facts otherwise available with an adverse inference to the PRC-wide entity because an element of the entity, Hebei Donghua Jiheng Fine Chemical Co., Ltd. (Donghua Fine Chemical), failed to act to the best of its ability in complying with the Department's request for information in this review and, consequently, significantly impeded the proceeding. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Edythe Artman or Angelica Mendoza, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3931 or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The product covered by the antidumping duty order is glycine, which is a free-flowing crystalline material, like salt or sugar.[1] The subject merchandise is currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) subheading 2922.49.4020. The HTSUS subheading is provided for convenience and customs purposes only; the written product description of the scope of the order is dispositive.[2]

Tolling of Deadlines for Preliminary Results

As explained in a memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the federal government from October 1, 2013, through October 16, 2013.[3] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary results of this review is now December 18, 2013.

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act). We preliminarily applied adverse facts available to the PRC-wide entity in accordance with section 776 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov,* and is available to all parties in the Central Records Unit, Room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Intent Not To Rescind Review In Part

We received timely withdrawals of review requests for the following exporters: (1) A&A Pharmachem Inc., (2) AICO Laboratories India Ltd., (3) Amol Pharmaceuticals Pvt. Ltd., (4) Avid Organics, (5) Aqua Bond Inc., (6)

[1] *See* ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2012–2013: Glycine From the People's Republic of China'' From Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (Preliminary Decision Memorandum), for a complete description of the scope of the order.

[2] *See Antidumping Duty Order: Glycine From the People's Republic of China,* 60 FR 16116 (March 29, 1995).

[3] *See* Memorandum for the Record From Paul Piquado, Assistant Secretary for Enforcement and Compliance, regarding ''Deadlines Affected by the Shutdown of the Federal Government,'' dated October 18, 2013.

Baoding Mantong Fine Chemistry Co., Ltd., (7) Beijing Onlystar Technology Co., Ltd., (8) Chiyuen International Trading Ltd., (9) China Jiangsu International Economic Technical Cooperation Corporation, (10) E-Heng Import and Export Co., Ltd., (11) Evonik Rexim (Nanning) Pharmaceutical Co., Ltd., (12) FarmaSino Pharmaceuticals (Jiangsu) Co., Ltd., (13) General Ingredient Inc., (14) Gulbrandsen Technologies (India), (15) Gurvey & Berry Co., (16) H.T. Griffin Food Ingredients, (17) Hong Kong United Biochemistry Co. Ltd., (18) Jiangsu Dongchang Chemical, (19) Jiangxi Ansun Chemical Technology, (20) Jiangyin Trust International Inc., (21) Jizhou City Huayang Chemical Co., Ltd., (22) Kissner Milling Co. Ltd., (23) NALCO Canada Co., (24) Ningbo Create-Bio Engineering Co. Ltd., (25) Ningbo Generic Chemical Co., (26) Qingdao Samin Chemical Co., Ltd., (27) Paras Intermediates Pvt. Ltd., (28) Ravi Industries, (29) Salvi Chemical Industries, (30) Shanpar Industries Pvt. Ltd., (31) Showa Denko K.K., (32) Shijiazhuang Jackchem Co., Ltd., (33) Shijiazhuang Zexing Amino Acid Co., (34) Tianjin Garments Import & Export, (35) Tianjin Tiancheng Pharmaceutical Company, (36) Tianjin Tianen Enterprise Co. Ltd., (37) Tywoon Development (China) Co., Ltd., (38) Unipex Solutions Canada Inc., (39) XPAC Technologies Inc., and (40) Yuki Gosei Kogyo Co.

None of these exporters, named in the notice of initiation[4] and for which the requests for review were timely withdrawn, currently have a separate rate from a completed segment of the proceeding.[5] It is the Department's practice to refrain from rescinding the review with respect to the exporters at this time.[6] Although their requests for review were timely withdrawn, the exporters remain part of the PRC-wide entity. Therefore, we do not intend to rescind the review with respect to these companies, as they all remain a part of the PRC-wide entity under review for these preliminary results.

Preliminary Results of Review

The Department has preliminarily determined that the following dumping margin exists for the period March 1, 2012, through February 28, 2013:

Exporter	Dumping margin (percent)
PRC-wide entity (including Hebei Donghua Jiheng Fine Chemical Co., Ltd.)[7]	453.79

Public Comment and Opportunity To Request a Hearing

Interested parties may submit case briefs within 30 days after the date of publication of this notice of preliminary results of the review.[8] Rebuttal briefs, which must be limited to issues raised in the case briefs, must be filed within five days after the time limit for filing case briefs.[9] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[10] Interested parties submitting case and rebuttal briefs should do so *via* IA ACCESS.[11]

Any interested party may request a hearing within 30 days of the publication of this notice.[12] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the date and time for the hearing to be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.[13]

The Department intends to issue the final results of this administrative review, which will include the results of our analysis of all issues raised in the briefs, within 120 days after the publication of these preliminary results in the **Federal Register**, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise covered by this review.[14] For the PRC-wide entity, we will instruct CBP to assess antidumping duties at an *ad valorem* rate equal to the weighted-average dumping margin published in the final results of this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review in the **Federal Register**.

The Department recently announced a refinement to its assessment practice in NME cases. Pursuant to this refinement in practice, for entries that were not reported in U.S. sales databases submitted by companies individually examined during the review, the Department will instruct CBP to liquidate such entries at the PRC-wide rate. In addition, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.,* at that exporter's rate) will be liquidated at the PRC-wide rate.[15]

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will apply to all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For any previously reviewed or investigated PRC and non-PRC exporter not listed above that received a separate rate in a previous segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate published for the most recently completed period; (2) for all PRC exporters that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity (*i.e.,* 453.79 percent); and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These cash deposit requirements, when imposed, shall remain in effect until further notice.

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 78 FR 25418 (May 1, 2013).

[5] Baoding Mantong has been found to be entitled to a separate rate in the past but lost this status in *Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012,* 78 FR 20891 (April 8, 2013), the most recently-completed review in which it participated.

[6] *See Handtrucks and Certain Parts Thereof From the People's Republic of China: Preliminary Results of the 2010–2011 Antidumping Duty Administrative Review,* 78 FR 1835 (January 9, 2013), and accompanying Preliminary Decision Memorandum at 3.

[7] As noted immediately above, the PRC-wide entity also includes the 40 exporters we do not intend to rescind from the review.

[8] *See* 19 CFR 351.309(c)(1)(ii).

[9] *See* 19 CFR 351.309(d)(1)–(2).

[10] *See* 19 CFR 351.309(c)(2), (d)(2).

[11] *See* 19 CFR 351.303(b).

[12] *See* 19 CFR 351.310(c).

[13] *See* 19 CFR 351.310(d).

[14] *See* 19 CFR 351.212(b).

[15] For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: December 18, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Respondent Selection
4. Intent Not To Rescind Review in Part
5. Extension of the Preliminary Results of Review
6. Failure To Respond to Requests for Information
7. Non-Market Economy Country Status
8. Separate Rates Determination
9. The PRC-Wide Entity
10. Adverse Facts Available
    1. Use of Facts Available and Adverse Facts Available
    2. Application of Total Adverse Facts Available to the PRC-Wide Entity
    3. Selection of an Adverse-Facts-Available Rate
    4. Corroboration of Secondary Information

[FR Doc. 2013–30918 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–924]

Polyethylene Terephthalate Film, Sheet, and Strip From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on polyethylene terephthalate film, sheet, and strip (''PET film'') from the People's Republic of China (''PRC''). The period of review (''POR'') is November 1, 2011, through October 31, 2012. The review covers two mandatory respondents (Shaoxing Xiangyu Green Packing Co., Ltd. and Tianjin Wanhua Co., Ltd.) and three separate rate respondents. We have preliminarily found that the respondents have made sales of subject merchandise at less than normal value (''NV''). Interested parties are invited to comment on these preliminary results.

DATED: *Effective Date:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Jonathan Hill or Thomas Martin, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3518 or (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The products covered by the order are all gauges of raw, pre-treated, or primed PET film, whether extruded or co-extruded.[1] PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

Tolling of Deadlines for Preliminary Results

As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013.[2] Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. The revised deadline for the preliminary results of this review is now December 18, 2013.

[1] For a complete description of the scope of the order, *see* ''Decision Memorandum for Preliminary Results of 2011–2012 Antidumping Duty Administrative Review: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China'' from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, dated concurrently with this notice (''Preliminary Decision Memorandum'').

[2] *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government,'' (October 18, 2013).

Methodology

The Department has conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (''the Act''). Export prices have been calculated in accordance with section 772 of the Act. Because the PRC is a non-market economy (''NME'') within the meaning of section 771(18) of the Act, NV has been calculated in accordance with section 773(c) of the Act.

For a full description of the methodology underlying our conclusions, please see the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''IA ACCESS''). IA ACCESS is available to registered users at *http://iaaccess.trade.gov.* The Preliminary Decision Memorandum is also available in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist for the POR:

Exporter	Weighted-average dumping margin (percent)
Shaoxing Xiangyu Green Packing Co., Ltd	34.69
Tianjin Wanhua Co., Ltd	22.07
Fuwei Films (Shandong) Co., Ltd	31.77
Sichuan Dongfang Insulating Material Co., Ltd	31.77
DuPont Teijin Films China Ltd., DuPont Hongji Films Foshan Co., Ltd., and DuPont Teijin Hongji Films Ningbo Co., Ltd	31.77

Disclosure and Public Comment

The Department intends to disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties may submit case briefs no later than 30 days after the date of publication of these

preliminary results of review.[3] Rebuttal briefs may be filed no later than five days after case briefs are filed and may respond only to arguments raised in the case briefs.[4] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement & Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice.[5] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. Oral argument presentations will be limited to issues raised in the briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[6] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

All submissions, with limited exceptions, must be filed electronically using IA ACCESS.[7] An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time (''ET'') on the due date. Documents excepted from the electronic submission requirements must be filed manually (*i.e.,* in paper form) with the APO/Dockets Unit in Room 1870 and stamped with the date and time of receipt by 5 p.m. ET on the due date.[8]

The Department intends to issue the final results of this administrative review, which will include the results of its analysis of issues raised in any briefs, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Deadline for Submission of Publicly Available Surrogate Value Information

In accordance with 19 CFR 351.301(c)(3)(ii), the deadline for submission of publicly available information to value factors of production under 19 CFR 351.408(c) is 20 days after the date of publication of the preliminary results of this review. In accordance with 19 CFR 351.301(c)(1), if an interested party submits factual information less than 10 days before, on, or after (if the Department has extended the deadline), the applicable deadline for submission of such factual information, an interested party may submit factual information to rebut, clarify, or correct the factual information no later than ten days after such factual information is served on the interested party. However, if the deadline for submission of surrogate value information has passed, the Department generally will not accept in the rebuttal submission additional or alternative surrogate value information not previously on the record.[9] Furthermore, the Department generally will not accept business proprietary information in either the surrogate value submissions or the rebuttals thereto, as the regulation regarding the submission of surrogate values allows only for the submission of publicly available information.[10]

Assessment Rates

Upon issuance of the final results of this review, the Department will determine, and U.S. Customs and Border Protection (''CBP'') shall assess, antidumping duties on all appropriate entries covered by this review.[11] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate. Where either a respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties. For any individually examined respondent and its importer(s) where neither of those situations is the case, in the final results of this review we will calculate an importer-specific per-unit assessment rate by dividing the total dumping margins for reviewed sales to the importer by the total sales quantity associated with those sales.

On October 24, 2011, the Department announced a refinement to its assessment practice in NME antidumping duty cases.[12] Pursuant to this refinement in practice, for merchandise that was not reported in the U.S. sales databases submitted by an exporter individually examined during this review, but that entered under the case number of that exporter (*i.e.,* at the individually-examined exporter's cash deposit rate), the Department will instruct CBP to liquidate such entries at the PRC-wide rate. Additionally, pursuant to this refinement, if the Department determines that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number will be liquidated at the PRC-wide rate.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for shipments of the subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the exporters listed above, the cash deposit rate will be equal to the weighted-average dumping margin established in the final results of this review (except, if the rate is zero or *de minimis,* then the cash deposit rate will be zero for that exporter); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed segment of this proceeding; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the rate for the PRC-wide entity, 76.72 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation

[3] *See* 19 CFR 351.309(c).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.310(c).

[6] *See* 19 CFR 351.310(d).

[7] *See generally* 19 CFR 351.303.

[8] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[9] *See, e.g., Glycine From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part,* 72 FR 58809 (October 17, 2007), and accompanying Issues and Decision Memorandum at Comment 2.

[10] *See* 19 CFR 351.301(c)(3).

[11] *See* 19 CFR 351.212(b)(1).

[12] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), for a full discussion of this practice.

of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213.

Dated: December 18, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

1. Background
2. Scope of the Order
3. Non-Market Economy Country
4. Separate Rate
5. Surrogate Country and Surrogate Value Data
6. Fair Value Comparisons
7. U.S. Price
8. Normal Value
9. Export Subsidy Adjustment
10. Section 777A(f) of the Act
11. Currency Conversion

[FR Doc. 2013–30919 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–840]

Lightweight Thermal Paper from Germany: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on lightweight thermal paper (LWTP) from Germany. The period of review (POR) is November 1, 2011, through October 31, 2012. The review covers one producer and exporter of the subject merchandise, Papierfabrik August Koehler SE (formerly Papierfabrik August Koehler AG) (Koehler). We have preliminarily determined that sales of subject merchandise by Koehler have not been made at prices below normal value. In addition, we have preliminarily determined that Papierfabrik August Koehler SE is the successor-in-interest to Papierfabrik August Koehler AG.

DATES: Effective Date: December 26, 2013.

FOR FURTHER INFORMATION CONTACT: David Goldberger, AD/CVD Operations, Office II, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC, 20230; telephone (202) 482–4136.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise covered by the order is lightweight thermal paper. The merchandise subject to the order is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 3703.10.60, 4811.59.20, 4811.90.8000, 4811.90.8030, 4811.90.8040, 4811.90.8050, 4811.90.9000, 4811.90.9030, 4811.90.9035, 4811.90.9050, 4811.90.9080, 4811.90.9090, 4820.10.20, and 4823.40.00. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in the *Order,* remains dispositive.[1]

Methodology

The Department has conducted this review in accordance with sections 751(a)(1)(B) and (2) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed at *http://enforcement.trade.gov/frn/*. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

[1] For a complete description of the scope, *see Antidumping Duty Orders: Lightweight Thermal Paper from Germany and the People's Republic of China,* 73 FR 70959 (November 24, 2008) (*Order*); *see also* ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review; 2011–2012: Lightweight Thermal Paper from Germany,'' dated concurrently with this notice (Preliminary Decision Memorandum).

Preliminary Results of the Review [2]

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 0.00 percent exists for Koehler for the period November 1, 2011, through October 31, 2012.

Disclosure and Public Comment

We will disclose the calculations performed to parties in this segment of the proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs not later than 30 days after the date of publication of this notice.[3] Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce. All documents must be filed electronically using IA ACCESS. An electronically filed request must be received successfully in its entirety by IA ACCESS by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[5] Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a time and

[2] As explained in the memorandum from the Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 1, through October 16, 2013. *See* Memorandum for the Record from Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Deadlines Affected by the Shutdown of the Federal Government'' (October 18, 2013). Therefore, all deadlines in this segment of the proceeding have been extended by 16 days. If the new deadline falls on a non-business day, in accordance with the Department's practice, the deadline will become the next business day. The revised deadline for the preliminary determination in this investigation is now December 18, 2013.

[3] *See* 19 CFR 351.309(c).

[4] *See* 19 CFR 351.309(d).

[5] *See* 19 CFR 351.310(c).

date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review.[6]

If Koehler's weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent) in the final results of this review, we will calculate an importer-specific per-unit duty assessment rate by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales, because Koehler did not report entered value for all its U.S. sales. To determine whether this duty assessment rate is *de minimis,* in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate an importer-specific *ad valorem* ratio based on the estimated entered value.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either Koehler's weighted-average dumping margin is zero or *de minimis,* or the importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.[7]

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise during the POR produced by Koehler for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

We intend to issue instructions to CBP 15 days after the publication date of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Koehler will be the rate established in the final results of this review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not participating in this review, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 6.50 percent, the all-others rate established in *Lightweight Thermal Paper from Germany: Notice of Final Determination of Sales at Less Than Fair Value,* 73 FR 57326, 57328 (October 2, 2008). These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 17, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Scope of the Order
2. Successor-in-Interest
3. Date of Sale and Universe of U.S. Sales
4. Fair Value Comparisons
   A. Determination of Comparison Method
   B. Results of the Differential Pricing Analysis
5. Product Comparisons
6. Export Price and Constructed Export Price
7. Normal Value
   A. Home Market Viability and Selection of Comparison Market
   B. Level of Trade
   C. Cost of Production Analysis
   D. Calculation of Normal Value Based on Comparison-Market Prices
8. Duty Absorption
9. Currency Conversion
10. Verification

[FR Doc. 2013–30658 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–809]

Circular Welded Non-Alloy Steel Pipe From the Republic of Korea: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review; 2011–2012

AGENCY: Enforcement and Compliance, formerly Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on circular welded non-alloy steel pipe (CWP) from the Republic of Korea (Korea).[1] The period of review (POR) is November 1, 2011, through October 31, 2012. This review covers eight producers or exporters of the subject merchandise, Husteel Co., Ltd. (Husteel), Hyundai HYSCO (HYSCO), Dongbu Steel Co., Ltd., SeAH Steel Corporation, A–JU Besteel Co., Ltd., Kumkang Industrial Co., Ltd., Nexteel Co., Ltd., and Union Steel Co., Ltd. We have preliminarily found that HYSCO has made sales of the subject merchandise at prices below normal value, and that Husteel did not make sales of subject merchandise at

[6] *See* 19 CFR 351.212(b).

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8103 (February 14, 2012); 19 CFR 351.106(c)(2).

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part,* 77 FR 77017 (December 31, 2012).

prices below normal value. We are rescinding this review for the other six producers or exporters. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Mary Kolberg, or Jennifer Meek, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–1785 or (202) 482–2778, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is circular welded non-alloy steel pipe and tube. The product is currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) numbers: 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085, and 7306.30.5090. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in the Memorandum from Gary Taverman, Senior Advisor for Antidumping and Countervailing Duty Operations, to Ronald K. Lorentzen, Acting Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for the Preliminary Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea'' dated concurrently with this notice (Preliminary Decision Memorandum).

Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to the following parties because the review requests were timely withdrawn: Dongbu Steel Co., Ltd., SeAH Steel Corporation, A–JU Besteel Co., Ltd., Kumkang Industrial Co., Ltd., Nexteel Co., Ltd., and Union Steel Co., Ltd.

Methodology

The Department has conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Constructed export price is calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum, which is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS), and is hereby adopted with this notice. Access to IA ACCESS is available to registered users at *http://iaaccess.trade.gov* and is available to all parties in the Central Records Unit, room 7046 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed Preliminary Decision Memorandum and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following weighted-average dumping margins exist for the respondents for the period November 1, 2011, through October 31, 2012.

Producer or exporter	Weighted-average dumping margin (percent)
Husteel Co., Ltd	0.00
Hyundai HYSCO	3.39

Disclosure and Public Comment

The Department intends to disclose to interested parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice.[2] We plan on conducting verification of Husteel's sales responses after these preliminary results. Therefore, interested parties may submit written comments (case briefs) for this administrative review no later than one week after the issuance of the Husteel's verification report, and rebuttal comments (rebuttal briefs) within five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[3] Case and rebuttal briefs should be filed using IA ACCESS.[4]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically via IA ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Standard Time within 30 days after the date of publication of this notice.[5] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

For Husteel and HYSCO, upon issuance of the final results, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries covered by this review. Husteel and HYSCO reported the name of the importer of record and the entered value for all of their sales to the United States during the POR. If Husteel and HYSCO's weighted-average dumping margins are not zero or *de minimis* (*i.e.,* less than 0.50 percent) in the final results of this review, we will calculate importer-specific assessment rates on the basis of the ratio of the total amount of dumping calculated for each importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1).

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is not zero or *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,*[6] or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. This clarification will apply to entries of subject merchandise

[2] *See* 19 CFR 351.224(b).

[3] *See* 19 CFR 351.309(c)(2) and (d)(2).

[4] *See* 19 CFR 351.303.

[5] *See* 19 CFR 351.310(c).

[6] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101, 8102 (February 14, 2012).

during the POR produced by Husteel and HYSCO for which they did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

For Husteel and HYSCO, we intend to issue instructions to CBP 15 days after publication of the final results of this review.

For the rescinded companies, antidumping duties shall be assessed at rates equal to the rates for the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice.

Cash Deposit Requirements

The following cash deposit requirements for estimated antidumping duties will be effective upon publication of the notice of final results of administrative review for all shipments of CWP from Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for HYSCO and Husteel will be equal to the weighted-average dumping margins established in the final results of this administrative review; (2) for merchandise exported by producers or exporters not covered in this review but covered in a prior completed segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the producer has been covered in a prior complete segment of this proceeding, the cash deposit rate will be the rate established for the most recent period for the producer of the merchandise; (4) the cash deposit rate for all other producers or exporters will continue to be 4.80 percent, the ''all others'' rate established in the order.[7] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder and, with respect to companies which we rescind in part as a final reminder, to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The Department is issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: December 18, 2013.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

Comparison to Normal Value
A. Determination of Comparison Method
B. Results of the Differential Pricing Analysis
Product Comparisons
Treatment of Grade as a Physical Characteristic
Level of Trade/Constructed Export Price Offset
Constructed Export Price
Normal Value
A. Selection of Comparison Market
B. Affiliated Party Transactions and Arm's Length Test
C. Cost of Production
1. Calculation of Cost of Production
2. Test of Comparison Market Sales Prices
3. Results of the COP Test
D. Constructed Value
E. Calculation of Normal Value Based on Comparison Market Prices
Currency Conversion

[FR Doc. 2013–30935 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See Notice of Antidumping Duty Orders: Certain Circular Welded Non-Alloy Steel Pipe from Brazil, the Republic of Korea (Korea), Mexico, and Venezuela, and Amendment to Final Determination of Sales at Less Than Fair Value: Certain Circular Welded Non-Alloy Steel Pipe from Korea,* 57 FR 49453 (November 2, 1992).

DEPARTMENT OF COMMERCE

International Trade Administration

Japan-U.S. Decommissioning and Remediation Fukushima Recovery Forum Tokyo, Japan February 18–19, 2014

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

Event Description

The U.S. Department of Commerce's International Trade Administration (ITA), in partnership with the U.S. Department of Energy, is organizing a Japan-United States Decommissioning and Remediation Fukushima Recovery Forum (''Fukushima Recovery Forum'') on February 18–19 in Tokyo, Japan. The Fukushima Recovery Forum will be a venue for U.S. firms to hear from Japanese Ministries and commissioning entities on plans for Fukushima Recovery and for U.S. and Japanese firms to share experiences, expertise, and lessons learned in remediation and decommissioning, including on work underway at Fukushima Dai-ichi Nuclear Power Station, and in Tohoku, the area affected by the accident at Fukushima. U.S. firms will also be given an opportunity to network with Japanese firms and identify potential business partners. ITA hopes that this cooperation between the U.S. and Japanese private sectors will lead to solutions that will enhance Fukushima recovery efforts. ITA is seeking the participation of a maximum of approximately 25 U.S. companies that produce technology or provide services in the decommissioning or remediation sector, including water treatment and waste management. The U.S. Department of Commerce's Global Markets and U.S. & Foreign Commercial Service (CS) will also be available in Tokyo to provide its export counseling services to participating companies.

Support for the Fukushima Recovery Forum was confirmed at the 2nd meeting of the U.S-Japan Bilateral Commission on Civil Nuclear Cooperation. The Bilateral Commission serves as a senior-level, standing forum for consultations on mutual issues of concern, to further strengthen bilateral cooperation and to advance shared interest in the area of civil nuclear cooperation. The Bilateral Commission is chaired by the Department of Energy and Japan's Ministry of Economy, Trade, and Industry (METI). There are five working groups under the Bilateral Commission to coordinate bilateral cooperation in the areas of civil nuclear energy research and development, the decommissioning of the Fukushima Dai-ichi Nuclear Power Station, environmental management, emergency management, nuclear security, and safety and regulatory issues.

The Decommissioning and Environmental Management Working Group (DEMWG) under the Bilateral Commission addresses the long-term consequences of the Fukushima accident, including facility

decommissioning, spent fuel storage, decontamination, and remediation of contaminated areas. The Fukushima Recovery Forum is under the auspices of the DEMWG to further industry cooperation in support of Fukushima Recovery efforts.

Event Goals

The Fukushima Recovery Forum is an event to bring U.S. and Japanese private sector firms in the remediation, decommissioning, and waste management industries together to develop relationships that will assist with the recovery of the Fukushima region. The Forum is intended to be:

- A venue for U.S. firms to meet key Japanese officials involved in the planning of decommissioning, remediation, and other work related to Fukushima Recovery.
- A venue where U.S. and Japanese firms can share experiences, expertise, and lessons learned in remediation and decommissioning, including on work already completed at Fukushima Dai-ichi, and in Tohoku.
- A venue where U.S. and Japanese firms can discuss key technical challenges related to Fukushima clean-up and nuclear decommissioning.
- A venue to foster collaboration between the U.S. and Japanese private sector to solve other challenges related to remediation and decommissioning.
- An opportunity for companies from both the United States and Japan to network, build relationships and identify partners for current projects and potential joint future work.

Event Scenario

On March 11, 2011, an earthquake and tsunami hit Japan and led to a series of events at the Fukushima Dai-ichi Nuclear Power Station in which several units and their adjacent spent fuel pools experienced beyond-design-basis accidents. The four reactors at the site (Units 1–4) that received the brunt of the damage (of the six reactors at the site) also have integral spent fuel pools containing significant amounts of spent nuclear fuel, which were also damaged by the disaster and the subsequent explosions. In addition, radioactivity was released into the surrounding area, causing thousands of people to be evacuated. Japan faces an unprecedented cleanup and decontamination challenge that will take many years to resolve as it strives to decommission Fukushima Dai-ichi and remediate the surrounding areas.

The U.S. Government, and specifically the U.S. Department of Energy national laboratories, have been involved in numerous exchanges of scientific and technical information and expertise with the Government of Japan with the intent to find solutions to problems created by the accident at Fukushima Dai-ichi related to decommissioning and decontamination. The U.S. Department of Commerce's International Trade Administration, with the support of the U.S. Department of Energy, has proposed the Japan-United States Decontamination and Remediation Fukushima Recovery Forum to bring U.S. and Japanese firms together to complement the existing exchanges of information and expertise by providing an opportunity for coordination between the U.S. and Japanese private sectors to find solutions from U.S. firms that would assist Japan with its recovery process.

Participating firms will:

- Receive a briefing on the status of Fukushima Dai-ichi decommissioning and decontamination work from relevant officials from the Japanese Government and industry.
- Participate in panel or breakout discussions focusing on decontamination, remediation and waste management. Firms with appropriate experience or technologies will be asked to present during these discussions.
- Exchange views on viable solutions to the challenges on Fukushima recovery with counterparts from the Japanese private sector;nder the CP Program would be two million shares, whereas the threshold under the ETP Incentive Program is one million shares).
- Participate in one-on-one networking sessions with interested Japanese firms;
- Attend a networking reception with senior leaders from Japan's Government and industry hosted by a senior U.S. Government representative from the Embassy in Tokyo;
- Take advantage of the Commercial Service in Tokyo's business advisory services if desired by the U.S. participant firms and should CS Japan resources be able to accommodate such interest.
- There may be an opportunity to participate in an optional tour to the Fukushima Dai-Ichi Nuclear Power Plant. This tour would incur additional fees.

Proposed Schedule

February 18

Participate in discussions with U.S. and Japanese firms consisting of presentations and discussions on specific aspects of Fukushima Recovery, including decommissioning, remediation, waste management, and water management.

Participate in networking opportunities with Japanese firms.

Attend a networking reception with senior leaders from Japan's Government and industry hosted by a senior U.S. Government representative from the Embassy in Tokyo.

February 19

Participate in briefings by Japanese Government and other entities on the status of the situation at Fukushima Dai-ichi Nuclear Power Station and surrounding area.

Participate in one-on-one networking activities coordinated by Global Markets and the U.S. and Foreign Commercial Service.

Updates to the events related to the Fukushima Recovery Forum can be found at: *http://export.gov/japan/fukushima/forum/*

Participation Requirements

All parties interested in participating in the Fukushima Recovery Forum must complete and submit an application package for consideration by the Department of Commerce. All applicants will be evaluated based on their ability to meet certain conditions and best satisfy the selection criteria as outlined below. A maximum of 25 companies will be selected to participate in the Business Forum from the applicant pool. U.S. companies already doing business in Japan as well as U.S. companies seeking to enter to the Japanese market for the first time may apply. Applications will be reviewed on a rolling basis in the order that they are received.

Fees and Expenses

After a company has been selected to participate in the Forum, a participation fee is required. The participation fee is *$930.00* for large firms. The participation fee is *$665.00* for small or medium-sized firms.[1] Fees will cover the cost for interpreters, a booklet containing information about the firms, and the costs for the reception.

Exclusions

The conference fee does not include any personal travel expenses such as airfare, lodging, most meals, incidentals,

[1] An SME is defined as a firm with 500 or fewer employees or that otherwise qualifies as a small business under SBA regulations (see *http://www.sba.gov/size*). Parent companies, affiliates, and subsidiaries will be considered when determining business size. The dual pricing reflects the Commercial Service's user fee schedule that became effective May 1, 2008. For additional information, see *http://www.export.gov/newsletter/march2008/initiatives.html*

and local ground transportation and personal interpreters used during the networking sessions. Delegation members will be able to take advantage of U.S. Embassy rates for hotel rooms. Business visas may be required. Government fees and processing expenses to obtain such visas are also not included in the Fukushima Recovery Forum costs. However, the U.S. Department of Commerce will provide instructions to each participant on the procedures required to obtain necessary business visas.

Conditions for Participation

Applicants must submit a completed mission application signed by a company official, together with supplemental application materials, including adequate information on the company's products and/or services, interest in doing business in Japan, and goals for participation by January 15, 2014. If the U.S. Department of Commerce receives an incomplete application, the U.S. Department of Commerce may reject the application, request additional information, or take the lack of information into account in its evaluation.

Each applicant must also certify that the products or services it seeks to export through its participation in the Fukushima Recovery Forum are either produced in the United States, or, if not, marketed under the name of a U.S. firm and that the promotion of the products or services the applicant seeks to export would be consistent with CS's statutory mission.

Selection Criteria for Participation

Selection will be based on the following criteria:

- Suitability of the company's products or services to the Japanese decommissioning or remediation sector, including water management and waste management;
- The company's potential for business in Japan, including likelihood of exports resulting from participation in the Fukushima Recovery Forum;
- The company's ability to identify and engage on policy issues relevant to U.S. competitiveness in the decontamination or remediation sectors in Japan; and
- Consistency of the company's goals and objectives with the scope of the Fukushima Recovery Forum.

Additional factors, such as diversity of company size, industry subsector, location, and demographics, may also be considered during the review process.

Referrals from political organizations and any documents containing references to partisan political activities (including political contributions) will be removed from an applicant's submission and not considered during the selection process.

Timeframe for Recruitment and Participation

Recruitment for the Fukushima Recovery Forum will be conducted in an open and public manner, including publication in the **Federal Register**, posting on CS Japan's Web site, notices by industry trade associations and other multiplier groups, and publicity through the Commercial Service network. Recruitment will begin immediately and conclude no later than January 15, 2014. The U.S. Department of Commerce will review applications and make selection decisions beginning on or about January 6, 2014. Applications received after January 15, 2014 will be considered only if space and scheduling constraints permit.

Applications for participation in the Fukushima Recovery Forum are available on line at: *http://export.gov/japan/fukushima/forum/*

DATES: The Fukushima Recovery Forum will take place February 18–19, 2014. Applications are due no later than January 15, 2014.

Contacts

Danius Barzdukas, Office of East Asia and APEC, International Trade Administration, Department of Commerce, Phone: 202–482–1147, email: *Danius.Barzdukas@trade.gov.*

Gregory Briscoe, U.S. Commercial Service Tokyo, International Trade Administration, Department of Commerce, Phone: +81–3–3224–5088, email: *Gregory.Briscoe@trade.gov.*

David Kincaid, Designated Federal Officer for the Civil Nuclear Trade advisory Committee & Representative of the USG Civil Nuclear Coordination Team, International Trade Administration, Department of Commerce, Phone: 202–482–1706, email: *David.Kincaid@trade.gov.*

Elnora Moye,

Trade Program Assistant.

[FR Doc. 2013–30751 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Renewable Energy and Energy Efficiency Advisory Committee

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an Open Meeting.

SUMMARY: The Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC) will meet via conference call on January 23, 2014 to consider and vote on proposed recommendations from the U.S. Competitiveness, Trade Policy, Finance and Trade Promotion Subcommittees that address issues affecting U.S. competitiveness in exporting renewable energy and energy efficiency (RE&EE) products and services.

DATES: January 23, 2014, from 2:00 p.m. to 4:00 p.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held via conference call.

FOR FURTHER INFORMATION CONTACT: Ryan Mulholland, Office of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, U.S. Department of Commerce at (202) 482–4693; email: *ryan.mulholland@trade.gov.* This conference call is accessible to people with disabilities. Requests for auxiliary aids should be directed to OEEI at (202) 482–4693 at least 3 working days prior to the event.

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Commerce established the RE&EEAC pursuant to his discretionary authority and in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) on June 19, 2012. The RE&EEAC provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. RE&EE industries. The RE&EEAC held its first meeting on February 20, 2013 and several subsequent meetings throughout 2013. The Committee's charter expires June 18, 2014.

The meeting is open to the public. Members of the public wishing to attend the conference call must notify Mr. Ryan Mulholland at the contact information above by 5:00 p.m. EDT on Monday, January 20, in order to pre-register and receive call-in instructions. Please specify any request for reasonable accommodation by Monday, January 20. Last minute requests will be accepted, but may be impossible to fill.

Any member of the public may submit pertinent written comments concerning the RE&EEAC's affairs at any time before or after the meeting. Comments may be submitted to *ryan.mulholland@trade.gov* or to the Renewable Energy and Energy Efficiency Advisory Committee, Office

of Energy and Environmental Technologies Industries (OEEI), International Trade Administration, Room 4053; 1401 Constitution Avenue NW., Washington, DC 20230. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on Monday, January 20, 2014, to ensure transmission to the Committee prior to the meeting. Comments received after that date will be distributed to the members, but may not be considered at the meeting.

Copies of RE&EEAC meeting minutes will be available within 30 days of the meeting.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2013–30725 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

National Telecommunications and Information Administration

[Docket No.: 130927852–3852–01]

Extension of Comment Period for Public Comments on Department of Commerce Green Paper, Copyright Policy, Creativity, and Innovation in the Digital Economy

AGENCY: United States Patent and Trademark Office, U.S. Department of Commerce; National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of Extension of Public Comment Period.

SUMMARY: On October 3, 2013, the Department of Commerce's Internet Policy Task Force (Task Force) published a notice of public meeting and a request for public comments on five separate copyright policy issues critical to economic growth, job creation, and cultural development that were identified in the Department's Green Paper on *Copyright Policy, Creativity, and Innovation in the Digital Economy* (Green Paper). The purpose of this notice is to announce an extension of the period for filing post-meeting comments.

DATES: To be ensured of consideration, post-meeting comments are due on or before January 17, 2014. The filing of pre-meeting comments is not a prerequisite for filing post-meeting comments.

ADDRESSES: Interested parties are encouraged to file comments electronically by email to: *Copyright Comments2013@uspto.gov.* Comments submitted by email should be machine-searchable and should not be copy-protected. Written comments also may be submitted by mail to Office of Policy and International Affairs, United States Patent and Trademark Office (USPTO), Mail Stop External Affairs, P.O. Box 1450, Alexandria, VA 22313–1450. Responders should include the name of the person or organization filing the comment, as well as a page number, on each page of their submissions. Paper submissions should also include a CD or DVD containing the submission in Word, WordPerfect, or .pdf format. CDs or DVDs should be labeled with the name and organizational affiliation of the filer, and the name of the word processing program used to create the document. All comments received are a part of the public record and will be made available to the public at *http://www.ntia.doc.gov/internetpolicytaskforce* and *http://www.uspto.gov/ip/global/copyrights/index.jsp* without change. All personally identifiable information (for example, name, address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. The Task Force will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: For further information regarding the public comments, contact Garrett Levin or Ben Golant, Office of Policy and International Affairs, United States Patent and Trademark Office, Madison Building, 600 Dulany Street, Alexandria, VA 22314; telephone (571) 272–9300; email *garrett.levin@uspto.gov* or *benjamin.golant@uspto.gov.* Please direct all media inquiries to the Office of the Chief Communications Officer, USPTO, at (571) 272–8400.

SUPPLEMENTARY INFORMATION: On October 3, 2013, the Task Force published a notice of public meeting and a request for public comments on five separate copyright policy issues critical to economic growth, job creation, and cultural development that were identified in the Department's Green Paper. The deadline for filing pre-meeting comments was November 13, 2013. *See* Request for Public Comments and Notice of Public Meeting, 78 Fed. Reg. 61337 (Oct. 3, 2013), available at *http://www.ntia.doc.gov/files/ntia/publications/ntia_pto_rfc_10032013.pdf.* The public meeting was held on December 12, 2013. Pursuant to a **Federal Register** Notice published on November 5, 2013, the deadline for filing post-meeting comments was set for January 10, 2014. See Notice of Change in Public Meeting Date and Change in Public Comment Periods, 78 Fed. Reg. 66337 (Nov. 5, 2013), available at *http://www.ntia.doc.gov/files/ntia/publications/copyright_green_paper_public_meeting.pdf.*

The Task Force is now extending the period for submission of public post-meeting comments until January 17, 2014. Archived recordings of the public meeting are available at *http://new.livestream.com/uspto/copyright.*

Dated: December 19, 2013.

Lawrence E. Strickling,

Assistant Secretary of Commerce for Communications and Information.

Margaret A. Focarino,

Commissioner for Patents, Performing the functions and duties of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. 2013–30690 Filed 12–24–13; 8:45 am]

BILLING CODE 3510–60–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No: CFPB–2013–0037]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), the Consumer Financial Protection Bureau (Bureau) is proposing a new information collection titled, ''Development of Metrics to Measure Financial Well-being of Working-age and Older American Consumers.''

DATES: Written comments are encouraged and must be received on or before January 27, 2014 to be assured of consideration.

ADDRESSES: You may submit comments, identified by the title of the information collection, OMB Control Number (see below), and docket number (see above), by any of the following methods:

- Electronic: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail/Hand Delivery/Courier: Consumer Financial Protection Bureau (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552.

Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. In general, all comments received will be posted without change to regulations.gov, including any personal information provided. Sensitive personal information, such as account numbers or social security numbers, should not be included.

FOR FURTHER INFORMATION CONTACT: Documentation prepared in support of this information collection request is available at *www.reginfo.gov.* Requests for additional information should be directed to the Consumer Financial Protection Bureau, (Attention: PRA Office), 1700 G Street NW., Washington, DC 20552, (202) 435–9575, or email: *PRA@cfpb.gov.* Please do not submit comments to this email box.

SUPPLEMENTARY INFORMATION:

Title of Collection: Development of Metrics to Measure Financial Well-being of Working-age and Older American Consumers.

OMB Control Number: 3170–XXXX.

Type of Review: New collection (request for a new OMB control number).

Affected Public: Individuals or households.

Estimated Number of Respondents: 16,500.

Estimated Total Annual Burden Hours: 4,625.

Abstract: Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law No. 111–203, the Bureau's Office of Financial Education is responsible for developing and implementing a strategy to improve the financial literacy of consumers that includes measurable goals and initiatives, in consultation with the Financial Literacy and Education Commission, consistent with the National Strategy for Financial Literacy. In addition, the Office of Financial Protection for Older Americans within the Bureau is charged with conducting research to identify methods and strategies to educate and counsel seniors, and developing goals for programs that provide seniors with financial literacy and counseling.

The Bureau intends to collect quantitative data through surveys with working-age (age 18–61) and older American (age 62 and older) consumers in order to develop and refine survey instruments that will enable the Bureau to reliably and accurately measure adult consumers' financial well-being. The primary anticipated data collection strategy is through internet-based surveys. The core objective of the data collection is to iteratively test, refine, and produce valid and reliable measures of consumer financial well-being that will create a strong, standardized basis for setting measurable goals, and evaluating financial education strategies and programs.

Request for Comments: The Bureau issued a 60-day **Federal Register** notice on August 8, 2013, (78 FR 48422). Comments were solicited and continue to be invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical utility; (b) The accuracy of the Bureau's estimate of the burden of the collection of information, including the validity of the methods and the assumptions used; (c) Ways to enhance the quality, utility, and clarity of the information to be collected; and (d) Ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record.

Dated: December 19, 2013.

Ashwin Vasan,

Chief Information Officer, Bureau of Consumer Financial Protection.

[FR Doc. 2013–30728 Filed 12–24–13; 8:45 am]

BILLING CODE 4810–AM–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Extension of Autism Services Demonstration Project for TRICARE Beneficiaries Under the Extended Care Health Option

AGENCY: Department of Defense.

ACTION: Notice of demonstration.

SUMMARY: This notice provides a 1-year extension of the Department of Defense (the Department) Enhanced Access to Autism Services Demonstration Project (Autism Demonstration) under the Extended Care Health Option (ECHO) for beneficiaries diagnosed with an Autism Spectrum Disorder (ASD). Under the demonstration, the Department implemented a provider model that allows reimbursement for Applied Behavior Analysis rendered by providers who are not otherwise eligible for reimbursement.

DATES: The demonstration will continue through March 14, 2015.

ADDRESSES: Defense Health Agency, Health Plan Operations, 7700 Arlington Boulevard, Suite 5101, Falls Church, Virginia 22042.

FOR FURTHER INFORMATION CONTACT: For questions pertaining to this demonstration project, please contact Mr. Richard Hart at (703) 681–0047.

SUPPLEMENTARY INFORMATION:

On December 4, 2007, the Department of Defense published a notice in the **Federal Register** (FR) (72 FR 68130–68132) of a TRICARE demonstration to increase access to ABA services. The purpose of the demonstration is to allow the Department to determine whether such a provider model increases access to services, the services are reaching those most likely to benefit from them, the quality of the services rendered meets the standard of care currently accepted by the community of providers, and whether State requirements for licensure or certification of providers of ABA services, where such exists, are being met. The effective date was 60 days following publication of the notice, and the demonstration was implemented on March 15, 2008, for a period of 2 years.

Recognizing that the subject of ASDs is complex, in particular, with respect to the number of individuals diagnosed with ASD, the treatment of ASD that generally includes several years of behavior modification through educational services, and the ability of the provider community to increase the number of qualified providers, the Department published a notice in the FR (75 FR 8927–8928) on February 26, 2010, that extended the Demonstration through March 14, 2012, and again on December 27, 2011 (76 FR 80903) through March 14, 2014.

Based on the favorable subjective response from parents of TRICARE beneficiaries who participated in the ABA tiered delivery model under the ECHO Autism Demonstration and responded to TRICARE Management Activity satisfaction surveys, the Department published a Proposed Rule on December 29, 2011 (76 FR 81897–81899) that would add coverage of the ABA tiered delivery model under ECHO for ASD as a non-medical ''Other service,'' as that term is used in Title 10, U.S.C., Section 1079(e). However, the publication of a final rule and transition of the Autism Demonstration to a permanent benefit under ECHO was placed on-hold due to pending resolution of the ongoing litigation and separate legislative efforts addressing coverage of autism-related services under TRICARE, and the interim

coverage of ABA as a TRICARE Basic Program benefit.

Under the added authority of the 1-year ABA Pilot Program established by section 705 of NDAA for Fiscal Year 2013 (the ''ABA Pilot''), a new interim TRICARE ABA reinforcement benefit for Non-Active Duty Family Members (NADFMs) was implemented on July 25, 2013, as a separate interim benefit from the coverage of medical benefits currently provided under the TRICARE Basic Program to both ADFMs and NADFMs with ASD, and separate from the Autism Demonstration services available by law only to ADFMs enrolled in their Service's Exceptional Family Member program and otherwise eligible for ECHO.

In accordance with Congressional direction concerning the purposes of the ABA Pilot, TRICARE will include an assessment of the feasibility and advisability of establishing a beneficiary cost share for the treatment of ASD. TRICARE will submit an interim Report to Congress (RTC) in December 2013 and a final RTC after the July 2014 ABA Pilot completion date, to include: an evaluation of the beneficiary cost shares; a comparison of providing various ABA services under the TRICARE Basic Program, ECHO (including the Autism Demonstration for ADFMs) and the separate ABA Pilot (for NADFMs); recommended changes in legislation; and additional information as appropriate. The Department has determined that continuation of the demonstration for an additional 1 year is both in the best interest of TRICARE beneficiaries diagnosed with an ASD, and necessary to fully evaluate the effectiveness of the delivery model employed by the demonstration. Continuation of the Autism Demonstration will also provide additional information needed to make a formal decision regarding the use of that delivery model in the long-term. The demonstration continues to be authorized by Title 10, United States Code, Section 1092.

Dated: December 19, 2013.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2013–30670 Filed 12–24–13; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0114]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; State Educational Agency Local Educational Agency, and School Data Collection and Reporting under ESEA, Title I, Part A

AGENCY: Office of Elementary and Secondary Education, Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing collection of information.

DATES: Interested persons are invited to submit comments on or before January 27, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0114 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov*. Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: State Educational Agency Local Educational Agency, and School Data Collection and Reporting under ESEA, Title I, Part A.

OMB Control Number: 1810–0581.

Type of Review: Revision of an existing collection of information.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 53,198.

Total Estimated Number of Annual Burden Hours: 4,702,675.

Abstract: Title I, Part A (Title I) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended, and its regulations contain several existing provisions that require State educational agencies (SEAs), local educational agencies (LEAs), and schools to collect and disseminate information. The Paperwork Reduction Act (PRA) covers these activities, which are currently approved by OMB under control number 1810–0581 through March 2014. In addition, in 2011, ED invited each SEA to request flexibility on behalf of itself, its LEAs, and schools, in order to better focus on improving student academic achievement and increasing the quality of instruction (ESEA flexibility). The opportunity for SEAs to request ESEA flexibility also included activities covered by the PRA. Those information collection activities consisted of the information an SEA must develop and submit to ED to request this flexibility, information that an SEA provided in an Accountability Addendum, and the information an SEA that receives ESEA flexibility must annually report to ED. Approvals of ESEA flexibility requests have occurred in several iterations: Window 1, for which SEAs submitted requests in November 2011; Window 2, for which SEAs submitted requests in February 2012; Window 3, for which SEAs

submitted requests in September 2012; and Window 4, for which SEAs submitted requests in spring 2013. Generally, ED approved the requests of SEAs that requested ESEA flexibility in Windows 1 and 2 through the end of the 20132014 school year. ED is now inviting the 35 Window 1 and Window 2 SEAs to request a one-year extension of the waivers granted through ESEA flexibility, which would generally last through the 20142015 school year.

Dated: December 19, 2013.

Tomakie Washington,

Acting Director Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–30755 Filed 12–24–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0135]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; High School Equivalency Program (HEP) Annual Performance Report

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 27, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0135 or via postal mail, commercial delivery, or hand delivery. Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will only accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: High School Equivalency Program (HEP) Annual Performance Report.

OMB Control Number: 1810–0684.

Type of Review: Extension without change of an existing collection of information.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 44.

Total Estimated Number of Annual Burden Hours: 1,408.

Abstract: The Office of Migrant Education is collecting information for the High School Equivalency Program Annual Performance Report in compliance with Higher Education Act of 1965, as amended, Title IV, Sec. 418A; 20 U.S.C. 1070d–2 (special programs for students whose families are engaged in migrant and seasonal farm work), the Government Performance Results Act (GPRA) of 1993, Section 4 (1115), and the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.253. EDGAR states that recipients of multi-year discretionary grants must submit an Annual Performance Report demonstrating that substantial progress has been made towards meeting the approved objectives of the project. In addition, discretionary grantees are required to report on their progress toward meeting the performance measures established for the Department of Education grant program. The Office of Migrant Education requests an extension without change of a currently approved collection to continue the use of a customized Annual Performance Report that goes beyond the Department of Education generic form number 524B Annual Performance Report to facilitate the collection of more standardized and comprehensive data to inform GPRA, to improve the overall quality of data collected, and to increase the quality of data that can be used to inform policy decisions.

Dated: December 19, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–30757 Filed 12–24–13; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2013–ICCD–0134]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Rehabilitation Services Administration Grant Re-allotment Form

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before January 27, 2014.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ED–2013–ICCD–0134 or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment*

period will not be accepted. Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E115, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For questions related to collection activities or burden, please call Tomakie Washington, 202–401–1097 or electronically mail *ICDocketMgr@ed.gov.* Please do not send comments here. We will ONLY accept comments in this mailbox when the regulations.gov site is not available to the public for any reason.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Rehabilitation Services Administration Grant Re-allotment Form.

OMB Control Number: 1820–0692.

Type of Review: Extension without change of an existing collection of information.

Respondents/Affected Public: State, Local, or Tribal Governments.

Total Estimated Number of Annual Responses: 402.

Total Estimated Number of Annual Burden Hours: 12.

Abstract: The Rehabilitation Act of 1973, as amended, authorizes the commissioner to re-allot to other grant recipients that portion of a recipient's annual grant that cannot be used. To maximize the use of appropriated funds under the formula grant programs, the Office of Special Education and Rehabilitative Services has established a re-allotment process for the Basic Vocational Rehabilitation State Grants; Supported Employment State Grants; Independent Living State Grants, Part B (IL–Part B); Independent Living Services for Older Individuals Who Are Blind (IL–OB); Client Assistance (CAP) and Protection and Advocacy of Individual Rights (PAIR) Programs. The authority for the Rehabilitation Services Administration to reallot formula grant funds is found at sections 110(b)(2) (VR), 622(b) (SE), 711(c) (IL–Part B), 752(j)(4) (IL–OB), 112(e)(2) (CAP), and 509(e) (PAIR) of the Act. The information will be used by the Rehabilitation Services Administration State Monitoring and Program Improvement Division to reallot formula grant funds for the awards mentioned above. For each grant award, the grantee will be required to enter the amount of funds being relinquished and/or any additional funds being requested.

Dated: December 19, 2013.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2013–30756 Filed 12–24–13; 8:45 am]

BILLING CODE 4000–01–P

ELECTION ASSISTANCE COMMISSION

Proposed Information Collection—2014 Election Administration and Voting Survey; Comment Request

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act* of 1995, EAC announces an information collection and seeks public comment on the provisions thereof. The EAC, pursuant to 5 CFR 1320.5(a)(iii), intends to submit this proposed information collection (2014 Election Administration and Voting Survey) to the Director of the Office of Management and Budget for approval. The 2014 Election Administration and Voting Survey (Survey) asks election officials questions concerning voting and election administration. These questions request information concerning ballots cast; voter registration; overseas and military voting; Election Day activities; voting technology; and other important issues. The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC's and the Department of Defense Federal Voting Assistance Programs' quantitative State data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections.

DATES: Written comments must be submitted on or before 4 p.m. EST on January 27, 2014.

Comments: Public comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments on the proposed information collection should be submitted electronically to *electionday survey@eac.gov.* Written comments on the proposed information collection can also be sent to the U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Election Administration and Voting Survey.

Obtaining a Copy of the Survey: To obtain a free copy of the survey: (1) Access the EAC Web site at *http://www.eac.gov* and download an electronic copy of the survey; or (2) write to the EAC (including your address and phone number) at U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910, *Attn:* Election Administration and Voting Survey.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Lynn-Dyson at (301) 563–3919 U.S. Election Assistance Commission, 1335 East West Highway, Suite 4300, Silver Spring, MD 20910.

Needs and Uses: The EAC issues the survey to meet its obligations under the Help America Vote Act to serve as national clearinghouse and resource for

the compilation of information with respect to the administration of Federal elections; to fulfill both the EAC and Department of Defense Federal Voting Assistance Program data collection requirements under the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA); and meet its National Voter Registration Act (NVRA) mandate to collect information from states concerning the impact of that statute on the administration of Federal Elections. The Help America Vote Act of 2002 (HAVA) (42 U.S.C. 15322) requires the EAC to serve as a national clearinghouse and resource for the compilation of information and review of procedures with respect to the administration of Federal Elections. This includes the obligation to study and report on election activities, practices, policies, and procedures, including methods of voter registration, methods of conducting provisional voting, poll worker recruitment and training, and such other matters as the Commission determines are appropriate. In addition, under the National Voter Registration Act (NVRA), the EAC is responsible for collecting information and reporting, biennially, to the United States Congress on the impact of that statute. The information the States are required to submit to the EAC for purposes of the NVRA report are found under Title 11 of the Code of Federal Regulations. States that respond to questions in this survey concerning voter registration related matters will meet their NVRA reporting requirements under 42 U.S.C. 1973gg–7 and EAC regulations. Finally, the Uniformed and Overseas Citizens Absentee Voters Act (UOCAVA) mandates that the Department of Defense Federal Voting Assistance Program (FVAP) work with the EAC and State Chief Election officials to develop standards for reporting UOCAVA voting information (42 U.S.C. 1973ff–1) and that the FVAP will store the reported data and present the findings within the congressionally-mandated report to the President and Congress. Additionally, UOCAVA requires that ''not later than 90 days after the date of each regularly scheduled general election for Federal office, each State and unit of local government which administered the election shall (through the State, in the case of a unit of local government) submit a report to the Election Assistance Commission (established under the Help America Vote Act of 2002) on the combined number of absentee ballots transmitted to absent uniformed services voters and overseas voters for the election and the combined number of such ballots which were returned by such voters and cast in the election, and shall make such a report available to the general public.'' States that complete and timely submit the UOCAVA section of the survey to the EAC will fulfill their UOCAVA reporting requirement under 42 U.S.C. 1973ff–1(c). In order to fulfill the above requirements, the EAC is seeking information relating to the period from the Federal general election day 2012 +1 through the November 2014 Federal general election.

The 2014 Survey has been expanded to include all of the questions from the Post-Election Survey of State and Local Election Officials, OMB Control Number 0704–0125, formerly conducted by the Department of Defense Federal Voting Assistance Program. The Election Assistance Commission will provide the data from the new included items to the Department of Defense after data collection is completed. The additional questions are necessary to fulfill the mandate of the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA of 1986 [42 U.S.C. 1973ff]). UOCAVA requires the States to allow Uniformed Services personnel, their family members, and overseas citizens to use absentee registration procedures and to vote by absentee ballot in general, special, primary, and runoff elections for Federal offices. UOCAVA covers members of the Uniformed Services and the Merchant Marine to include the commissioned corps of the National Oceanic and Atmospheric Administration and Public Health Service and their eligible dependents, Federal civilian employees overseas, and overseas U.S. citizens not affiliated with the Federal Government. Local Election Officials (LEO) process voter registration and absentee ballot applications, send absentee ballots to voters, and receive and process the voted ballots in counties, cities, parishes, townships and other jurisdictions within the U.S. The Federal Voting Assistance Program (FVAP) conducts the post-election survey of State and Local Election Officials to determine registration and participation rates that are representative of all citizens covered by the Act, to measure State-Federal cooperation, and to evaluate the effectiveness of the overall absentee voting program.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: 2014 Election Administration and Voting Survey; OMB Number Pending.

Summary of the Collection of Information: The survey requests information on a state- and county-level (or township-, independent city-, borough-level, where applicable) concerning the following categories:

Voter Registration Applications (From the Period of Federal General Election Day +1, 2012 through Federal General Election Day, 2014)

(a) Total number of registered voters; (b) Number of active and inactive registered voters; (c) Number of persons who registered to vote on Election Day—only applicable to States with Election Day registration; (d) Number of voters who registered using online registration—only applicable to States that allow online registration: (e) Number of voter registration applications received from all sources; (f) Number of voter registration applications that were duplicates, invalid or rejected, new, changes of name, address, party, and not categorized; (g) Number of duplicate registration applications received from all sources; (h) Total number of removal/confirmation notices mailed to voters and the reason for removal; (i) total number of voters removed from the registration list or moved to the inactive registration list.

Uniformed & Overseas Citizens Absentee Voting Act (UOCAVA)

(a) Total number and type of UOCAVA absentee ballots transmitted; (b) Total number and type of UOCAVA ballots returned and submitted for counting; (c) Total number and type of UOCAVA ballot returned by type of UOCAVA voter; (d) Total number and type of all UOCAVA ballots counted; (e) Total number and type of UOCAVA ballot counted by type of UOCAVA voter; (f) Total number and type of all UOCAVA ballots rejected; (g) Total number of UOCAVA ballots rejected by reason for rejection; (h) Total number of UOCAVA ballot rejected by type of UOCAVA voter; (i) Total number and type of registered and eligible UOCAVA voters; (j) Total number of Federal Post Card Applications (FPCAs) received by type of voter; (k) Total number of FPCAs rejected by type of voter; (l) Total number of FPCAs rejected after the absentee ballot request deadline; (m) Date when transmission of absentee ballots to UOCAVA voters began for the November election cycle; (n) Total number of UOCAVA ballots transmitted before and after the 45-day deadline by mode of transmission; (o) Total number of UOCAVA ballots transmitted that were returned as undeliverable by mode of transmission; (p) Total number of UOCAVA ballots returned by voters, excluding Federal Write-In Absentee Ballots (FWABs); (q) Total number of

UOCAVA ballots returned by voters and rejected, excluding FWABS, by type of voter and by mode of transmission; (r) Total number of UOCAVA ballots counted by mode of transmission, excluding FWABS; (s) Total number of FWABs received by type of voter; (t) Total number of FWABs rejected by type of voter; (u) Total number of FWABs rejected by reason for rejection; and (v) Total number of FWABs received by type of voter.

Election Administration

(a) Total number of precincts in the state/jurisdiction; (b) Number of polling places available for voting in the November 2014 Federal general election; (c) Number of poll workers used for Election Day; (d) Extent to which jurisdictions had enough poll workers available for the general election.

Election Day Activities

(a) Total number of persons who voted in the 2014 Federal general election; (b) The source of the participation number—poll books, ballots counted, vote history; (c) Total number of first-time voters who registered by mail and were required to provide identification in order to vote; (d) Number of voters who appeared on the permanent absentee voter registration list; (e) Number of absentee ballots requested, received, counted, and not counted; (f) Reasons for absentee ballot rejection; (g) Number of provisional ballots cast, counted, and rejected; (h) Reasons for provisional ballot rejection; (i) Use of electronic and printed poll books during the 2014 Federal general election; (j) Type and number of voting equipment used for the 2014 Federal general election; (k) Type of process in which voting equipment was used—precinct, absentee, early vote site, accessible to disabled voters, provisional voting; (l) Location in which votes were tallied—central location, precinct/polling place, or early vote site; (m) General comments regarding the jurisdiction's Election Day experiences.

2014 Election Results

Total number of votes cast—at polling places, via absentee ballot, at early vote centers, via provisional ballots.

Statutory Overview (2014 Federal General Election)

(a) Information on whether the state is exempt from the National Voter Registration Act (NVRA); (b) State definition of terms—over-vote, under-vote, blank ballot, void/spoiled ballot, provisional/challenged ballot; (c) State definition of inactive and active voter; (d) State provision for voter identification at registration, for in-person voting, and for mail-in or absentee voting; (e) information on legal citation for changes to election laws or procedures enacted or adopted since the previous Federal general election; (f) State definition of voter registration; (g) Process used for moving voters from active to inactive lists and from inactive to active; (h) State deadline for registration for the Federal general election; (i) Information of whether the state is an Election Day/Same Day Registration state; (j) Description of state voter registration database system—bottom-up or top-down; (k) State voter removal/confirmation notices processes; (l) Agency or department that is responsible for list maintenance; (m) Information on whether there are electronic links between the voter registrar's office and other state agencies; (n) State's use of National Change of Address (NCOA); (o) State's voting eligibility requirements as they relate to convicted felons; (p) Tabulation of votes cast at a place other than the voter's precinct; (q) Provision for voting absentee; (r) State tracking of the date of all ballots cast before election day; (s) Provision for mail-in voting in place of at-the-precinct voting; (t) Acceptance or rejection of provisional ballots of voters registered in a different precinct; (u) State process for capturing over-votes and under-votes. States and territories that submitted a Statutory Overview for 2008 will be asked to provide updates to the information above, where applicable.

Affected Public (Respondents): State or local governments, the District of Columbia, Commonwealth of Puerto Rico, Guam, American Samoa, and the United States Virgin Islands.

Affected Public: State or local government.

Number of Respondents: 55.

Responses per Respondent: 1.

Estimated Burden per Response: 230 hours per collection, 115 hours annualized.

Estimated Total Annual Burden Hours: 12,650 hours per collection, 6,325 hours annualized.

Frequency: Biennially.

Alice Miller,

Chief Operating Officer and Acting Executive Director, U.S. Election Assistance Commission.

[FR Doc. 2013–30790 Filed 12–24–13; 8:45 am]

BILLING CODE 6820–KF–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: ER10–2864–001; ER10–2863–001; ER10–2862–001; ER10–2867–001.

Applicants: Las Vegas Cogeneration LP, Las Vegas Cogeneration II, LLC, Valencia Power, LLC, Harbor Cogeneration Company, LLC.

Description: Supplement to June 28, 2013 Triennial Market Power Analysis of SGOC Southwest MBR Sellers for the Southwest Region.

Filed Date: 12/13/13.

Accession Number: 20131213–5057.

Comments Due: 5 p.m. ET 1/3/14.

Docket Numbers: ER12–1179–014.

Applicants: Southwest Power Pool, Inc.

Description: Compliance Filing to Adopt Initial List of Frequently Constrained Areas to be effective 3/1/2014.

Filed Date: 12/16/13.

Accession Number: 20131216–5000.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–625–000.

Applicants: Westar Energy, Inc.

Description: Amendment of Westar OATT—Schedule 1 to be effective 3/1/2014.

Filed Date: 12/16/13.

Accession Number: 20131216–5089.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–626–000.

Applicants: PJM Interconnection, L.L.C.

Description: Original Service Agreement No. 3679; Queue No. Y2–001 to be effective 11/14/2013.

Filed Date: 12/16/13.

Accession Number: 20131216–5104.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–627–000.

Applicants: New York Independent System Operator, Inc.

Description: NYISO tariff revision to improve interconnection study processes to be effective 2/14/2014.

Filed Date: 12/16/13.

Accession Number: 20131216–5167.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–628–000.

Applicants: Duke Energy Florida, Inc., Duke Energy Progress, Inc., Duke Energy Carolinas, LLC.

Description: Order No. 784 OATT Compliance Filing to be effective 11/27/2013.

Filed Date: 12/16/13.

Accession Number: 20131216–5176.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–629–000.

Applicants: Public Service Company of Colorado.

Description: 2013–12–16 Order No. 784 Filing to be effective 12/27/2013.

Filed Date: 12/16/13.

Accession Number: 20131216–5178.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–630–000.

Applicants: AlphaGen Power LLC.

Description: Market-based rate application to be effective 2/14/2014.

Filed Date: 12/16/13.

Accession Number: 20131216–5242.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–631–000.

Applicants: AlphaGen Power LLC.

Description: AlphaGen Power LLC submits Notice of succession—Reactive Power Tariff to be effective 3/1/2014.

Filed Date: 12/16/13.

Accession Number: 20131216–5261.

Comments Due: 5 p.m. ET 1/6/14.

Docket Numbers: ER14–632–000.

Applicants: Westar Energy, Inc.

Description: Revisions to Participation Power Agreements to be effective 3/1/2013.

Filed Date: 12/16/13.

Accession Number: 20131216–5286.

Comments Due: 5 p.m. ET 1/6/14.

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 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30699 Filed 12–24–13; 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 exempt wholesale generator filings:

Docket Numbers: EG14–19–000.

Applicants: Border Winds Energy, LLC.

Description: Self-Certification of EG of Border Winds Energy, LLC.

Filed Date: 12/17/13.

Accession Number: 20131217–5251.

Comments Due: 5 p.m. ET 1/7/14.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–2531–004.

Applicants: Cedar Creek Wind Energy, LLC.

Description: Updated Market Power Analysis in the Northwest region of Cedar Creek Wind Energy, LLC.

Filed Date: 12/17/13.

Accession Number: 20131217–5134.

Comments Due: 5 p.m. ET 2/18/14.

Docket Numbers: ER14–14–001.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corporation submits Compliance Filing re Revisions to Montana OATT Schedule 3 to be effective 9/27/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5172.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–633–000.

Applicants: Florida Power & Light Company.

Description: FPL and City of Lake Worth, FL Original Service Agreement No. 321 to be effective 1/1/2014.

Filed Date: 12/17/13.

Accession Number: 20131217–5001.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–634–000.

Applicants: Florida Power & Light Company.

Description: FPL and City of Lake Worth, FL Original Rate Schedule FERC No. 322 to be effective 1/1/2014.

Filed Date: 12/17/13.

Accession Number: 20131217–5002.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–635–000.

Applicants: Deseret Generation & Transmission Co-operative, Inc.

Description: Deseret Generation & Transmission Co-operative, Inc. submits OATT Order No. 784 Compliance Filing to be effective 12/27/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5168.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–636–000.

Applicants: Cedar Creek II, LLC.

Description: Cedar Creek II, LLC submits Revised Market-Based Rate Tariff in Compliance with Order No. 784 to be effective 12/18/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5169.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–637–000.

Applicants: Goshen Phase II LLC.

Description: Goshen Phase II LLC submits Revised Market-Based Rate Tariff in Compliance with Order No. 784 to be effective 12/18/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5170.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–638–000.

Applicants: Southern California Edison Company.

Description: Southern California Edison Company submits Net Energy Metering Program to be effective 2/17/2014.

Filed Date: 12/17/13.

Accession Number: 20131217–5174.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–639–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corporation submits 2013–12–17_Order784 Compliance to be effective N/A.

Filed Date: 12/17/13.

Accession Number: 20131217–5176.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–642–000.

Applicants: Northern Indiana Public Service Company.

Description: Northern Indiana Public Service Company submits CIAC Agreement Under Wabash Valley Interconnection Agreement to be effective 12/9/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5197.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–643–000.

Applicants: Black Hills/Colorado Electric Utility Co.

Description: Notice of Cancellation of Electric Rate Schedule 66 of Black Hills/Colorado Electric Utility Company, LP.

Filed Date: 12/17/13.

Accession Number: 20131217–5204.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–644–000.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc. submits 1374R16 Kansas Power Pool and Westar Meter Agent Agreement to be effective 12/1/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5214.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–645–000.

Applicants: Southwestern Public Service Company.

Description: Southwestern Public Service Company submits 2013–12–17_SPS–GSEC–G–EP-Elk St E&P Agrmt to be effective 12/18/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5215.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–646–000.

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. submits Transfer Agreement SA # 729 to be effective 1/1/2014.

Filed Date: 12/17/13.

Accession Number: 20131217–5217.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–647–000.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits 2014 SDGE TRBAA TACBAA Update to Transmission Owner Tariff Filing to be effective 1/1/2014.

Filed Date: 12/17/13.

Accession Number: 20131217–5228.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–648–000.

Applicants: Entergy Arkansas, Inc.

Description: Entergy Arkansas, Inc. submits Cancellation of Entergy OATT to be effective 12/19/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5236.

Comments Due: 5 p.m. ET 1/7/14.

Docket Numbers: ER14–649–000.

Applicants: Entergy Services, Inc., Midcontinent Independent System Operator, Inc.

Description: Entergy Services, Inc. submits 2013–12–16 Entergy Operating Companies Att Os_30.9_41_42A&B to be effective 12/19/2013.

Filed Date: 12/17/13.

Accession Number: 20131217–5235.

Comments Due: 5 p.m. ET 1/7/14.

Take notice that the Commission received the following foreign utility company status filings:

Docket Numbers: FC14–11–000.

Applicants: Des Moulins Wind Power L.P.

Description: Self-Certification of Foreign Utility Company Status of Des Moulins Wind Power L.P.

Filed Date: 12/17/13.

Accession Number: 20131217–5048.

Comments Due: 5 p.m. ET 1/7/14.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM14–1–000.

Applicants: Fitchburg Gas & Electric Light Company.

Description: Application for Relief from Mandatory Purchase Obligation from An Under 20 MW QF of Fitchburg Gas & Electric Light Company.

Filed Date: 12/17/13.

Accession Number: 20131217–5206.

Comments Due: 5 p.m. ET 1/14/14.

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 17, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30696 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL14–15–000; ER13–2412–000 (Not consolidated)]

Cities of Anaheim, Azusa, Banning, Colton, Pasadena, Riverside, CA v. Trans Bay Cable LLC; Notice of Complaint

Take notice that on December 17, 2013, pursuant to sections 206 and 306 of the Federal Power Act (FPA); 16 U.S.C. 824e and 825e (2013), and Rule 206 and 212 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and 18 CFR 385.212 (2013), the Cities of Anaheim, Azusa, Banning, Colton, Pasadena, and Riverside, CA (collectively, Six Cities or Complainants) filed a formal complaint against Trans Bay Cable LLC (Trans Bay or Respondent), alleging that Trans Bay's transmission revenue requirement (TRR) is unjust and unreasonable and should be reduced below the currently-effective level. Six Cities request to consolidate this complaint with Trans Bay's TRR proceeding in Docket No. ER13–2412–000, as more fully described in this complaint.

The Complainants certify that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for 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 6, 2014.

Dated: December 18, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30782 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12790–002–CT]

Andrew Peklo III; Notice of Availability of Draft Environmental Assessment

In accordance with the National Environmental Policy Act of 1969 and

the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an original license for the Pomperaug Hydro Project, to be located on the Pomperaug River, in the town of Woodbury, Litchfield County, Connecticut, and has prepared a draft Environmental Assessment (EA).

The draft EA contains the staff's analysis of the potential environmental impacts of the project and concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the draft EA is on file with the Commission and is available for public inspection. The draft EA may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments should be filed within 30 days from the date of this notice. Comments may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *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. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The first page of any filing should include docket number P–12790–002.

For further information, contact Steve Kartalia at (202) 502–6131 or *Stephen.Kartalia@ferc.gov.*

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30834 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–13–000]

Houston Pipe Line Company, LP; Notice of Intent to Prepare an Environmental Assessment for the Proposed 24-Inch Border Crossing 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 24-Inch Border Crossing Project (Project) involving construction and operation of border crossing facilities at the international border between Mexico and the United States in Hidalgo County, Texas by Houston Pipe Line Company, LP (HPL). 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. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on January 17, 2014.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice.

This notice is being sent to the Commission's current environmental mailing list for the Project. State and local government representatives should notify their constituents of this planned 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 planned 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.

HPL 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*).

Summary of the Proposed Project

HPL proposes to construct a new border crossing at the international boundary between the United States and Mexico in Hidalgo County, Texas. The Project would consist of approximately 703 feet of 24-inch-diameter natural gas pipeline, directionally drilled underneath the Rio Grande River in Hidalgo County, Texas. The new pipeline would have a design capacity of approximately 140 million cubic feet per day (Mmcf/d) and a maximum allowable operating pressure of 1,300 pounds per square inch gauge designed to transport natural gas to a new delivery interconnect with HPL's non-jurisdictional intrastate pipeline and to a new interconnection with the Pemex Pipeline at the United States-Mexico border.

The general location of the Project is shown in Appendix [1].

Land Requirements for Construction

Construction of the planned facilities would require ground disturbance of approximately 4.1 acres of land for temporary workspace. Following construction, HPL would maintain 0.81 acre for operation of the Project and the remaining 3.3 acres would be revegetated.

In its application, HPL indicates that it would also construct pipeline facilities that are not under the jurisdiction of the FERC. Although FERC doesn't have the regulatory authority to modify or deny the construction of these facilities, we will disclose available information regarding the construction impacts in our EA. These facilities would include approximately 23 miles of 24-inch-

[1] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of the 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.

diameter intrastate pipeline, to interconnect with the existing Edinburg Lateral Pipeline in Hidalgo County, Texas.

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 planned Project under these general headings:

- geology and soils;
- water resources and fisheries;
- vegetation, wildlife, and endangered and threatened species;
- land use and cumulative impacts;
- cultural resources;
- air quality and noise; and
- public safety.

We will also evaluate possible alternatives to the planned 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 below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to 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 Texas Historical Commission (THC), 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 in consultation with the State Historic Preservation Officer as the Project develops. On natural gas facility projects, the Area of Potential Effects at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, meter 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.

Public Participation

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. The more specific your comments, the more useful they will be. 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 17, 2013.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the Project docket number (CP14–13–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the *eComment* feature located on the Commission's Web site (*www.ferc.gov*) under the link to *Documents and Filings.* This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically using the *eFiling* feature located 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.*'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

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 planned Project.

If we publish and distribute the EA, copies of the completed 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

[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.

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 intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site at *http://www.ferc.gov/help/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 (*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., CP14–13). 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/esubscribenow.htm.*

Finally, public meetings 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 18, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30783 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ14–4–000]

Orlando Utilities Commission; Notice of Filing

Take notice that on December 18, 2013, Orlando Utilities Commission submitted its tariff filing per 35.28(e): Order No. 1000 Further Regional Compliance Filing to be effective 1/1/2015.

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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 16, 2014.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30832 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER14–660–000]

Plant-E Corp; 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 Plant-E Corp's application for market-based rate authority, with an accompanying rate schedule, 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 7, 2014.

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(s) are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 18, 2013.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2013–30697 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR14–12–000]

NuStar Crude Oil Pipeline L.P.; Notice of Petiton for Declaratory Order

Take notice that on December 13, 2013, pursuant to Rule 207(a)(2) of the Commission's Rules of Practice and Procedure, 18 CFR 385.207(a)(2)(2013), NuStar Crude Oil Pipeline L.P. (NuStar) filed a petition requesting a declaratory order approving the general tariff and rate structure for expansion of NuStar's South Texas Crude Oil Pipeline system to transport additional Eagle Ford shale crude. Among other things, NuStar seeks approval of its transportation and deficiency agreement for Committed Shippers including priority transportation rights and prorationing provisions of its *pro forma* tariff, all as more fully explained in the petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 13, 2014.

Dated: December 17, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30784 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14544–000]

Hydro Green Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 5, 2013, Hydro Green Energy, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Vandenberg West Project to be located near Vandenberg Air Force Base in Santa Barbara County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 30-foot-high, 4,450-foot-long upper earthen embankment constructed with rubber sheet and asphalt lining; (2) an upper reservoir having a total/usable storage capacity of 7,104 acre-feet at normal maximum operation elevation of 1,200 feet above mean sea level; (3) seven 7,500-foot-long by 10-foot-diameter steel lined penstocks; (4) a 500-foot-long, 250-foot-diameter concrete lined tailrace; (5) a concrete and steel lined pressure shaft; (6) seven 193-megawatt, reversible variable-speed pump-turbines; (7) a new powerhouse and substation located approximately 100 feet below ground and approximately 250 feet long by 75 feet wide by 100 feet high; (8) a vertical access tunnel approximately 400 feet high and 30 feet in diameter; (9) a breakwater constructed from precast concrete tetrapods; and (10) a new single-circuit 230-kilovolt transmission line approximately 20 miles in length. The estimated annual generation of the Vandenberg West Project would be approximately 3,952 gigawatt-hours.

Applicant Contact: Mr. Mark Stover, Hydro Green, LLC, 900 Oakmont Lane, Suite 310, Westmont, IL 60559; phone: (877) 556–6566 ext. 709.

FERC Contact: Mary Greene; phone: (202) 502–8865.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. The first page of any filing should include docket number P–14544–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14544) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30828 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14548–000]

Hydro Green Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 15, 2013, Hydro Green Energy, LLC, filed an application for a

preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Pendleton South Project to be located near Camp Pendleton South in San Diego County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 30-foot-high, 5,108-foot-long upper earthen embankment constructed with rubber sheet and asphalt lining; (2) an upper reservoir having a total/usable storage capacity of 8,894 acre-feet at normal maximum operation elevation of 1,032 feet above mean sea level; (3) eight approximately 25,000-foot-long by 10-foot-diameter steel lined penstocks; (4) a 500-foot-long, 250-foot-diameter concrete lined tailrace; (5) a concrete and steel lined pressure shaft; (6) eight 154-megawatt, reversible variable-speed pump-turbines; (7) a new powerhouse and substation located approximately 100 feet below ground and approximately 250 feet long by 75 feet wide by 100 feet high; (8) a vertical access tunnel approximately 400 feet high and 30 feet in diameter; (9) a breakwater constructed from precast concrete tetrapods; and (10) a new single-circuit 230-kilovolt transmission line approximately 9 miles in length. The estimated annual generation of the Pendleton South Project would be approximately 3,607 gigawatt-hours.

Applicant Contact: Mr. Mark Stover, Hydro Green, LLC, 900 Oakmont Lane, Suite 310, Westmont, IL 60559; phone: (877) 556–6566 ext. 709.

FERC Contact: Mary Greene; phone: (202) 502–8865.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. The first page of any filing should include docket number P–14548–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14548) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30830 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14560–000]

Borough of Weatherly; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On November 4, 2013, the Borough of Weatherly (Borough) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Francis E. Walter Dam and Reservoir (Francis Walter Project or project) to be located at the U.S. Army Corps of Engineers' (Corps) Francis E. Walter Dam on the Lehigh River in Luzerne County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The Borough's permit application is filed in competition with Mid-Atlantic Hydro, LLC's proposed Francis E. Walter Hydroelectric Project No. 14549–000, which was publicly noticed September 25, 2013. The deadline for filing competing applications was November 24, 2013. The Borough's competing permit application is timely filed.

The proposed project would consist of the following: (1) A concrete reinforced powerhouse to be located near the outlet structure of the existing penstock; (2) a substation to be located outside the powerhouse on the west side; (3) two unequal-sized turbine-generators for a total installed capacity of between 9.0 megawatts (MW) and 11.5 MW; (4) a proposed 0.5-mile-long, 12.47-kilovolt transmission line interconnecting with an existing Pennsylvania Power and Light transmission line; and (5) appurtenant facilities. The estimated annual generation of the project would range between 13 gigawatt-hours (GWh) and 26 GWh.

Applicant Contact: Mr. Harold Pudliner, Borough of Weatherly, 10 Wilbur Street, Weatherly, PA 18225; phone: (570) 427–8640.

FERC Contact: Woohee Choi; phone: (202) 502–6336.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. The first page of any filing should include docket number P–14560–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14560) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30831 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14545–000]

Hydro Green Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On August 7, 2013, Hydro Green Energy, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Vandenberg East Project to be located near Vandenberg Air Force Base in Santa Barbara County, California. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 30-foot-high, 4,150-foot-long upper earthen embankment constructed with rubber sheet and asphalt lining; (2) an upper reservoir having a total/usable storage capacity of 6,152 acre-feet at normal maximum operation elevation of 1,490 feet above mean sea level; (3) six 10,000-foot-long by 10-foot-diameter steel lined penstocks; (4) a 500-foot-long, 250-foot-diameter concrete lined tailrace; (5) a concrete and steel lined pressure shaft; (6) six 223-megawatt, reversible variable-speed pump-turbines; (7) a new powerhouse and substation located approximately 100 feet below ground and approximately 250 feet long by 75 feet wide by 100 feet high; (8) a vertical access tunnel approximately 400 feet high and 30 feet in diameter; (9) a breakwater constructed from precast concrete tetrapods; and (10) a new single-circuit 230-kilovolt transmission line approximately 12 miles in length. The estimated annual generation of the Vandenberg East Project would be approximately 3,911 gigawatt-hours.

Applicant Contact: Mr. Mark Stover, Hydro Green, LLC, 900 Oakmont Lane, Suite 310, Westmont, IL 60559; phone: (877) 556–6566 ext. 709.

FERC Contact: Mary Greene; phone: (202) 502–8865.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. The first page of any filing should include docket number P–14545–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14545) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30829 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12747–002]

San Diego County Water Authority; Notice of Preliminary Permit Application Accepted For Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On July 1, 2013, the San Diego County Water Authority filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the San Vicente Pumped Storage Water Power Project No. 12747 to be located on at the existing San Vicente dam and reservoir on San Vicente Creek in San Diego County, California. The proposed project would consist of the existing San Vicente reservoir functioning as the lower reservoir of the project and one of four alternatives as an upper reservoir. Specific details about each of these alternatives are described below. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

All four of the alternatives would use the San Vicente reservoir, as the lower reservoir of the pumped storage project. The San Vicente reservoir portion of the project consists of: (1) An existing dam, currently being raised to a dam height of 337 feet, and a length of 1,442 feet; and (2) an existing impoundment, that upon completion of the dam raise will have a surface area of 1,600 acres, and storage capacity of 247,000 acre-feet with a normal maximum water surface elevation of 767 feet above mean sea level (msl).

There are four alternatives for the upper reservoir, as described below.

Alternative Site A is located near Iron Mountain 3 miles northwest of San Vicente reservoir and includes: (1) A proposed 235-foot-high, 1,250-foot-long upper dam; (2) a proposed reservoir with a surface area of 93 acres having a storage capacity of 8,070 acre-feet and a normal maximum water surface elevation of 2,110 feet msl; (3) a proposed 12,300-foot-long, 20-foot-diameter concrete power tunnel; (4) two proposed 500-foot-long steel-lined penstocks; (5) a proposed powerhouse containing two generating units having a total installed capacity of 500 megawatts (MW); (6) a proposed 3,300-foot-long, 24-foot-diameter concrete tailrace; (7) a proposed 14,000-foot-long, 230-kilovolt transmission line; and (8) appurtenant facilities.

Alternative Site B is located near Foster Canyon, approximately 0.5 mile northwest of San Vicente reservoir and includes: (1) A proposed 215-foot-high, 4,500-foot-long upper dam; (2) a proposed upper reservoir with a surface area of 100 acres having a storage capacity of 12,200 acre-feet and a normal maximum water surface elevation of 1,490 feet msl; and (3) appurtenant facilities.

Alternative Site C is located approximately 1.8 miles southeast of the San Vicente reservoir and includes: (1) A proposed 200-foot-high, 2,200-foot-long upper dam; (2) a proposed upper

reservoir with a surface area of 60 acres having a storage capacity of 6,800 acre-feet and a normal maximum water surface elevation of 1,600 feet msl; and (3) appurtenant facilities.

Alternative Site D is located approximately 1.8 miles southeast of the San Vicente reservoir. The reservoir would have a water surface area of 80 acres at a full pond elevation of 1,800 feet msl.

Each alternative would interconnect via a 230-kilovolt primary transmission line to the existing San Diego Gas and Electric Sunrise Powerlink 500-kV transmission line located approximately one half mile northwest of the project.

The applicant proposes to investigate potential power development in the range of 240 to 500 MW. The proposed project would have a maximum estimated annual generation of up to 1,000 gigawatt-hours, which would be sold to a local utility.

Applicant Contact: Frank Belock, Deputy General Manager, San Diego County Water Authority, 4677 Overland Avenue, San Diego CA 92123; phone: (858) 522–6788.

FERC Contact: Joseph P. Hassell, 202–502–8079

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36 (2013).

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications 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. The first page of any filing should include docket number P–12747–002.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–12747–002) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: December 19, 2013.

Kimberly D. Bose,

Secretary.

[FR Doc. 2013–30833 Filed 12–24–13; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2013–0025; FRL–9904–60]

Notice of Receipt of Pesticide Products; Registration Applications To Register New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register new uses for pesticide products containing currently registered active ingredients pursuant to the provisions of section 3(c) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This notice provides the public with an opportunity to comment on the applications.

DATES: Comments must be received on or before January 27, 2014.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the EPA Registration Number or EPA File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.htm.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Biopesticides and Pollution Prevention Division (BPPD) (7511P), telephone number: (703) 305–7090, email address: *BPPDFRNotices@epa.gov;* or Lois Rossi, Registration Division (RD) (7505P), telephone number: (703) 305–7090, email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each application summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What Should I Consider as I Prepare My Comments for EPA?

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

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

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications. For actions being evaluated under the Agency's public participation process for registration actions, there will be an additional opportunity for a 30-day public comment period on the proposed decision. Please see the Agency's public participation Web site for additional information on this process (*http://www.epa.gov/pesticides/regulating/registration-public-involvement.html*). EPA received the following applications to register new uses for pesticide products containing currently registered active ingredients:

1. *EPA Registration Numbers:* 1021–1795 and 1021–2562. *Docket ID number:* EPA–HQ–OPP–2013–0659. *Applicant:* McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427. *Active ingredient:* Prallethrin. *Product type:* Insecticide. *Proposed uses:* Wide-area applications to control adult mosquitoes on, over, or near agricultural lands. (RD)

2. *EPA Registration Numbers:* 4787–55, 4787–61, 67760–75, and 67760–120. *Docket ID number:* EPA–HQ–OPP–2013–0655. *Applicant:* Cheminova A/S, c/o Cheminova, Inc., 1600 Wilson Blvd., Suite 700, Arlington, VA 22209–2510. *Active ingredient:* Flutriafol. *Product type:* Fungicide. *Proposed uses:* Cucurbit vegetables, fruiting vegetables, strawberries, tree nuts, and wheat. (RD)

3. *EPA Registration Number:* 7969–278. *Docket ID number:* EPA–HQ–OPP–2013–0622. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil. *Product type:* Herbicide. *Proposed uses:* Postemergent applications to wheat and barley for dessication/harvest aid treatments. (RD)

4. *EPA Registration Numbers:* 7969–275, 7969–278, and 7969–297. *Docket ID Number:* EPA–HQ–OPP–2013–0622. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Saflufenacil. *Product type:* Herbicide. *Proposed uses:* Grass forage, fodder and hay, including grass grown for seed (Crop Group 17). (RD)

5. *EPA Registration Numbers:* 7969–283 and 7969–284. *Docket ID number:* EPA–HQ–OPP–2013–0255. *Applicant:* BASF Corporation, 26 Davis Drive, P.O. Box 13528, Research Triangle Park, NC 27709–3528. *Active ingredient:* Metrafenone. *Product type:* Fungicide. *Proposed use:* Vegetable, fruiting, Group 8–10. (RD)

6. *EPA Registration Number:* 84059–15. *Docket ID Number:* EPA–HQ–OPP–2011–0568. *Applicant:* Marrone Bio Innovations, 2121 Second St., Suite B–107, Davis, CA 95618. *Active ingredient: Pseudomonas fluorescens* strain CL145A cells and spent fermentation media. *Product type:* Molluscicide. *Proposed uses:* Application to listed water bodies and sites for recreational and environmental rehabilitation. (BPPD)

7. *EPA Registration File Symbol:* 88306–G. *Docket ID Numbers:* EPA–HQ–OPP–2013–0277 and EPA–HQ–OPP–2013–0278. *Applicant:* Amy Plato Roberts, Regulatory Consultant, Technology Sciences Group, Inc., 712 Fifth Street, Suite A, Davis, CA 95616, on behalf of Agri-Neo, Inc., 3485 Ashby Saint-Laurent (Quebec), H4R 2K3, Canada. *Active ingredient:* Tetraacetylethylenediamine (TAED) and its degradation product diacetylethylenediamine (DAED) in and on all food commodities. *Product type:* Biochemical pesticide and fungicide. *Proposed uses:* Granular fungicide to control bacterial and fungal pathogens both on greenhouse and field grown fruits and vegetables, row crops, seeds, and ornamentals. (BPPD)

List of Subjects

Environmental protection, Pesticides and pest.

Dated: December 16, 2013.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2013–30884 Filed 12–24–13; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting Notice

December 20, 2013.

TIME AND DATE: 10:00 a.m., Wednesday, January 8, 2014

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (entry from F Street entrance)

STATUS: Closed

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in a closed session: *Secretary of Labor* v. *Knox Creek Coal Corporation,* Docket Nos. VA 2010–81–R, et al. (Issues include whether the Administrative Law Judge erred in concluding that certain violations were not ''significant and substantial.'')

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 434–9950/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Emogene Johnson,

Administrative Assistant.

[FR Doc. 2013–31058 Filed 12–23–13; 4:15 pm]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 9, 2014.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Mary Lou McChristy, individually, and with Frank J. McChristy,* both of Stonington, Illinois; together as a group acting in concert, to retain and acquire additional voting shares of Blue Mound Bancshares, Inc., and thereby indirectly

acquire voting shares of The State Bank of Blue Mound, both in Blue Mound, Illinois.

Board of Governors of the Federal Reserve System, December 20, 2013.

Michael J. Lewandowski,

Associate Secretary of the Board.

[FR Doc. 2013–30778 Filed 12–24–13; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–20557–New–30D]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, has submitted an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB) for review and approval. The ICR is for a new collection. Comments submitted during the first public review of this ICR will be provided to OMB. OMB will accept further comments from the public on this ICR during the review and approval period.

DATES: Comments on the ICR must be received on or before January 27, 2014.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.CollectionClearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the Information Collection Request Title and document identifier: HHS–OS–20557–New–30D for reference.

Information Collection Request Title: Office of Adolescent Health (OAH) Pregnancy Assistance Fund (PAF) Performance Measures Collection: HHS–OS–0990–NEW–PAF.

Abstract: The Pregnancy Assistance Fund (PAF) is a competitive grant program authorized by the Patient Protection and Affordable Care Act (Public Law 111–148) and administered by the Office of Adolescent Health (OAH). PAF provides funding to States and Tribes to provide expectant and parenting teens and women with a seamless network of supportive services to help them complete high school or postsecondary degrees and gain access to health care, child care, family housing, and other critical supports. The Act appropriates $25 million for each of fiscal years 2010 through 2019, and in July 2013, OAH awarded grants to 17 entities for four years. Grantees may use PAF grants to carry out activities in any of the following four *implementation categories:* (1) Support pregnant and parenting student services at institutions of higher education (IHE); (2) Support pregnant and parenting teens at high schools and community service centers; (3) Improve services for pregnant women who are victims of domestic violence, sexual violence, sexual assault, and stalking; and (4) Increase public awareness and education efforts about services available to pregnant and parenting teens and women.

This request is for a 3-year approval of the collection of PAF performance data. This is an annual reporting requirement of all PAF grantees. The reporting requirement varies according to the type(s) of activities implemented by each grantee. All PAF grantees are required to report a standard set of data elements that capture the demographic and social characteristics of the individuals served (''participants'') and the number and types of organizations that participate in implementing the project. In addition, grantees are required to report data for a set of measures defined for each implementation category.

Need and Proposed Use of the Information: The collection of annual performance data is important to OAH because it will provide OAH leadership and PAF program administrators with data needed to administer the PAF program and manage PAF awards and projects, including information to assess beneficiary characteristics; measure and monitor project implementation, outputs, and outcomes; and comply with reporting requirements specified in the Affordable Care Act. In addition, OAH will use the performance data to inform planning and resource allocation decisions; identify training, technical assistance, and evaluation needs; and provide Congress, OMB, and the general public with information about the individuals who participate in PAF-funded activities and the range and scope of services they receive.

Likely Respondents: States and Tribes that are PAF grant awardees.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The table below summarizes the total annual burden hours estimated for this ICR.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Type of respondent	Number of responses per respondent	Number of responses per respondent	Average burden hours per respondent	Total burden hours
Participant & Partner Characteristics *(17 measures)*.	All Grantees	17	1	19	323
Category 1 Measures *(4 measures)*.	*Category 1 Grantees:* Implementing activities to support pregnant and parenting student services at institutions of higher education.	2	1	6	12
Category 2 Measures *(6 measures)*.	*Category 2 Grantees:* Implementing activities to support pregnant and parenting teens at high schools and community service centers.	14	1	9	126

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS—Continued

Form name	Type of respondent	Number of responses per respondent	Number of responses per respondent	Average burden hours per respondent	Total burden hours
Category 3 Measures *(2 measures)*.	*Category 3 Grantees:* Implementing activities to improve services for pregnant women who are victims of domestic violence, sexual violence, sexual assault, and stalking;.	6	1	3	18
Category 4 Measures *(1 measures)*.	*Category 4 Grantees:* Implementing public awareness and education activities.	13	1	1	13
Total		17	.....	.....	492

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2013–30839 Filed 12–24–13; 8:45 am]

BILLING CODE 4168–11–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: HHS–OS–21223–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). The ICR is for extending the use of the approved information collection assigned OMB control number 0955–0009, which expires on February 28, 2014. Prior to submitting that ICR to OMB, OS seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before February 24, 2014.

ADDRESSES: Submit your comments to *Information.CollectionClearance@hhs.gov* or by calling (202) 690–6162.

FOR FURTHER INFORMATION CONTACT: Information Collection Clearance staff, *Information.Collection Clearance@hhs.gov* or (202) 690–6162.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier HHS–OS–21223–60D for reference.

Information Collection Request Title: Regional Extension Center Cooperative Agreement Program (CRM Tool).

OMB No.: 0955–0009

Abstract: The Customer Relationship Management (CRM) application is a nimble business intelligence tool being used by more than 1,500 users at ONC partner organizations and grantees. The CRM collects data from a large number of users throughout the United States who are ''on the ground'' helping healthcare providers adopt and optimize their IT systems, it provides near real-time data about the adoption, utilization, and meaningful use of EHR technology. Approximately half of all Primary Care Providers in the nation are represented in the CRM tool; data points include provider location, credential, specialty, whether live on an EHR and what system, whether they've reached MU, the time between these, and narrative barriers experienced by many of these.

Need and Proposed Use of the Information: The CRM tool supplements and is regularly merged with other data sources both within and outside of HHS and tracks program performance and progress towards milestones. Combined with ONC's internal analytical capacity, this data provides feedback that goes beyond anecdotal evidence and can be turned into tangible lessons learned that are used to focus policy and program efforts and ultimately achieve concrete outcomes.

Likely Respondents: Regional Extension Centers

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions, to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information, to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information, and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Forms (If necessary)	Type of respondent	Number of respondents	Number of responses per respondent	Average burden hours per response (hours)	Total burden hours
CRM Tool	Regional Extension Center	62	12	1.5	1080
Total		.....	.....	.....	1080

OS specifically requests comments on (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.

Darius Taylor,

Deputy, Information Collection Clearance Officer.

[FR Doc. 2013–30840 Filed 12–24–13; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Special Emphasis Panel (SEP) meeting on *''AHRQ RFA–HS14–003, Disseminating Patient Centered Outcomes Research to Improve Healthcare Delivery Systems (R18)''.* Each SEP meeting will commence in open session before closing to the public for the duration of the meeting.

DATES: January 15–17, 2014 (Open on January 15 from 5:00 p.m. to 6:00 p.m. and closed for the remainder of the meeting).

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone: (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for the ''AHRQ RFA–HS14–003, Disseminating Patient Centered Outcomes Research to Improve Healthcare Delivery Systems (R18)'' are to be reviewed and discussed at this meeting. 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.

Dated: December 17, 2013.

Richard Kronick,

AHRQ Director.

[FR Doc. 2013–30901 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meeting

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: In accordance with section 10 (a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), announcement is made of an Agency for Healthcare Research and Quality (AHRQ) Special Emphasis Panel (SEP) meeting on *''AHRQ RFA–HS14–004, PCOR AHRQ Training Program on Patient-Centered Outcomes Methods & Standard Research (R25)''.* Each SEP meeting will commence in open session before closing to the public for the duration of the meeting.

DATES: January 17, 2014 (*Open on January 17 from 8:00 a.m. to 9:00 a.m. and closed for the remainder of the meeting*).

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

FOR FURTHER INFORMATION CONTACT: Anyone wishing to obtain a roster of members, agenda or minutes of the non-confidential portions of this meeting should contact: Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research, Education and Priority Populations, AHRQ, 540 Gaither Road, Room 2038, Rockville, Maryland 20850, Telephone: (301) 427–1554.

Agenda items for this meeting are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: A Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Healthcare Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or a long period of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Each SEP meeting will commence in open session before closing to the public for the duration of the meeting. The SEP meeting referenced above will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2, section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6). Grant applications for the ''AHRQ RFA–HS14–004, PCOR AHRQ Training Program on Patient-Centered Outcomes Methods & Standards Research (R25)'' are to be reviewed and discussed at this meeting. 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.

Dated: December 17, 2013.

Richard Kronick,

AHRQ Director.

[FR Doc. 2013–30899 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Notice of Meetings

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of Five AHRQ Subcommittee Meetings.

SUMMARY: The subcommittees listed below are part of AHRQ's Health

Services Research Initial Review Group Committee. Grant applications are to be reviewed and discussed at these meetings. Each subcommittee meeting will commence in open session before closing to the public for the duration of the meeting. These meetings will be closed to the public in accordance with 5 U.S.C. App. 2 section 10(d), 5 U.S.C. section 552b(c)(4), and 5 U.S.C. section 552b(c)(6).

DATES: See below for dates of meetings:

1. *Health System and Value Research (HSVR)*

Date: February 19, 2014 (Open from 8:00 a.m. to 8:30 a.m. on February 19 and closed for remainder of the meeting)

2. *Healthcare Safety and Quality Improvement Research (HSQR)*

Date: February 26–27, 2014 (Open from 8:00 a.m. to 8:30 a.m. on February 26 and closed for remainder of the meeting)

3. *Healthcare Effectiveness and Outcomes Research (HEOR)*

Date: February 26–27, 2014 (Open from 8:30 a.m. to 9:00 a.m. on February 26 and closed for remainder of the meeting)

4. *Health Care Research and Training (HCRT)*

Date: February 27–28, 2014 (Open from 8:00 a.m. to 8:30 a.m. on February 27 and closed for remainder of the meeting)

5. *Healthcare Information Technology Research (HITR)*

Date: February 27–28, 2014 (Open from 8:00 a.m. to 8:30 a.m. on February 27 and closed for remainder of the meeting)

ADDRESSES: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, Maryland 20878.

FOR FURTHER INFORMATION CONTACT: (To obtain a roster of members, agenda or minutes of the non-confidential portions of the meetings.) Mrs. Bonnie Campbell, Committee Management Officer, Office of Extramural Research Education and Priority Populations, AHRQ, 540 Gaither Road, Suite 2000, Rockville, Maryland 20850, Telephone (301) 427–1554.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. 2), AHRQ announces meetings of the scientific peer review groups listed above, which are subcommittees of AHRQ's Health Services Research Initial Review Group Committees. Each subcommittee meeting will commence in open session before closing to the public for the duration of the meeting. The subcommittee meetings will be closed to the public in accordance with the provisions set forth in 5 U.S.C. App. 2 section 10(d), 5 U.S.C. 552b(c)(4), and 5 U.S.C. 552b(c)(6) 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.

Agenda items for these meetings are subject to change as priorities dictate.

Dated: December 17, 2013.

Richard Kronick,

AHRQ Director.

[FR Doc. 2013–30888 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–90–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[60-Day 14–14FA]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov*.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Written comments should be received within 60 days of this notice.

Proposed Project

State Surveillance under the National Toxic Substance Incidents Program (NTSIP)—NEW—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Agency for Toxic Substances and Disease Registry (ATSDR) is sponsoring the National Toxic Substance Incidents Program (NTSIP) to gather information from many resources to protect people from harm caused by spills and leaks of toxic substances. The NTSIP information will be used to help prevent or reduce the harm caused by toxic substance incidents. The NTSIP is modeled partially after the Hazardous Substances Emergency Events Surveillance (HSEES) Program which ran from 1992 to 2012 [OMB number: 0923–0008; expiration date 01/31/2012], with additions suggested by stakeholders to have a more complete program. The NTSIP has three components: a national database, state surveillance, and the response team. This information collection request is focused on the state surveillance component.

The NTSIP is the only federal public health-based surveillance system to coordinate the collection, collation, analysis, and distribution of acute toxic substance incidents data to public health and safety practitioners. Because thousands of acute spills occur annually around the country, it is necessary to establish this surveillance system to describe the public health impacts on the population of the United States. The ATSDR is seeking a three-year approval for the ongoing collection of information for the state surveillance system.

The main objectives of this information collection are to:

1. describe toxic substance releases and the public health consequences associated with such releases within the participating states,

2. identify and prioritize vulnerabilities in industry, transportation, and communities as they relate to toxic substance releases, and

3. identify, develop, and promote strategies that could prevent ongoing and future exposures and resultant health effects from toxic substance releases.

The NTSIP surveillance system will be incident-driven and all acute toxic substance incidents occurring within the participating states will be included. Upon Office of Management and Budget (OMB) approval, participating states will include Alaska, California, Louisiana, Michigan, Missouri, New York, North Carolina, Oregon, Tennessee, Utah, and Wisconsin.

A standardized set of data will be collected by the NTSIP coordinator for

each incident. The NTSIP coordinator may be a federal employee assigned to the state or an employee of the state health department. State, but not federal, NTSIP coordinators will incur recordkeeping burden during two phases.

During the first phase, the NTSIP coordinators will rapidly collect and enter data from a variety of existing data sources. Examples of existing data sources include, but are not limited to, reports from the media, the National Response Center, the U.S. Department of Transportation Hazardous Materials Information Reporting System, and state environmental protection agencies. Approximately 65% of the information is expected to be obtained from existing data sources.

The second phase of the information collection will require the NTSIP coordinators to alert other entities of the incident when appropriate and to request additional information to complete the remaining unanswered data fields. Approximately 35% of the information is expected to be obtained from calling, emailing, or faxing additional types of respondents by the NTSIP coordinators.

These additional respondents will incur reporting burden and include, but are not limited to, the on-scene commander of the incident, emergency government services (e.g., state divisions of emergency management, local emergency planning committees, fire or Hazmat units, police, and emergency medical services), the responsible party (i.e., the ''spiller''), other state and local government agencies, hospitals and local poison control centers.

The NTSIP coordinator will enter data directly into an ATSDR internet-based data system. NTSIP materials, including a public use data set, annual report, and published articles will be made available on the ATSDR NTSIP Web page at *http://www.atsdr.cdc.gov/ntsip/.*

There are no costs to respondents besides their time. The total burden hours requested is 1,821.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
State NTSIP Coordinators	NTSIP State Data Collection Form ..	3	426	1	1,278
On-scene commanders	NTSIP State Data Collection Form ..	110	1	30/60	55
Emergency government services	NTSIP State Data Collection Form ..	810	1	30/60	405
Responsible party	NTSIP State Data Collection Form ..	15	1	30/60	8
Other state and local governments	NTSIP State Data Collection Form ..	60	1	30/60	30
Hospitals	NTSIP State Data Collection Form ..	10	1	30/60	5
Poison Control Centers	NTSIP State Data Collection Form ..	80	1	30/60	40
Total					1,821

LeRoy Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2013–30671 Filed 12–24–13; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health Personal; Notice of public meeting in Endicott, New York

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of public meeting.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces a public meeting to present results from a study of former workers of the International Business Machine (IBM) facility in Endicott, New York. This meeting is being held to present study results to stakeholders and members of the public and to offer the opportunity for comments.

Meeting Time and Date: January 23, 2014, 6:30 p.m.–8:30 p.m. EST, or after the last public commenter has spoken, whichever occurs first.

ADDRESSES: First United Methodist Church, 53 McKinley Ave, Basement, Endicott, NY 13760.

FOR FURTHER INFORMATION CONTACT: Sharon Silver, M.S., NIOSH Division of Surveillance, Hazard Evaluations and Field Studies, 4676 Columbia Parkway MS–R15, Cincinnati, Ohio 45226. (513) 841–4313 or (513) 841–4203.

SUPPLEMENTARY INFORMATION:

I. Background

- In 2009, NIOSH began a study to examine potential health outcomes among former IBM workers in Endicott, New York.
- The study occurred as a result of a request made by the New York State Department of Health, Congressional representatives from New York, and community stakeholders.
- After listening to community and former workers' concerns, NIOSH set goals to evaluate the following:
  - overall causes of death among former workers,
  - testicular cancer diagnosis among former workers, and
  - birth defects among children of former workers.
- The study included 34,494 people who worked at the IMB-Endicott facility for at least 90 days between January 1, 1969 and December 31, 2001.
- The assessment of the causes of death and testicular cancer diagnoses among former workers is complete. The assessment of birth defects among children of former workers is still in process.

II. Public Meeting

NIOSH will hold a public meeting to present information on the results of a study that included former workers from the IBM-Endicott facility.

- A 60 minute presentation will be given by a NIOSH Official.
- Upon completion of the presentation, members of the public will be provided the opportunity to comment or ask questions. This opportunity will be on a first come, first served basis.
- The meeting will end at 8:30PM EST or after the last public commenter has spoken, whichever occurs first.

Dated: December 19, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–30905 Filed 12–24–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[CDC–2013–0021; NIOSH 245–A]

Notice of Request for Comments on Chapters 6 and 8 of the NIOSH document titled: ''Criteria for a Recommended Standard: Occupational Exposure to Diacetyl and 2,3-pentanedione''

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for Comments.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) is inviting comments on Chapter 6 and a new section of Chapter 8 of the draft document, ''*Criteria for a Recommended Standard: Occupational Exposure to Diacetyl and 2,3-pentanedione.''* To view the notice and related materials, visit *http://www.regulations.gov* and enter CDC–2013–0021 in the search field and click ''Search.'' *Public Comment Period: Comments must be received by* February 10, 2014.

Status: Comments are being sought from individuals including scientists and representatives from various government agencies, industry, labor, and other stakeholders, and also the public.

ADDRESSES: You may submit comments, identified by CDC–2013–0021 and Docket Number NIOSH 245–A by either of the following two methods:

Federal rulemaking portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: NIOSH Docket Office, Robert A. Taft Laboratories, 4676 Columbia Parkway, MS–C34, Cincinnati, Ohio 45226.

Instructions: All information received in response to this notice must include the agency name and docket number [CDC–2013–0021; NIOSH 245–A]. All relevant comments received, including any personal information provided, will be posted without change to *http://www.regulations.gov.* All electronic comments should be formatted as Microsoft Word. Please make reference to CDC–2013–0021 and Docket Number NIOSH 245–A. To access the docket, read background documents or read comments, go to *http://www.regulations.gov.* To access any prior background documents or previous comments received please go to NIOSH Docket 245 (*http://www.cdc.gov/niosh/docket/archive/docket245.html*). All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

FOR MORE INFORMATION CONTACT: Lauralynn Taylor McKernan, ScD CIH NIOSH, 4676 Columbia Parkway C–14, Cincinnati, OH 45226, telephone (513) 533–8542, Fax (513) 533–8588, email *LMcKernan@cdc.gov.*

Dated: December 19, 2013.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2013–30900 Filed 12–24–13; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects: To establish a systematic method of reporting suicides and suicide attempts by refugees.

Title: Refugee Suicide Report Form (RSR).

OMB No.: 0970–NEW.

Description

Pursuant to section 412(b)(4) of the Immigration and Nationality Act, the Administration for Children and Families' Office of Refugee Resettlement (ORR), as the designee for the Secretary of Health and Human Services, is authorized to identify and monitor refugees with certain medical conditions that affect the public health and require treatment.

The intent of this collection activity is to allow ORR to systematically gather information on suicides and suicide attempts among refugee populations resettled in the U.S. Data will be collected on individuals who have made suicide attempts or completed a suicide. The data will be analyzed to identify trends and factors related to suicidal behavior. In addition, the data will be used to plan, implement, and evaluate suicide prevention and intervention activities, in collaboration with local, state, and national government agencies and organizations serving the refugee population.

Respondents: State Governments.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Refugee Suicide Report Form (RSR)	100 or more	1	0.5	50

Estimated Total Annual Burden Hours:

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, 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, 370 L'Enfant Promenade SW., Washington, DC 20447, 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. 2013–30809 Filed 12–24–13; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1620]

Agency Information Collection Activities; Proposed Collection; Comment Request; Information From United States Firms and Processors That Export to the European Community

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) 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, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reporting requirements in implementing the lists of United States (U.S.) firms/processors exporting shell eggs, dairy products, game meat, game meat products, animal casings, gelatin, and collagen to the European Community (the EC).

DATES: Submit either electronic or written comments on the collection of information by February 24, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the 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, 1350 Piccard Dr., PI50–400B, Rockville, MD 20850, *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, including each proposed extension of an existing 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.

Information From United States Firms and Processors That Export to the European Community (OMB Control Number 0910–0320)—Extension

The EC is a group of 27 European countries that have agreed to harmonize their commodity requirements to facilitate commerce among member States. EC legislation for intra-EC trade has been extended to trade with non-EC countries, including the United States. For certain food products, including those listed in this document, EC legislation requires assurances from the responsible authority of the country of origin that the processor of the food is in compliance with applicable regulatory requirements. The European Commission, the executive branch of the EC, requires countries trading with any of the EC member countries to provide lists of firms and processors approved to export certain animal-derived commodities to the EC. As stated in the notice published in the **Federal Register** of April 4, 1996 (61 FR 15077), we established a list of U.S. firms and processors that intended to export shell eggs, dairy products, and game meat and game meat products to the EC.

Although our 1996 **Federal Register** notice did not include on the list firms and processors exporting gelatin and raw, bulk collagen intended for human consumption, EC directives require that shipments of gelatin and raw, bulk collagen products be accompanied by certification stating that the product, derived from ruminant bones, bovine hides, and pigskins, has been produced in compliance with EC Council Directive 2003/863/EC. The directive contains the requirements for sourcing, manufacture, transport, and storage of raw materials and manufacture of finished products and requires lists identifying non-EC firms and processors that meet EC requirements and have the appropriate animal and public health certificates. Therefore, we revised this information collection in order to facilitate exports of gelatin and raw, bulk collagen originating from the United States into the EC. We announced OMB approval of the revised information collection in the **Federal Register** of May 10, 2011 (76 FR 27061).

We request the following information from each firm or processor seeking to be included on the lists for shell eggs, dairy products, game meat, game meat products, and animal casings:

- Business name and address;
- Name and telephone number of person designated as business contact;
- Lists of products presently being shipped to the EC and those intended to be shipped in the next 6 months;
- Name and address of manufacturing plants for each product; and
- Names and affiliations of any Federal, State, or local governmental Agencies that inspect the plant, government-assigned plant identifier such as plant number, and last date of inspection.

We use the information to maintain lists of firms and processors that have demonstrated current compliance with

U.S. requirements. We provide the lists to the EC quarterly. Inclusion on the list is voluntary. EC member countries refer to the lists at ports of entry to verify that products offered for importation to the EC from the United States are from firms and processors that meet U.S. regulatory requirements. Products processed by firms and processors not on the lists are subject to detention and possible refusal at the port.

We request the following information from each firm or processor seeking to be included on the lists for gelatin and raw, bulk collagen:

- Business name and address;
- Name, telephone number, and email address of contact person;
- List of products presently shipped to the EC and those intended to be shipped within the next 2 years;
- Name and address of the manufacturing and processing plant for each product;
- Names and affiliations of any Federal, State, and local governmental Agencies that inspect the plant, government assigned plant identifier, such as plant number and last date of inspection; and
- A copy of the most recent (within 1 year of the date of application) inspection report issued by a State, local or Federal public health regulatory Agency and a copy of a recent laboratory analysis as required by the EC of the finished product including: Total aerobic bacteria, coliforms (30 °C), coliforms (44.5 °C), anaerobic sulphite-reducing bacteria (no gas production), *Clostridium perfringens, Staphylococcus aureus, Salmonella,* arsenic, lead, cadmium, mercury, chromium, copper, zinc, moisture (105 °C), ash (550 °C), sulfur dioxide, and hydrogen peroxide.

We use the information to maintain a list of approved firms and processors for gelatin and raw, bulk collagen. We make the list available on our Web site. We include on the list only firms and processors that are not the subject of an unresolved regulatory enforcement action. If a listed firm or processor subsequently becomes the subject of a regulatory enforcement action or an unresolved warning letter, we will view such a circumstance as evidence that the firm or processor is no longer in compliance with applicable U.S. laws and regulations. Should this occur, we will take steps to remove that firm or processor from the list and send a revised list to the EC authorities, usually within 48 to 72 hours after the relevant regulatory enforcement action. If a firm or processor has been delisted as a result of a regulatory enforcement action or unresolved warning letter, the firm or processor will have to reapply for inclusion on the list once the regulatory action has been resolved.

We update the list of firms and processors eligible to export gelatin and raw, bulk collagen to the EC quarterly. Firms and processors placed on the approved exporters list are subject to audit by FDA and EC officials. Complete requests for inclusion must be submitted to us every 12 months to remain on the list. Inclusion on the list is voluntary. However, gelatin and raw, bulk collagen products from firms or processors not on the approved exporters list for these products will not receive an export certificate, and these products may be detained at EC ports of entry.

Description of Respondents: The respondents to this collection of information include U.S. producers of shell eggs, dairy products, game meat, game meat products, animal casings, gelatin, and collagen.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN[1]

Products	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Shell Eggs	10	1	10	0.25	3
Dairy	120	1	120	0.25	30
Game Meat and Game Meat Products	5	1	5	0.25	1
Animal Casings	5	1	5	0.25	1
Gelatin	3	1	3	0.25	1
Collagen	3	1	3	0.25	1
Total					37

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We base our estimates of the number of respondents and total annual responses on the submissions that we have received in the past 3 years for each product type. We have retained our previous estimates of total annual responses because the number of submissions are few and have remained relatively stable. To calculate the estimate for the hours per response values, we assumed that the information requested is readily available to the submitter. We expect that the submitter will need to gather information from appropriate persons in the submitter's company and to prepare this information for submission. We believe that this effort should take no longer than 15 minutes (0.25 hour) per response. We estimate that we will receive 1 submission from 10 shell egg producers annually, for a total of 10 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 2.5 hours, rounded to 3. We estimate that we will receive 1 submission from 120 dairy product producers annually, for a total of 120 annual responses. Each submission is estimated to take 0.25 hour per response for a total of 30 hours. We estimate that we will receive one submission from five game meat and game meat product producers annually, for a total of five annual responses. Each submission is estimated to take 0.25 hour per response for a total of 1.25 hours, rounded to 1 hour. We estimate that we will receive one submission from five animal casings producers annually, for a total of five annual responses. Each submission is estimated to take 0.25 hour per response for a total of 1.25 hours, rounded to 1 hour. We estimate that we will receive one submission from three gelatin producers annually, for a total of three annual responses. Each submission is estimated to take 0.25 hour per response for a total of 0.75 hour, rounded to 1 hour. We estimate that we will receive one submission from three collagen producers annually, for a total of three annual responses. Each submission is estimated to take 0.25 hour per response for a total of 0.75 hour, rounded to 1 hour. Therefore, the proposed annual

burden for this information collection is 37 hours.

Dated: December 20, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30804 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1615]

Draft Generic Drug User Fee Act Information Technology Plan; Availability for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for public comment of the draft information technology (IT) plan entitled ''GDUFA Information Technology Plan.'' This plan is intended to provide FDA's approach for enhancing business processes, data quality and consistency, supporting technologies, and IT operations as described in the Generic Drug User Fee Act (GDUFA) Performance Goals and Procedures for Fiscal Years 2013 through 2017. FDA is publishing a draft version of the IT plan for comment to allow industry and other interested stakeholders to provide feedback as FDA moves towards a fully automated standards-based environment that enhances the regulatory review process for human pharmaceuticals.

DATES: Submit either electronic or written comments by February 24, 2014.

ADDRESSES: Submit written requests for single copies of the draft ''GDUFA Information Technology Plan'' to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, 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 plan.

Submit electronic comments on the draft plan to *http://www.regulations.gov.* Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cheryl Ford, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–6737, *UserFeesProgram-Informatics@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Signed into law on July 9, 2012, GDUFA is designed to speed the delivery of safe and effective generic drugs to the public. GDUFA increases FDA's authorities and responsibilities to address issues such as drug shortages, drug supply chain, safety, security, and drug innovation. As generic drugs account for more than three-quarters of all prescriptions dispensed in the United States, GDUFA authorizes FDA to collect user fees from industry that will provide funding to expand and modernize FDA's generic drug regulatory process.

The draft GDUFA IT plan considers assumptions, available resources, and statutory requirements that conform to the Food and Drug Administration Safety and Innovation Act (FDASIA), signed into law on July 9, 2012. Section 1136 of FDASIA, Electronic Submission of Applications, gives FDA the authority to require a standardized electronic format for the submission of information and data in standardized formats. Section 1136 addresses abbreviated new drug applications under the GDUFA program as well as investigational new drug applications, biologics license applications, and new drug applications under the Prescription Drug User Fee Act program and describes new standards and processes affecting drug and biologics approvals, drug supply chain, and other topics related to human pharmaceuticals. The draft GDUFA IT plan describes key activities for enabling progress toward achieving GDUFA IT goals.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/ForIndustry/UserFees/default.htm* or *http://www.regulations.gov.*

Dated: December 20, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–31008 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–1566]

Draft Guidance for Industry on Naming of Drug Products Containing Salt Drug Substances; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a draft guidance for industry entitled ''Naming of Drug Products Containing Salt Drug Substances.'' The United States Pharmacopeial (U.S.P.) Convention has adopted a monograph naming policy that changed the nomenclature for compendial drug products that contain a salt. Under the new policy, drug names and strengths for new compendial drug products will be based on the active moiety. The name and strength of the active ingredient (e.g., salt) will appear elsewhere on the drug product label and labeling. The policy became official on May 1, 2013. This draft guidance describes the U.S.P. policy, discusses the Center for Drug Evaluation and Research's (CDER's) application of the policy, and recommends how CDER and industry can implement the policy.

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 March 26, 2014.

ADDRESSES: 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, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, 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.

Submit electronic comments on the draft guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Richard Lostritto, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD, 20993, 301–796–1697, *NewDrugCMC@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Naming of Drug Products Containing Salt Drug Substances.'' This draft guidance is being published to explain how CDER is implementing the U.S.P.'s policy entitled ''Monograph Naming Policy for Salt Drug Substances in Drug Products and Compounded Preparations.'' It is a naming and labeling policy applicable to drug products that contain an active ingredient that is a salt. The policy stipulates that U.S.P. will use the name of the active moiety, instead of the name of the salt when creating a drug product monograph title, and the strength will be expressed in terms of the active moiety. The policy allows for exceptions under specified circumstances. CDER is now applying this policy to new prescription drug products under development under section 505 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355). FDA is separately considering applying the U.S.P. Salt Policy to nonprescription drug products, and to biological products licensed under the Public Health Service Act.

The U.S.P. Salt Policy became official on May 1, 2013, and U.S.P. is now applying it to all new drug product monographs for products that contain an active ingredient that is a salt. It affects the development of new drug products, because a U.S.P. monograph title for a new drug product, in most instances, serves as the nonproprietary, or ''established'' name of the related drug product (section 502(e)(3) of the FD&C Act (21 U.S.C. 352(e)(3)). If a drug product's label or labeling contains a name that is inconsistent with the applicable monograph title, it risks being misbranded (section 502(e)(1)(A)(i) of the FD&C Act).

This draft guidance describes the U.S.P. policy and discusses how CDER and industry can implement the policy. Following the policy will help reduce medication errors caused by a mismatch between the established name and strength on the label of drug products that contain a salt. More accurate naming of drug products containing a salt helps health care practitioners calculate equivalent doses when changing from one dosage form to another.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent CDER's current thinking on drug product naming nomenclature for new drugs that contain a salt as the active ingredient. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

This draft guidance includes information collection provisions that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (the PRA) of 1995 (44 U.S.C. 3501–3520). The collections of information referenced in this draft guidance that are related to the burden for the submission of investigational new drug applications are covered under 21 CFR 312 and have been approved under OMB control number 0910–0014. The collections of information referenced in this draft guidance that are related to the burden for the submission of new drug applications are covered under 21 CFR 314 have been approved under OMB control number 0910–0001. The submission of prescription drug product labeling under 21 CFR 201.56 and 201.57 is approved under OMB control number 0910–0572.

In accordance with the PRA, prior to publication of any final guidance document, FDA intends to solicit public comment and obtain OMB approval for any information collections recommended in this guidance that are new or that would represent material modifications to those previously approved collections of information found in FDA regulations or guidances.

III. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov*.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *http://www.regulations.gov*.

Dated: December 19, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30800 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1618]

Draft Prescription Drug User Fee Act V Information Technology Plan; Availability for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for public comment of the draft information technology (IT) plan entitled ''PDUFA V Information Technology Plan.'' This plan is intended to provide FDA's approach for enhancing business processes, data quality and consistency, supporting technologies, and IT operations as described in the Prescription Drug User Fee Act (PDUFA) Reauthorization Performance Goals and Procedures for Fiscal Years 2013 through 2017. FDA is publishing a draft version of the IT plan for comment to allow industry and other interested stakeholders to provide feedback as FDA moves towards a fully automated standards-based environment that enhances the regulatory review process for human pharmaceuticals.

DATES: Submit either electronic or written comments by February 24, 2014.

ADDRESSES: Submit written requests for single copies of the draft ''PDUFA V Information Technology Plan'' to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, 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 plan.

Submit electronic comments on the draft plan to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Cheryl Ford, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 301–796–6737, *UserFeesProgram-Informatics@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The draft PDUFA V IT plan considers assumptions, available resources, and statutory requirements that conform to the Food and Drug Administration Safety and Innovation Act (FDASIA), signed into law on July 9, 2012. Section 1136 of FDASIA, Electronic Submission of Applications, gives FDA the authority to require a standardized electronic format for the submission of information and data in standardized formats. Section 1136 addresses investigational new drug applications, biologics license applications, and new drug applications under the PDUFA program as well as abbreviated new drug applications under the Generic Drug User Fee Act program and describes new standards and processes affecting drug and biologics approvals, drug supply chain, and other topics related to human pharmaceuticals. The draft PDUFA V IT plan describes key activities for enabling progress toward achieving PDUFA IT goals.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

III. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/ForIndustry/UserFees/default.htm* or *http://www.regulations.gov.*

Dated: December 20, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30818 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–0001]

Allergenic Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Allergenic Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on January 28, 2014, between approximately 8:30 a.m. and 3:30 p.m.

Location: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503A), Silver Spring, MD 20993–0002. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/default.htm;* under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

For those unable to attend in person, the meeting will also be Web cast. The link for the Web cast is available at: *https://collaboration.fda.gov/apac.*

Contact Person: Gail Dapolito or Joanne Lipkind, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: On January 28, 2014, the committee will meet in open session to discuss and make recommendations on the safety and efficacy of RAGWITEK, a short ragweed pollen allergen extract tablet for sublingual use, manufactured by Merck, indicated for immunotherapy for diagnosed ragweed pollen induced allergic rhinitis, with or without conjunctivitis.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 21, 2014. Oral presentations from the public will be scheduled between approximately 11:30 a.m. and 12:30 p.m. on January 28, 2014. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 13, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 14, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to

accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Gail Dapolito or Joanne Lipkind at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 20, 2013.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2013–30799 Filed 12–24–13; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Submission for OMB Review; 30-Day Comment Request: Early Career Reviewer Program Online Application System—Center for Scientific Review (CSR)

SUMMARY: Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the Center for Scientific Review, the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on March 13, 2013, page 15959 and allowed 60days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number

Proposed Collection: Early Career Reviewer Program Online Application System—Existing collection in use without an OMB number—Center for Scientific Review (CSR), National Institutes of Health (NIH).

Need and Use of Information Collection: The Center for Scientific Review (CSR) is the portal for NIH grant applications and their review for scientific merit. Our mission is to see that NIH grant applications receive fair, independent, expert, and timely reviews—free from inappropriate influences—so NIH can fund the most promising research. To accomplish this goal, Scientific Review Officers (SRO) form study sections consisting of scientists who have the technical and scientific expertise to evaluate the merit of grant applications. The CSR Early Career Reviewer (ECR) program was developed to identify and train qualified scientists who are early in their scientific careers and who have not had prior CSR review experience. Currently, the application process involves repeated email interactions with potential applicants and manual management of information. To make the application process more efficient for applicants and for CSR staff, we have collaborated with the Information Management Branch at CSR to develop online application software which includes the collection of applicants' names, contact information, and professional CVs. This PRA clearance request is to deploy the online application software for ECR program applicants—the Early Career Reviewer Application and Vetting System (EAVS).

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 650.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Applicants	1,560	1	25/60	650

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Direct Comments to OMB: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the: Office of Management and Budget, Office of Regulatory Affairs, *OIRA_submission@omb.eop.gov* or by fax to 202–395–6974, Attention: Desk Officer for NIH. To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Monica Basco, ECR Program Coordinator, Center for Scientific Review, 6701 Rockledge Dr., Room 3220, Bethesda, MD 20892 or call non-toll-free number (301) 300–3839 or Email your request, including your address to: *CSRearlyCareerReviewer@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

Comment Due Date: Comments regarding this information collection are best assured of having their full effect if received within 30 days of the date of this publication.

Dated: December 17, 2013

Timothy J. Tosten,

Executive Officer, Deputy Ethics Counselor, Director, Division of Management Services, Center for Scientific Review, NIH.

[FR Doc. 2013–30817 Filed 12–24–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR Part 404 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301–496–7057; fax: 301–402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Chimeric Antigen Receptors to ALK for Treating Neuroblastoma and Other Solid Tumors

Description of Technology: Chimeric antigen receptors (CARs) are hybrid proteins consisting of an antibody binding fragment fused to protein signaling domains that cause T-cells which express the CAR to become cytotoxic. Once activated, these cytotoxic T-cells can selectively eliminate the cells which they recognize via the antibody binding fragment of the CAR. By engineering a T-cell to express a CAR that is specific for a certain cell surface protein, it is possible to selectively target those cells for destruction. This is a promising new therapeutic approach known as adoptive cell therapy.

Anaplastic lymphoma kinase (ALK, CD246) is a tumor-associated antigen that is expressed on the cell surface of pediatric neuroblastomas and some non-small cell lung carcinomas (NSCLC). This technology concerns the development of four (4) CARs, each comprising a different antibody binding fragment to ALK. The CARs, known individually as ALKCAR15, ALKCAR48, ALKCAR53 and ALKCAR58, can be used in adoptive cell therapy treatment for neuroblastoma and other solid tumors which overexpress ALK or variants thereof.

Potential Commercial Applications:

- Treatment of cancers associated with expression of ALK or variants thereof.
- Specific cancers include neuroblastoma, NSCLC and other solid tumors.

Competitive Advantages:

- High affinity of the ALKCAR15, ALKCAR48, ALKCAR53 and ALKCAR58 increases the likelihood of successful targeting.
- Targeted therapy decreases non-specific killing of healthy, essential cells, resulting in fewer non-specific side-effects and healthier patients.

Development Stage:

- Early-stage
- In vitro data available
- In vivo data available (animal)

Inventors: Rimas J. Orentas and Crystal L. Mackall (NCI)

Publication: Orentas RJ, et al. ALK (anaplastic lymphoma kinase, CD246)-specific CARs: new immunotherapeutic agents for the treatment of pediatric solid tumors. J Immunother Cancer. 2013 Nov 7;1 (Suppl 1):P27. [doi:10.1186/2051–1426–1–S1–P27] (Poster presentation)

Intellectual Property: HHS Reference No. E–007–2014/0—U.S. Provisional Patent Application No. 61/865,845 filed 06 November 2013

Related Technologies:

- HHS Reference No. E–104–2013/0—US Provisional Patent Application No. 61/805,001 filed 25 March 2013 (''Anti-CD276 Polypeptides, Proteins, and Chimeric Antigen Receptors,'' Orentas RJ, et al.)
- HHS Reference No. E–291–2012/0—International Patent Application No. PCT/US2013/060332 filed 18 September 2013 (''M971 Chimeric Antigen Receptors,'' Orentas RJ, et al.)

Licensing Contact: David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov*.

Collaborative Research Opportunity: The Pediatric Oncology Branch, CCR, NCI, is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize CAR (chimeric antigen receptor) T cells specific for the ALK tumor-associated antigen. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Acid-Resistant, Attenuated Microbial Vector for Improved Oral Delivery of Multiple Targeted Antigens

Description of Technology: Ty21a, the licensed oral live, attenuated bacterial vaccine for *Salmonella typhi* (the causative agent of typhoid fever), has been engineered to stably express a variety of target LPS (lipopolysaccharides) and protein antigens to protect against shigellosis, anthrax, and plague. Ty21a induces mucosal, humoral, and cellular immunity and can be utilized as a multivalent vaccine vector that is inexpensive to produce. Salmonella species encode inducible acid tolerance, but this genus does not survive well below pH 4. Shigella and enterohemorrhagic *E. coli* isolates have more effective acid resistance systems than Salmonella and can survive an extreme acid challenge of pH 1–2 (the acidity of the human stomach when full).

This application claims an engineered Ty21a vector that can survive a very low pH for two to three hours (i.e.. normal transit time through a full stomach), allowing for a final delivery format for Ty21a as a rapidly dissolvable wafer, instead of the large bullet-size enteric-coated capsule, which small children cannot swallow. This formulation enhances the ability of the immunogenic composition and/or vaccine to stimulate immune responses sublingually and throughout the intestinal tract.

Potential Commercial Applications:

- Shigella vaccines
- Biodefense vaccines
- Diagnostics

Competitive Advantages:

- Ease of manufacture
- Inexpensive to manufacture
- Ease of administration
- Known live attenuated bacterial vector

Development Stage:

- Pre-clinical
- In vitro data available
- In vivo data available (animal)

Inventors: Madushini N. Dharmasena and Dennis J. Kopecko (FDA/CBER)

Intellectual Property: HHS Reference No. E–535–2013/0—US Provisional Application No. 61/862,815 filed 06 August 2013

Licensing Contact: Peter Soukas; 301–435–4646; *ps193c@nih.gov*

Collaborative Research Opportunity: The Food and Drug Administration, Center for Biologics Evaluation and Research, is seeking statements of capability or interest from parties

interested in collaborative research to further develop, evaluate or commercialize acid-resistant Shigellosis vaccines. For collaboration opportunities, please contact Alice Welch, Ph.D. at 301–796–8449 or *alice.welch@fda.hhs.gov.*

Assay to Screen Anti-metastatic Drugs

Description of Technology: Scientists at the NIH have developed a research tool, a murine cell line model (JygMC(A)) with a reporter construct, of spontaneous metastatic mammary carcinoma that resembles the human breast cancer metastatic process in a triple negative mammary tumor. The assay is useful for screening compounds that specifically inhibit pathways involved in mammary carcinoma and can improve clinical management of triple negative breast cancer which are greatly refractory to conventional chemo and radiotherapy. The key feature of the cell line is that when introduced orthotopically into the mammary gland of immunocompromised mice it produces murine mammary tumors that rapidly metastasize to distant sites, such as lungs, lymph nodes, liver and kidneys. This allows for precise tracking of tumor growth and metastasis.

Potential Commercial Applications:

- Laboratory tool to investigate molecular mechanisms and/or signaling pathways involved in tumorigenesis, angiogenesis and metastasis of breast cancer and its response to therapy (in vivo and in vitro).
- Research tool for high through-put screening of libraries for compounds that specifically inhibit mechanisms and/or signaling pathways involved in metastatic triple negative breast cancer.
- Research tool to optimize therapeutic regimens.

Competitive Advantages: Dual report construct: enhanced green fluorescent protein (eGFP) or a fusion of firefly luciferase and eGFP (ffLuc2-eFGP) and mouse Cripto-1 promoter sequence cloned into a vector for reporter assays and/or visualization of molecular mechanisms involved in tumorigenesis of metastatic breast cancer cells.

Development Stage:

- Pre-clinical
- In vitro data available
- In vivo data available (animal)

Inventors: Nadia P. Castro, David S. Salomon, Frank F. Cuttitta (all of NCI)

Publications:

1. Castro, Nadia P. ''Role of the Notch signaling in the metastasis of a murine breast cancer model.'' Abstract presented at the Mammary Gland Biology Gordon Research Conference, Lucca (Barga) Italy, June 10–15, 2012.

2. Castro, Nadia P. ''Notch pathway in an experimental model of breast cancer metastasis.'' Abstract presented at the Sixth AACR Special Conference on Advances in Breast Cancer Research, San Francisco, California, October 12–15, 2011.

Intellectual Property: HHS Reference No. E–088–2013/0—Research Tool. Patent protection is not being pursued for this technology.

Licensing Contact: Surekha Vathyam, Ph.D.; 301–435–4076; *vathyams@mail.nih.gov*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize mechanism of tumor growth and lung metastasis. For collaboration opportunities, please contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Mouse Model for the Preclinical Study of Metastatic Disease

Description of Technology: The successful development of new cancer therapeutics requires reliable preclinical data that are obtained from mouse models for cancer. Human tumor xenografts, which require transplantation of human tumor cells into an immune compromised mouse, represent the current standard mouse model for cancer. Since the immune system plays an important role in tumor growth, progression and metastasis, the current standard mouse model is not ideal for accurate prediction of therapeutic effectiveness in patients. This may contribute to increased failure in later phases of clinical trials, as appropriate tumor-host interactions are not preserved.

This technology establishes a system for producing mouse cancer models where the model is not immune compromised, providing an environment which is more akin to the disease state of cancer patients. To establish the model, a tumor is (a) developed in tissue that has been propagated by serial transplantation (rather than cell culture), (b) labeled (using lentiviral vectors) with bioimaging markers (e.g., green fluorescent protein (GFP) and luciferase), and (c) transplanted into immunocompetent mice. Once established, the model can be used to monitor tumor growth, progression and metastasis through standard imaging techniques. The effectiveness of a given therapeutic approach can also be monitored using the same techniques.

Potential Commercial Applications:

- Improved mouse model for preclinical testing of drugs to treat metastatic disease
- Can be applied to any cancer where tumor cell lines can be developed without cell culture propagation
- Can be used to build preclinical models that require consistent disease tracking and normal immune context (e.g. bone marrow transplantation, stem cell therapy, tissue regeneration)

Competitive Advantages:

- Labeling markers are tolerized, allowing consistent expression in this mouse
- Increase in accurate prediction of drug effectiveness during preclinical stages; allows better prediction of success at later clinical stages
- Mice are not immunocompromised, and thereby more accurately representing in vivo disease states
- Labeling of tumors for transplantation allows tumors to be traced during growth, progression and metastasis in normal immune context
- Labeling also allows more efficient study of the effectiveness of treatments

Development Stage:

- Early-stage
- In vitro data available
- In vivo data available (animal)

Inventors: Chi-Ping Day and Glenn Merlino (NCI)

Publications:

1. Day CP, et al. Preclinical therapeutic response of residual metastatic disease is distinct from its primary tumor of origin. Int J Cancer. 2012 Jan 1;130(1):190–9. [PMID 21312195].

2. Day CP, et al. Immunological naturalization of immunocompetent host mice to luciferase-GFP for consistent tracking of transplanted tumors. Poster #1556, Annual Meeting 2013, American Association of Cancer Research, Washington, DC, April 6–10, 2013.

Intellectual Property: HHS Reference No. E–296–2012/0—Biological Material/Research Tool. Patent protection is not being pursued for this technology.

Licensing Contact: David A. Lambertson, Ph.D.; 301–435–4632; *lambertsond@mail.nih.gov.*

Collaborative Research Opportunity: The National Cancer Institute is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize preclinical models allowing consistent disease tracking in normal immune context. For collaboration opportunities, please

contact John D. Hewes, Ph.D. at *hewesj@mail.nih.gov.*

Software for Evaluating Drug Induced Hepatotoxicity

Description of Technology: This invention pertains to a software tool for assisting differential medical diagnosis of drug-induced liver injury (hepatotoxicity) using clinical trial data. The software is capable of identifying a small subset of patients at risk for hepatotoxicity out of a pool of thousands of clinical trial participants. This software tool is the only one of its kind developed using SAS/IntrNet®.

Potential Commercial Applications:

- Hepatotoxicity detection
- Drug interactions

Competitive Advantages:

- Personalized predictions
- SAS/IntrNet® compatible

Development Stage: Prototype

Inventor: Ted J. Guo (FDA)

Publications:

1. Guo T, et al. A Tool to Help You Decide [detect potentially serious liver injury]. Silver Spring, Maryland: Presentation at the Annual Conference of the American Association for the Study of Liver Diseases, 2008.

2. Guo T, et al. How a SAS/IntrNet tool was created at the FDA for the detection of potential drug-induced liver injury using data with CDISC standard. San Diego, California: Proceedings of the Western Users of SAS Software Annual Conference, 2009.

3. Watkins PB, et al. Evaluation of drug-induced serious hepatotoxicity (eDISH): application of this data organization approach to phase III clinical trials of rivaroxaban after total hip or knee replacement surgery. Drug Saf. 2011 Mar 1;34(3):243–52. [PMID 21332248]

Intellectual Property: HHS Reference No. E–103–2012/0—Software Tool. Patent protection is not being pursued for this technology.

Licensing Contact: Michael Shmilovich; 301–435–5019; *shmilovm@mail.nih.gov.*

Hexanucleotide Repeat in the C9orf72 Gene for the Diagnosis and Treatment of Amyotrophic Lateral Sclerosis and Frontotemporal Dementia

Description of Technology: This invention relates to the discovery of a pathogenic GGCCCC hexanucleotide repeat expansion in the first intron of the C9orf72 gene on chromosome 9p21 in patients exhibiting amyotrophic lateral sclerosis (ALS) and/or frontotemporal dementia (FTD). The inventors have previously identified a strong association signal in this genomic region and used this information to identify the underlying pathogenic mutation. The pathogenic repeat expansion accounts for up to 50% of familial ALS and familial FTD cases and up to 10% of sporadic ALS and sporadic FTD cases in European ancestry populations. The inventors represent that this finding will be the basis of diagnostic screening for ALS and/or FTD patients, as well as an important target in the development of therapeutics for ALS and/or FTD.

Potential Commercial Applications: Diagnosis and treatment of ALS and/or FTD.

Competitive Advantages: Improved diagnosis and treatment of ALS and/or FTD.

Development Stage: In vitro data available

Inventors: Stuart Pickering-Brown (The University of Manchester), Bryan Traynor (NIA), Andrew Singleton (NIA), Huw Morris (Cardiff University), Peter Heutink (Vu University Medical Center Amsterdam), John Hardy (University College London), Pentti Tienari (University of Helsinki)

Intellectual Property: HHS Reference No. E–275–2011/0—

- US Provisional Application No. 61/529,531 filed 31 August 2011
- PCT Application No. PCT/GB2012/052140 filed 31 August 2012

Licensing Contact: Jaime M. Greene; 301–435–5559; *greenejaime@mail.nih.gov*

Dated: December 19, 2013.

Richard U. Rodriguez,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 2013–30745 Filed 12–24–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict; Biological Chemistry and Macromolecular Biophysics.

Date: January 6, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: John L. Bowers, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1725, *bowersj@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; Myalgic Encephalomyelitis/Chronic Fatigue Syndrome.

Date: January 16, 2014.

Time: 2:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Lynn E. Luethke, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5166, MSC 7844, Bethesda, MD 20892, (301) 806–3323, *luethkel@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Program Project: Research Resources Reverse Site Visit.

Date: January 21–23, 2014.

Time: 7:00 p.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington, DC—Rockville Hotel, 3 Research Ct., Rockville, MD 20850.

Contact Person: Lee Rosen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@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, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–30747 Filed 12–24–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; PAR–12–265-Ancillary Studies to Major Ongoing Clinical Studies in NIDDK (RO1): CKD and Diabetic Nephropathy.

Date: February 20, 2014.

Time: 4:00 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Najma Begum, Ph.D., Scientific Review Officer, Review Branch, Dea, NIDDK, National Institutes Of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8894, *begumn@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: December 19, 2013.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2013–30746 Filed 12–24–13; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: SAMHSA Recovery Measurement Pilot Study—NEW

The Substance Abuse and Mental Health Services Administration (SAMHSA), Center for Behavioral Health Statistics and Quality (CBHSQ) is proposing a pilot test of its Recovery Measure. As part of its strategic initiative to support recovery from mental health and substance use disorders, SAMHSA has been working to develop a standard measure of recovery that can be used as part of its grantee performance reporting activities.

This project will assess the usability and psychometric properties of the proposed tool among a voluntary group of 2–3 SAMHSA grantees. SAMHSA has developed a short 20-item instrument that has been designed to capture all four of SAMHSA's proposed dimensions of recovery—health, home, purpose, and community. This measure is comprised of questions from the World Health Organization's Quality of Life tool (WHO QOL 8) and SAMHSA's existing set of Government Performance and Results Act (GPRA) measures. Data will be collected at two time points—at client intake and at six-months post-intake. These are two points in time during which SAMHSA grantees routinely collect data on the individuals participating in their programs.

Approval of these items by the Office of Management and Budget (OMB) will allow SAMHSA to further refine the Recovery Measure developed for this project. It will also help determine whether the Recovery Measure is added to SAMHSA's set of required performance measurement tools designed to aid in tracking recovery among clients receiving services from the Agency's funded programs.

Based on current funding and planned fiscal year 2014 notice of funding announcements the following SAMHSA grantee programs will be selected to participate in this pilot study: Behavioral Health Treatment Court Collaborative (BHTCC); Cooperative Agreements to Benefit Homeless Individuals (CABHI); and the Primary and Behavioral Health Care Integration (PBHCI). Data collected will be used by individuals at three different levels: the SAMHSA administrator and staff, the Center administrators and government project officers, and grantees.

The total estimated respondent burden is 60 hours for the period from September 2014 through March 2015. Table 1 below indicates the annualized respondent burden estimate.

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014–2015

Estimated annual response burden				
Type of grantees	Number of respondents	Responses per respondent	Average hours per response	Total burden hours
Intake:				
Behavioral Health Treatment Court Collaborative (BHTCC)	100	1	0.10	10
Cooperative Agreements to Benefit Homeless Individuals (CABHI)	50	1	0.10	5
Primary and Behavioral Health Care Integration (PBHCI)	150	1	0.10	15
6-Month Follow-up:				

TABLE 1—ANNUALIZED RESPONDENT BURDEN HOURS, 2014–2015—Continued

Estimated annual response burden				
Type of grantees	Number of respondents	Responses per respondent	Average hours per response	Total burden hours
Behavioral Health Treatment Court Collaborative (BHTCC)	100	1	0.10	10
Cooperative Agreements to Benefit Homeless Individuals (CABHI)	50	1	0.10	5
Primary and Behavioral Health Care Integration (PBHCI)	150	1	0.10	15
Total	300			60

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *OR* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by February 24, 2014.

Summer King,

Statistician.

[FR Doc. 2013–30801 Filed 12–24–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Participant Feedback on Training Under the Cooperative Agreement for Mental Health Care Provider Education in HIV/AIDS Program (OMB No. 0930–0195)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment for the Mental Health Care Provider Education in HIV/AIDS Program. The education programs funded under this cooperative agreement are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (e.g., psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (e.g., clergy, and alternative health care workers) first-line providers of mental health services, in particular to providers in minority communities.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participants' knowledge, skills and abilities.

Minor changes to the feedback form instruments are requested based on based on a review and assessment of participant feedback form data collected over the past two years of the contract. CMHS identified some outdated and rarely-used response options for all participant response forms and the session reporting form and removed these items from the individual data collection tools. Table 1 shows the response options removed from the previous iterations of the MHCPE participant feedback forms and session reporting form.

TABLE 1—CHANGES TO PARTICIPANT FEEDBACK FORMS

Type of feedback form	Question No.	Change(s)	Reason for change
All Participant Feedback Forms (*General Education, Neuropsychiatric, Adherence, Ethics*).	Q7	▪ Removal of response option "other"	Rarely/never used response option(s).
	Q8, Q9A	▪ Removal of response option "Dentist/Dental Assistant".	Rarely/never used response option(s).
Session Reporting Form	Q6	▪ Removal of the following response options: —State/Local Department of Public Welfare —HMO/Managed Care Organization —Migrant Health Center —Other MHCPE Program —State/Local Department of Corrections	Rarely/never used response option(s).

TABLE 1—CHANGES TO PARTICIPANT FEEDBACK FORMS—Continued

Type of feedback form	Question No.	Change(s)	Reason for change
	Q11	▪ Removal of response option "Audio tapes"	Outdated response option.

Information about the organization and delivery of training will be collected from trainers and staff who are funded by these cooperative agreements/contracts, hence there is no respondent burden. All training participants will be asked to complete a brief feedback form at the end of the training session. CMHS anticipates funding up to 10 education sites for the Mental Health Care Provider Education in HIV/AIDS Program. The annual burden estimates for this activity are shown below in Table 2.

TABLE 2—ANNUAL BURDEN ESTIMATE

Annualized Burden Estimates and Costs
Mental Health Care Provider Education in HIV/AIDS Program (10 sites)

Form	No. of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
All Sessions One form per session completed by program staff/trainer					
Session Report Form	600	1	600	0.08	48
Participant Feedback Form (General Education)	5,000	1	5,000	0.167	835
Neuropsychiatric Participant Feedback Form	4,000	1	4,000	0.167	668
Adherence Participant Feedback Form	1,000	1	1,000	0.167	167
Ethics Participant Feedback Form	2,000	1	2,000	0.167	125
Total	12,600	.....	12,600	.....	1,843

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 2–1057, One Choke Cherry Road, Rockville, MD 20857 *or* email her a copy at *summer.king@samhsa.hhs.gov.* Written comments should be received by February 24, 2014.

Summer King,

Statistician.

[FR Doc. 2013–30706 Filed 12–24–13; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Agency Information Collection Activities: CBP Regulations Pertaining to Customs Brokers

Correction

In notice document 2013–30220 appearing on page 76851 of the issue of Thursday, December 19, 2013, make the following correction:

In the first column, in the heading, the subject line is corrected to read as set forth above.

[FR Doc. C1–2013–30220 Filed 12–24–13; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5690–N–18]

60-Day Notice of Proposed Information Collection: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for 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:* February 24, 2014.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@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: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Certification of Domestic Violence, Dating Violence, Sexual Assault, or Stalking.

OMB Approval Number: 2577–0249.
Type of Request: Revision.
Form Number: HUD–50066.
Description of the need for the information and proposed use: This is a request for information collection that may be used in response to an incident or incidents of actual or threatened domestic violence, dating violence, sexual assault or stalking that may affect an individual's participation in the Section 8 or public housing programs.

When an individual presents a PHA, owner, or manager with a claim for protections under the Violence Against Women Act Reauthorization Act of 2013 (VAWA 2013), the PHA, owner, or manager may (but is not required to) request that the individual complete, sign and submit within 14 business days of the request, a HUD approved certification form, or alternate documentation as described on the certification form, to document the domestic violence, dating violence, sexual assault, or stalking. The PHA's, owner's, or manager's request for documentation must be made in writing. On the certification form, the individual certifies that s/he is a victim of domestic violence, dating violence, sexual assault or stalking, and that the incident or incidences in question are bona fide incidences of such actual or threatened abuse. On the certification form, the individual must provide the name of the perpetrator only if the name of the perpetrator is safe to provide, and is known to the victim.

PHAs are instructed that the delivery of the certification form to the tenant in response to an incident(s) via mail may place the victim at risk, e.g., the abuser may monitor the mail; consequently, PHAs, owners and management agents may require that the tenant come into the office to pick up the certification form. PHAs and owners are also encouraged to work with tenants to make delivery arrangements that do not place the tenant at risk.

If the PHA, owner, or manager provides the individual with a written request for documentation of the abuse, and the individual does not provide the certification form, or alternate documentation as described on the certification form, within 14 business days from the date of receipt of the PHA's, owner's, or manager's written request (or after any extension of that date provided by the PHA, owner or manager), the Victim cannot be assured s/he will receive VAWA protections.

Note, On August 6, 2013, HUD published in the **Federal Register** (Volume 78, Number 151, 47717) a notice describing the impacts of the VAWA 2013 on HUD programs. The notice provided an overview of the key ways in which VAWA 2013 would enhance existing VAWA protections for victims of domestic violence, dating violence and stalking in HUD's public housing and Section 8 Housing Choice Voucher (HCV) programs, listed the additional HUD programs that would now be covered by the statute, explained that VAWA protections would be extended to victims of sexual assault, and advised of HUD's plans to issue rules and/or guidance on the new law at a later date. HUD also requested public comment on certain topics that VAWA 2013 left to HUD's discretion. Included in that request was how HUD should adapt VAWA certification forms (HUD–50066 and HUD–91066) to document abuse covered by VAWA 2013 to include the newly covered programs. The current certification form HUD–50066 expires on February 28, 2014. HUD determined that the form HUD–50066 should be updated to include only the items required by VAWA 2013. HUD intends to issue at a later date a new form covering all HUD covered programs that conforms to VAWA 2013 and considers comments received on the notice (comments posted under docket number HUD–2013–0074 on *www.regulations.gov*). The new form would replace HUD–50066.

Respondents (i.e. affected public): Public Housing Authorities (PHAs), Owners, and Management Agents, participating in the Public Housing and Section 8 Housing Choice Voucher programs.

Estimated Number of Respondents: 200.
Estimated Number of Responses: 200.
Frequency of Response: Once.
Average Hours per Response: 60 minutes per applicant .
Total Estimated Burdens: 200 hours.

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 17, 2013.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2013–30814 Filed 12–24–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5690–N–20]

60-Day Notice of Proposed Information Collection: Exigent Health and Safety Deficiency Correction Certification

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for 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:* February 24, 2014.

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: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–5564 (this is not a toll-free number) or email at *Colette.Pollard@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: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–

402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Exigent Health and Safety Deficiency Correction Certification.

OMB Approval Number: 2577–0241.

Type of Request: Extension of currently approved collection.

Form Number: None.

Description of the need for the information and proposed use: HUD's Uniform Physical Condition Standards (UPCS) regulation (24 CFR part 5, subpart G) provides that HUD housing must be decent, safe, sanitary, and in good repair. The UPCS regulation also provides that all area and components of the housing must be free of health and safety hazards. HUD conducts physical inspections of the HUD-funded housing to determine if the UPCS standards are being met. Pursuant to the UPCS inspection protocol, at the end of the inspection (or at the end of each day of a multi-day inspection) the inspector provides the property representative with a copy of the ''Notification of Exigent and Fire Safety Hazards Observed'' form. Each exigent health and safety (EHS) deficiency that the inspector observed that day is listed on the form. The property representative signs the form acknowledging receipt. PHAs are to correct/remedy/act abate all EHS deficiencies within 24 hours. Using the electronic format, PHAs are to notify HUD within three business days of the date of inspection, which is the date the PHA was provided notice of these deficiencies, that the deficiencies were corrected/remedied/acted on to abate within the prescribed time frames (24 CFR part 902).

Respondents (i.e. affected public): Public Housing Agencies.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total	1134	1	1	0.31	346.29	$8.82	$10,000.86

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 17, 2013.

Merrie Nichols-Dixon,

Deputy Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2013–30813 Filed 12–24–13; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R9–HQ–2013–0119; FF09M21200–134–FXMB1231099BPP0]

RIN 1018–AZ80

Migratory Bird Hunting; Service Regulations Committee Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: The Fish and Wildlife Service (hereinafter Service) will conduct an open meeting on February 5, 2014, to identify and discuss preliminary issues concerning the 2014–15 migratory bird hunting regulations.

DATES: The meeting will be held February 5, 2014.

ADDRESSES: The Service Regulations Committee meeting will be available to the public in conference room 2073 at 4501 N. Fairfax Street, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, ms–4107–ARLSQ, 1849 C Street NW., Washington, DC 20240; (703) 358–1714.

SUPPLEMENTARY INFORMATION: Under the authority of the Migratory Bird Treaty Act (16 U.S.C. 703–712), the Service regulates the hunting of migratory game birds. We update the migratory game bird hunting regulations, located at 50 CFR part 20, annually. Through these regulations, we establish the frameworks, or outside limits, for season lengths, bag limits, and areas for migratory game bird hunting. To help us in this process, we have administratively divided the nation into four Flyways (Atlantic, Mississippi, Central, and Pacific), each of which has a Flyway Council. Representatives from the Service, the Service's Migratory Bird Regulations Committee, and Flyway Council Consultants will meet on February 5, 2014, at 11:00 a.m. to identify preliminary issues concerning the 2014–15 migratory bird hunting regulations for discussion and review by the Flyway Councils at their March meetings.

In accordance with Department of the Interior (hereinafter Department) policy regarding meetings of the Service Regulations Committee attended by any person outside the Department, these meetings are open to public observation.

Michael J. Johnson,

Acting Assistant Director, Migratory Birds, U.S. Fish and Wildlife Service.

[FR Doc. 2013–30863 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[DR.5B711.IA000814]

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of extension of Tribal-State Class III Gaming Compact.

SUMMARY: This publishes notice of the extension of the Class III gaming compact between the Yankton Sioux Tribe and the State of South Dakota.

DATES: *Effective Date:* December 26, 2013.

FOR FURTHER INFORMATION CONTACT: Paula L. Hart, Director, Office of Indian Gaming, Office of the Deputy Assistant Secretary—Policy and Economic Development, Washington, DC 20240, (202) 219–4066.

SUPPLEMENTARY INFORMATION: Pursuant to 25 CFR 293.5, an extension to an existing tribal-State Class III gaming compact does not require approval by the Secretary if the extension does not include any amendment to the terms of the compact. The Yankton Sioux Tribe and the State of South Dakota have reached an agreement to extend the expiration of their existing Tribal-State Class III gaming compact to April 29, 2014. This publishes notice of the new expiration date of the compact.

Dated: December 11, 2013.

Kevin K. Washburn,

Assistant Secretary—Indian Affairs.

[FR Doc. 2013–30915 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–4N–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14498; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Grant-Kohrs Ranch National Historic Site, Deer Lodge, MT

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Grant-Kohrs Ranch National Historic Site has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to Grant-Kohrs Ranch National Historic Site. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Grant-Kohrs Ranch National Historic Site at the address in this notice by January 27, 2014.

ADDRESSES: Jacqueline Lavelle, Superintendent, Grant-Kohrs Ranch National Historic Site, 266 Warren Lane, Deer Lodge, MT 59722, telephone 406–846–2070 x221, email *jacque_lavelle@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of Grant-Kohrs Ranch National Historic Site, Deer Lodge, MT. The human remains were removed from an unknown location likely within the boundaries of Grant-Kohrs Ranch National Historic Site, Powell County, MT.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the Superintendent, Grant-Kohrs Ranch National Historic Site.

Consultation

A detailed assessment of the human remains was made by Grant-Kohrs Ranch National Historic Site professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Confederated Salish and Kootenai Tribes of the Flathead Reservation; Confederated Tribes of the Colville Reservation; Crow Tribe of Montana; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Shoshone-Bannock Tribes of the Fort Hall Reservation; and Spokane Tribe of the Spokane Reservation (hereafter referred to as ''The Tribes'').

History and description of the remains

At an unknown date, human remains representing, at minimum, one individual were removed from an unknown location likely within the boundaries of Grant-Kohrs Ranch National Historic Site in Powell County, MT. In 1970, the human remains were found in a tobacco box in one of the historic buildings at the ranch. Based on oral historical accounts from the ranch's owners, the remains likely originated from a burial in the park that was exposed by erosion prior to NPS ownership. No known individuals were identified. No associated funerary objects are present.

Determinations made by Grant-Kohrs Ranch National Historic Site

Officials of Grant-Kohrs Ranch National Historic Site have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis and likely origin.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Confederated Salish & Kootenai Tribes of the Flathead Reservation.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Confederated Salish & Kootenai Tribes of the Flathead Reservation and Confederated Tribes of the Colville Reservation.
- Other credible lines of evidence, including relevant and authoritative governmental determinations and information gathered during government-to-government consultation from subject matter experts, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Blackfeet Tribe of the Blackfeet Indian Reservation of Montana; Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana; Crow Tribe of Montana; Fort Belknap Indian Community of the Fort Belknap Reservation of Montana; Shoshone-Bannock Tribes of the Fort Hall Reservation; and Spokane Tribe of the Spokane Reservation.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to The Tribes.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jacqueline Lavelle, Superintendent, Grant-Kohrs Ranch National Historic Site, 266 Warren Lane, Deer Lodge, MT 59722, telephone 406–846–2070 x221, email *jacque_lavelle@nps.gov,* by January 27, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains to The Tribes may proceed.

Grant-Kohrs Ranch National Historic Site is responsible for notifying The Tribes that this notice has been published.

Dated: November 14, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–30680 Filed 12–24–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14502; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: Museum of Anthropology at Washington State University, Pullman, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The Museum of Anthropology at Washington State University has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Museum of Anthropology at Washington State University. If no additional requestors come forward, transfer of control of the human remains to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

DATES: Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Museum of Anthropology at Washington State University at the address in this notice by January 27, 2014.

ADDRESSES: Mary Collins, Museum of Anthropology at Washington State University, P.O. Box 644910, Pullman, WA 99164, telephone (509) 335–4314.

SUPPLEMENTARY INFORMATION: Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Museum of Anthropology at Washington State University, Pullman, WA. The human remains and associated funerary objects were removed from Grant County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

Consultation

A detailed assessment of the human remains was made by the Museum of Anthropology at Washington State University professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation.

History and Description of the Remains

In 1961, human remains representing, at minimum, one individual were removed from site 45GR120 in Grant County, WA. The burials were excavated from a cairn marked burial in the Lower Grand Coulee/Sun Lakes region. The work was done in conjunction with an archeological survey of the region directed by Richard Daugherty of Washington State University. Human remains and associated funerary items that were removed from adjacent sites 45GR111 and 45GR120 during the same archeological survey were repatriated in 2011 after a Notice of Inventory Completion was published in the **Federal Register** on May 13, 2011. No known individuals were identified. No associated funerary objects are present.

The manner of internment and the character of the associated funerary objects are distinctive for Native American burials of the late prehistoric through historic period on the Columbia Plateau. The site is within the judicially established aboriginal territory of the Confederated Tribes of the Colville Reservation. Tribal oral tradition and anthropological and historical research indicate the site lies within an area occupied by the Moses Columbia people, who are legally represented by the Confederated Tribes of the Colville Reservation.

Determinations Made by the Museum of Anthropology at Washington State University

Officials of the Museum of Anthropology at Washington State University have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes of the Colville Reservation.

Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Mary Collins, Museum of Anthropology at Washington State University, PO Box 644910, Pullman, WA 99164, telephone (509) 335–4314, by January 27, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Confederated Tribes of the Colville Reservation may proceed.

The Museum of Anthropology at Washington State University is responsible for notifying the Confederated Tribes of the Colville Reservation that this notice has been published.

Dated: November 15, 2013.

Melanie O'Brien,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–30677 Filed 12–24–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NAGPRA–14527; PPWOCRADN0–PCU00RP14.R50000]

Notice of Inventory Completion: U.S. Department of the Interior, National Park Service, Fort Bowie National Historic Site, Bowie, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior, National Park Service, Fort Bowie National Historic Site has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to Fort Bowie National Historic Site. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

DATES: Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Fort Bowie National Historic Site at the address in this notice by January 27, 2014.

ADDRESSES: Lane Baker, Superintendent, Fort Bowie National Historic Site, 4101 E. Montezuma Canyon Rd. Hereford AZ, 85615, telephone (520) 366–5515 x2101, email *lane_baker@nps.gov.*

SUPPLEMENTARY INFORMATION: Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of Fort Bowie National Historic Site, Bowie, AZ. The human remains were removed from Fort Bowie National Historic Site in Cochise County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the Superintendent, Fort Bowie National Historic Site.

Consultation

A detailed assessment of the human remains was made during a region-wide, multi-park process by Fort Bowie National Historic Site professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Paiute Indian Tribe of Utah (Cedar Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes) (formerly Paiute Indian Tribe of Utah (Cedar City Band of Paiutes, Kanosh Band of Paiutes, Koosharem Band of Paiutes, Indian Peaks Band of Paiutes, and Shivwits Band of Paiutes)); Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; San Juan Southern Paiute Tribe of Arizona; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Tohono O'odham Nation of Arizona; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; and Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California (hereafter referred to as ''The Consulted Tribes'').

The following tribes were invited to consult but did not participate in the face-to-face consultation meeting: Apache Tribe of Oklahoma; Arapaho Tribe of the Wind River Reservation, Wyoming; Big Pine Paiute Tribe of the Owens Valley (previously listed as the Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California); Bishop Paiute Tribe (previously listed as the Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California); Bridgeport Indian Colony (previously listed as the Bridgeport Paiute Indian Colony of California); Burns Paiute Tribe (previously listed as the Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon); Cheyenne and Arapaho Tribes, Oklahoma (previously listed as the Cheyenne-Arapaho Tribes of Oklahoma); Comanche Nation, Oklahoma; Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California; Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada and Oregon; Fort McDowell Yavapai Nation, Arizona; Fort Sill Apache Tribe of Oklahoma; Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Kiowa Indian Tribe of Oklahoma; Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada; Lone Pine Paiute-Shoshone Tribe (previously listed as the Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California); Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada; Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada; Summit Lake Paiute Tribe of Nevada; Tonto Apache Tribe of Arizona; Walker River Paiute Tribe of the Walker River Reservation, Nevada; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Indian Tribe (previously listed as the Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona); Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada; and Zuni Tribe of the Zuni Reservation, New Mexico (hereafter referred to as ''The Invited Tribes'').

History and Description of the Remains

Prior to 1976, human remains representing, at minimum, one individual were removed from an unknown location within the boundaries of Fort Bowie National Historic Site in Cochise County, AZ. No known individuals were identified. No associated funerary objects are present.

Prior to 1985, human remains representing, at minimum, two individuals were removed from an unknown location within the boundaries of Fort Bowie National Historic Site in Cochise County, AZ. No known individuals were identified. No associated funerary objects are present.

Determinations Made by Fort Bowie National Historic Site

Officials of Fort Bowie National Historic Site have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on osteological analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of three individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and any present-day Indian tribe.
- According to final judgments of the Indian Claims Commission or the Court of Federal Claims, the land from which the Native American human remains were removed is the aboriginal land of the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.
- Treaties, Acts of Congress, or Executive Orders, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.
- Other credible lines of evidence, including relevant and authoritative governmental determinations and information gathered during government-to-government consultation from subject matter experts, indicate that the land from which the Native American human remains were removed is the aboriginal land of the Tohono O'odham Nation of Arizona.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona.

Additional Requestors and Disposition

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Lane Baker, Superintendent, Fort Bowie National Historic Site, 4101 E. Montezuma Canyon Rd. Hereford AZ, 85615, telephone (520) 366–5515 x2101, email lane_baker@nps.gov, by January 27, 2014. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Apache Tribe of Oklahoma; Fort Sill Apache Tribe of Oklahoma; Jicarilla Apache Nation, New Mexico; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; Tonto Apache Tribe of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona may proceed.

Fort Bowie National Historic Site is responsible for notifying The Consulted Tribes and The Invited Tribes that this notice has been published.

Dated: November 19, 2013.

David Tarler,

Acting Manager, National NAGPRA Program.

[FR Doc. 2013–30682 Filed 12–24–13; 8:45 am]

BILLING CODE 4312–50–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–PAGR–14486; PPNEPAGR00/PMP00UP05.YP0000, PX.P0156924I]

Notice of 2014 Meetings for the Paterson Great Falls National Historical Park Advisory Commission

AGENCY: National Park Service, Interior.

ACTION: Notice of meetings.

SUMMARY: As required by the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16) the National Park Service is hereby giving notice for the 2014 schedule of meetings for the Paterson Great Falls National Historical Park Advisory Commission. The Commission was authorized by Congress and signed by the President on March 30, 2009, (Pub. L. 111–11, Title VII, Subtitle A, Section 7001, Subsection e), ''to advise the Secretary in the development and implementation of the management plan.'' Agendas for these meetings will be provided on the Paterson Great Falls National Historical Park Web site: *http://www.nps.gov/pagr/parkmgmt/federal-advisory-commission.htm.*

DATES: The Commission will meet on the following dates in 2014:

Thursday, January 23, 2014, 2:00–5:00 p.m. (snow date: January 30, 2014, 2:00–5:00 p.m.);
Thursday, April 10, 2014, 2:00–5:00 p.m.;
Thursday, July 10, 2014, 2:00–5:00 p.m.; and
Thursday, October 9, 2014, 2:00–5:00 p.m.

Location: All meetings will be held at the Paterson Museum, 2 Market Street (intersection of Market and Spruce Streets), Paterson, NJ.

FOR FURTHER INFORMATION CONTACT: Darren Boch, Superintendent, Paterson Great Falls National Historical Park, 72 McBride Avenue, Paterson, NJ 07501, (973) 523–2630.

SUPPLEMENTARY INFORMATION: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), this notice announces the 2014 meeting schedule of the Paterson Great Falls National Historical Park Advisory Commission. Topics to be discussed include updates on the status of the Paterson Great Falls National Historical Park General Management Plan.

The meetings will be open to the public and time will be reserved during each meeting for public comment. Oral comments will be summarized for the record. If individuals wish to have their comments recorded verbatim, they must submit them in writing. Written comments and requests for agenda items may be sent to: Federal Advisory Commission, Paterson Great Falls National Historical Park, 72 McBride Avenue, Paterson, NJ 07501. Written comments may also be sent by email to: *pagr_gmp@nps.gov.*

Before including your address, telephone number, email address, or

other personal indentifying 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. All comments will be made part of the public record and will be electronically distributed to all Commission members.

Dated: December 16, 2013.

Alma Ripps,

Chief, Office of Policy

[FR Doc. 2013–30786 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–WV–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–NERO–GATE–14426; PPNEGATEB0, PPMVSCS1Z.Y00000]

Notice of January 10, 2014, Meeting of the Fort Hancock 21st Century Advisory Committee

AGENCY: National Park Service, Interior.

ACTION: Meeting notice.

SUMMARY: This notice sets forth the date of the seventh meeting of the Fort Hancock 21st Century Advisory Committee.

DATES: The public meeting of the Fort Hancock 21st Century Advisory Committee will be held on January 10, 2014, at 9:00 a.m. and adjourn 5:30 p.m. (Eastern) or earlier if meeting objectives are met.

ADDRESSES: The Committee will meet at The Chapel at Sandy Hook, Hartshorne Drive, Middletown, NJ 07732. Please check *www.forthancock21stcentury.org* for additional information. Written comments may be sent to John Warren, Park Ranger, Gateway National Recreation Area, 26 Hudson Road, Fort Hancock, NJ 07732, or submitted by email to: *forthancock21stcentury@yahoo.com.*

Agenda: Committee meeting will consist of the following:

1. Welcome and Introductory Remarks
2. Update on Working Group Progress
3. Assessment of Committee Needs
4. Potential Frameworks and Reuse Scenarios
5. Development of Committee Work Plan
6. Future Committee Activities and Meeting Schedule
7. Public Comment
8. Adjournment

The final agenda will be posted on *www.forthancock21stcentury.org* prior to each meeting.

FOR FURTHER INFORMATION CONTACT: Further information concerning the meeting may be obtained from John Warren, Park Ranger, Gateway National Recreation Area, 26 Hudson Road, Fort Hancock, NJ 07732, at (732) 872–5908 or email: *forthancock21stcentury@yahoo.com,* or visit the Committee Web site at *www.forthancock21stcentury.org.*

SUPPLEMENTARY INFORMATION: In accordance with section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix 1–16), the purpose of the Committee is to provide advice to the Secretary of the Interior, through the Director of the National Park Service, on the development of a reuse plan and on matters relating to future uses of certain buildings at Fort Hancock within Gateway National Recreation Area.

The meeting is open to the public. Interested members of the public may present, either orally or through written comments, information for the Committee to consider during the public meeting. Attendees and those wishing to provide comment are strongly encouraged to preregister through the contact information provided. The public will be able to comment on January 10, 2014, from 1:00 p.m.to 1:45 p.m. Written comments will be accepted prior to, during, or after the meeting. Due to time constraints during the meeting, the Committee is not able to read written public comments submitted into the record. Individuals or groups requesting to make oral comments at the public committee meeting will be limited to no more than 5 minutes per speaker.

Before including your address, telephone number, email address, or other personal indentifying information in your written comments, you should be aware that your entire comment including your personal identifying information may be made publicly available. 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. All comments will be made part of the public record and will be electronically distributed to all committee members.

Dated: December 16, 2013.

Alma Ripps,

Chief, Office of Policy.

[FR Doc. 2013–30791 Filed 12–24–13; 8:45 am]

BILLING CODE 4310–WV–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1114 (Review)]

Steel Nails From China; Determination

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the antidumping duty order on steel nails from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted this review on July 1, 2013 (78 FR 40172) and determined on October 21, 2013 that it would conduct an expedited review (78 FR 68472, November 14, 2013).

The Commission completed and filed its determination in this review on December 19, 2013. The views of the Commission are contained in USITC Publication 4442 (December 2013), entitled *Steel Nails from China: Investigation No. 731–TA–1114 (Review).*

By order of the Commission.

Issued: December 19, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30754 Filed 12–24–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–841]

Certain Computers and Computer Peripheral Devices, and Components Thereof, and Products Containing Same; Commission Determination Terminating the Investigation With a Finding of No Violation of Section 337

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to terminate the above-captioned investigation with a finding of no violation of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

FOR FURTHER INFORMATION CONTACT: Sidney A. Rosenzweig, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2532. 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 *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* 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 2, 2012, based on a complaint filed by Technology Properties Limited, LLC (''TPL'') of Cupertino, California. 77 FR 26041 (May 2, 2012). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent Nos. 6,976,623 (''the '623 patent''), 7,162,549 (''the '549 patent''), 7,295,443 (''the '443 patent''), 7,522,424 (''the '424 patent''), 6,438,638 (''the '638 patent''), and 7,719,847 (''the '847 patent''). The complaint further alleged the existence of a domestic industry. The notice of investigation named twenty-one respondents, some of whom have since settled from the investigation. As a result of these settlements, the '638 patent is no longer at issue, as it has not been asserted against the remaining respondents. The remaining respondents are Acer Inc. of New Taipei City, Taiwan; Canon Inc. of Toyko, Japan; Hewlett-Packard Company of Palo Alto, California; HiTi Digital, Inc. of New Taipei City, Taiwan; Kingston Technology Company, Inc. of Fountain Valley, California; Newegg, Inc. and Rosewill Inc., both of City of Industry, California; and Seiko Epson Corporation of Nagano, Japan.

On October 4, 2012, the ALJ issued a *Markman* order construing disputed claim terms of the asserted patents. Order No. 23. On January 7–11, 2013, the ALJ conducted an evidentiary hearing, and on August 2, 2013, the ALJ issued the final ID. The ALJ found that TPL demonstrated the existence of a domestic industry, as required by 19 U.S.C. 1337(a)(2), through TPL's licensing investment under 19 U.S.C. 1337(a)(3)(C). ID at 152–55. The ALJ rejected TPL's domestic-industry showing based upon OnSpec Electronic, Inc.'s research and development, and engineering investments under section 337(a)(3)(C), as well as subsections (a)(3)(A) and (a)(3)(B). *Id.* at 155–57.

The ALJ found that the respondents had not shown that any of the asserted patent claims are invalid. However, the ALJ found that TPL demonstrated infringement of the '623 patent, and not the other patents. With respect to the '623 patent, the ALJ found that TPL demonstrated direct infringement of the asserted apparatus claims (claims 1–4 and 9–12). Accordingly, the ALJ found a violation of section 337 by the four respondents accused of infringing these apparatus claims.

On August 19, 2013, the parties filed petitions for review, and on August 27, 2013, the parties filed responses to each other's petitions.

On October 24, 2013, the Commission issued a notice that determined to review the ID in its entirety. The Commission notice invited briefing from the parties on five enumerated topics, and briefing from the parties and written submissions on remedy, the public interest, and bonding. On November 7, 2013, the parties filed opening briefs and written submissions, and non-party Intel Corp. filed a submission on remedy and the public interest. On November 15, 2013, the parties filed responses to each other's filings.

On December 11, 2013, TPL and Acer filed a joint motion to terminate the investigation as to Acer on the basis of a settlement agreement. Having examined the record of this investigation, including the December 11, 2013 motion and exhibits thereto, the Commission has determined to grant the motion to terminate the investigation as to Acer. *See* 19 CFR 210.21. The Commission finds that settlements are generally within the public interest and that terminating Acer will not cause an adverse effect on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States, or U.S. consumers. *See* 19 CFR 210.50(b)(2).

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, and the briefing in response to the notice of review, the Commission has determined to terminate the investigation with a finding of no violation of section 337.

The Commission has determined to find no violation of section 337 for the following reasons. For the '623 patent, the Commission adopts the respondents' proposed construction of ''accessible in parallel.'' The Commission therefore reverses the ID's finding of infringement as to that patent. Based upon that claim construction, the Commission also finds that TPL has not demonstrated the existence of an article protected by the '623 patent. The Commission finds that the Federal Circuit's decisions in *InterDigital Communications, LLC* v. *ITC,* 690 F.3d 1318 (Fed. Cir. 2012), 707 F.3d 1295 (Fed. Cir. 2013) and *Microsoft Corp.* v. *ITC,* 731 F.3d 1354 (Fed. Cir. 2013), require a complainant to make such a demonstration regardless of whether the domestic industry is alleged to exist under 19 U.S.C. 1337(a)(3)(A), (B), or (C).

For the '443, '424, and '847 patents, the Commission affirms the ID's determination that TPL failed to demonstrate that the accused products infringe the asserted claims. The Commission also finds for these three patents that TPL failed to demonstrate the existence of a domestic industry because it failed to demonstrate the existence of articles practicing these patents.

TPL did not raise the '549 patent in its petition for review. 19 CFR 210.43(b)(2). The Commission affirms the ID's noninfringement finding, and its finding that TPL failed to show that its domestic industry products meet certain claim limitations.

The reasons for the Commission's determinations will be set forth more fully in the Commission's opinion.

Commissioner Aranoff dissents from the Commission's finding that TPL was required to demonstrate the existence of articles practicing the asserted patents in order to show a domestic industry based on licensing under 19 U.S.C. 1337(a)(3)(C).

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 sections 210.42–46, and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–46, 210.50).

By order of the Commission.

Issued: December 19, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30753 Filed 12–24–13; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–894]

Certain Tires and Products Containing Same; Commission Determination Not to Review an Initial Determination Granting-In-Part Complainants' Motion to Amend the Complaint and Notice of Investigation To Add Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 11) of the presiding administrative law judge (''ALJ'') granting-in-part complainants' motion to amend the complaint and notice of investigation to add respondents.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. 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 *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* 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 under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on September 20, 2013, based on a complaint filed by Toyo Tire & Rubber Co., Ltd. of Japan; Toyo Tire Holdings of Americas Inc. of Cypress, California; Toyo Tire U.S.A. Corp. of Cypress, California; Nitto Tire U.S.A. Inc. of Cypress, California; and Toyo Tire North America Manufacturing Inc. of White, Georgia (collectively, ''Toyo''). The complaint, as supplemented, alleges a violation of section 337 by reason of infringement of certain claims of U.S. Design Patent Nos. D487,424; D610,975; D610,976; D610,977; D615,031; D626,913; D458,214; and D653,200. 78 *F* . 57882 (Sept. 20, 2013). The respondents are Hong Kong Tri-Ace Tire Co., Ltd. of Guangzhou, China; Weifang Shunfuchang Rubber & Plastic Co., Ltd. of Shouguang City, China; Doublestar Dong Feng Tyre Co., Ltd. of Shiyan, China; Shandong Yongtai Chemical Group Co., Ltd. of Dawang Town, Shangrao, China; MHT Luxury Alloys of Rancho Dominguez, California; Wheel Warehouse, Inc. of Anaheim, California; Shandong Linglong Tyre Co., Ltd. of Zhaoyuan City, China; Dunlap & Kyle Company, Inc., d/b/a Gateway Tire and Service of Batesville, Mississippi; Unicorn Tire Corp. of Memphis, Tennessee; West KY Customs, LLC of Benton, Kentucky; Svizz-One Corporation Ltd. of Bangpla, Thailand; South China Tire and Rubber Co., Ltd. of Guangzhou City, China; American Omni Trading Co., LLC of Houston, Texas; Tire & Wheel Master, Inc. of Stockton, California; Simple Tire of Cookeville, Tennessee; WTD Inc. of Cerritos, California; Guangzhou South China Tire & Rubber Co., Ltd. of Aotou, China; Turbo Wholesale Tires, Inc. of Irwindale, California; TireCrawler.com of Downey, California; Lexani Tires Worldwide, Inc. of Irwindale, California; Vittore Wheel & Tire of Asheboro, North Carolina; and RTM Wheel & Tire of Asheboro, North Carolina. *Id.* Subsequently, the investigation as to respondent Tirecrawler.com was terminated based on a settlement agreement.

On October 24, 2013, complainants Toyo moved to amend the complaint and notice of investigation to add Shandong Hengyu Science & Technology Co., Ltd. (''Shandong Hengyu''), Group A Wheels, and Auto Trend Tire and Wheel, Inc. (''Auto Trend'') as respondents. The Commission investigative attorney filed a response in support of Toyo's motion. No other responses were received.

On November 21, 2013, the ALJ issued an ID (Order No. 11). The ALJ found that good cause exists to add Shandong Hengyu as a respondent. The ALJ also found that no good cause was shown to add Auto Trend and Group A Wheels as respondents. Accordingly, the ALJ granted Toyo's motion to amend the complaint and notice of investigation to add Shandong Hengyu as a respondent, and denied Toyo's motion to amend the complaint and notice of investigation to add Auto Trend and Group A Wheels, thus granting-in-part Toyo's motion. No party petitioned for review of the ID, and the Commission has determined not to review it.

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 sections 210.42–.46 of the Commission's Rules of Practice and Procedure (19 CFR 210.42–.46).

By order of the Commission.

Issued: December 20, 2013.

Lisa R. Barton,

Acting Secretary to the Commission.

[FR Doc. 2013–30795 Filed 12–24–13; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Filing of Proposed Consent Decree Under the Clean Air Act

On December 19, 2013, a proposed Consent Decree was filed, on behalf of the United States and others, with the United States District Court for the Northern District of West Virginia in the proceeding captioned *United States, et. al* v. *AL Solutions, Inc.,* Civil Action No. 5:13–cv–00169–FPS.

The proposed Consent Decree resolves allegations against AL Solutions, Inc. (''AL'') for violations of Section 112(r)(1) of the Clean Air Act, 42 U.S.C. 7412(r)(1), with respect to two of its titanium and zirconium processing facilities located in New Cumberland, WV and Washington, MO. Section 112(r)(1) imposes a general duty on owners and operators of stationary sources producing, processing, handling or storing ''extremely hazardous substances'' to, among other things, (i) identify hazards that may result from accidental releases of such substances, and (ii) design and maintain a safe facility.

The proposed Consent Decree applies to all of AL's facilities and requires, among other things, that AL assess the potential hazards associated with existing and future operations, and take measures to prevent accidental releases and minimize the consequences of releases that may occur. In addition, AL must use advanced monitoring technology, including hydrogen monitoring and infrared cameras, to assess hazardous chemical storage areas to prevent fires and explosions. AL must also process or dispose of approximately 10,000 drums of titanium and zirconium, or 2.4 million pounds, being stored at facilities in New Cumberland and Weirton, WV by December 2014 to reduce the risk of fire and explosion. The Consent Decree also requires that AL pay a civil penalty of $100,000, in nine installments over two years.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments

should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States, et. al* v. *AL Solutions, Inc.,* Civil Action No. 5:13–cv–00169–FPS, D.J. Ref. No. 90–5–2–1–10710. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Settlement Agreement may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* We will provide a paper copy of the proposed Settlement Agreement 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 $3.50 (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. 2013–30722 Filed 12–24–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States, et al.* v. *Chesapeake Appalachia, LLC,* Civil Action No. 5:13–cv–00170–FPS, was lodged with the United States District Court for the Northern District of West Virginia on December 19, 2013.

This proposed Consent Decree concerns a complaint filed by the United States and the State of West Virginia against Chesapeake Appalachia, LLC. The United States asserts claims pursuant to Section 301(a) of the Clean Water Act, 33 U.S.C. 1311(a), to obtain injunctive relief from and impose civil penalties against the Defendant for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Consent Decree resolves these allegations, as well as the claims asserted by the State of West Virginia, by requiring the Defendant to restore the impacted areas and/or perform mitigation and to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Kenneth C. Amaditz, Environmental Defense Section, United States Department of Justice, P.O. Box 7611, Washington, DC, 20044, and refer to *United States, et al.* v. *Chesapeake Appalachia, LLC,* DJ # 90–5–1–1–19241.

The proposed Consent Decree may be examined at the Clerk's Office, United States District Court for the Northern District of West Virginia, 1125 Chapline Street, Wheeling, WV 26003. In addition, the proposed Consent Decree may be examined electronically at *http://www.justice.gov/enrd/Consent_Decrees.html.*

Cherie L. Rogers,

Assistant Section Chief, Environmental Defense Section, Environment and Natural Resources Division.

[FR Doc. 2013–30772 Filed 12–24–13; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Noise Exposure Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Occupational Noise Exposure Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 27, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311-1218-009* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The ICR seeks to maintain PRA authority for the information collection requirements specified in regulations 29 CFR 1910.95, the Occupational Noise Exposure Standard, that require a covered employer to monitor worker exposure to noise when it is likely such exposures may equal or exceed 85 decibels measured on the A scale (dBA) on an 8-hour time-weighted average (TWA) (action level); to take action to reduce noise exposures to the 90 dBA permissible exposure limit; and to provide an effective hearing conservation program (HCP) for all workers exposed to noise at a level greater than, or equal to, a TWA of 85 dBA. The HCP contains annual audiometric testing for workers; a provision for providing hearing protection devices to exposed workers; education and training of exposed workers; and maintenance of records pertaining to noise exposure-monitoring and audiometric testing. The Occupational Safety and Health Act authorizes the information collection provisions. *See* 29 U.S.C. 651, 655m and 657.

The Occupational Noise Exposure Standard information collection requirements are subject to the PRA. A

Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0048.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 30, 2013 (78 FR 45981).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0048. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Occupational Noise Exposure Standard.

OMB Control Number: 1218–0048.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 209,851.

Total Estimated Number of Responses: 13,754,182.

Total Estimated Annual Burden Hours: 2,068,736.

Total Estimated Annual Other Costs Burden: $26,296,876.

Dated: December 18, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30701 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request: Definition and Requirements for a Nationally Recognized Testing Laboratory

ACTION: Notice.

SUMMARY: On December 31, 2013, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) revision titled, ''Definition and Requirements for a Nationally Recognized Testing Laboratory'' to the Office of Management and Budget (OMB) for review and approval for use, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 30, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201312-1218-001* (this link will only become active on January 1, 2014) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The ICR seeks to maintain PRA authority for the information collection requirements specified in regulations 29 CFR 1910.7, Definition and Requirements for a Nationally Recognized Testing Laboratory (NRTL), and to revise the collection by adding optional-use standardized forms to facilitate and to simplify the information collection process. A number of OSHA standards contain requirements for equipment, products, or materials. These standards often specify that a covered employer use only equipment, products, or materials tested or approved by a NRTL. This requirement helps to ensure an employer uses safe equipment, products, or materials in complying with the standards. Accordingly, the OSHA promulgated a regulation to specify procedures that an organization must follow to apply for and to maintain OSHA recognition to test and to certify equipment, products, or material for this purpose. The optional forms correspond to the application, expansion, and renewal processes defined in the NRTL Program. The Occupational Safety and Health Act authorizes the information collection provisions. *See* 29 U.S.C. 651 and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control

Number 1218–0147. The current approval is scheduled to expire on December 31, 2013; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 2, 2013 (78 FR 60898).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by January 30, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0147. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Definition and Requirements of a Nationally Recognized Testing Laboratory.

OMB Control Number: 1218–0147.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 68.

Total Estimated Number of Responses: 128.

Total Estimated Annual Burden Hours: 1,458.

Total Estimated Annual Other Costs Burden: $0.

Dated: December 20, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30810 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Asbestos in General Industry Standard

ACTION: Notice.

SUMMARY: On December 31, 2013, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Asbestos in General Industry Standard'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 30, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAMain* as of January 1, 2014, or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The ICR seeks to maintain PRA authority for the information collection requirements specified in regulations 29 CFR 1910.1001, the Asbestos in General Industry Standard, that require a covered employer to monitor worker exposure; to notify workers of their asbestos exposures; to develop a written compliance program; to maintain records concerning the presence, location, and quantity of asbestos-containing materials and/or presumed asbestos-containing materials; to provide medical surveillances; to provide examining physicians with specific information; to ensure workers receive a copy of the physician's written opinion; to maintain workers' exposure monitoring and medical records for specific periods; and to provide the OSHA, National Institute for Occupational Safety and Health, affected workers, and their authorized representatives access to these records. Employers, workers, physicians, and the Government use these records to ensure exposure to asbestos in the workplace does not harm workers. The Occupational Safety and Health Act authorizes the information collection provisions. *See* 29 U.S.C. 651, 655, and 657.

These information collection requirements are subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0133.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 7, 2013 (78 FR 34406).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES**

section by January 30, 2014. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0133. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Asbestos in General Industry Standard.

OMB Control Number: 1218–0133.

Affected Public: Private Sector—business or other for-profits.

Total Estimated Number of Respondents: 121.

Total Estimated Number of Responses: 32,253.

Total Estimated Annual Burden Hours: 11,694.

Total Estimated Annual Other Costs Burden: $925,026.

Dated: December 19, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30780 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Safety and Health Administration Conflict of Interest and Disclosure Form

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Occupational Safety and Health Administration Conflict of Interest and Disclosure Form,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 27, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201311–1218–007* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Policy and Assessment Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to maintain PRA authorization for the OSHA Conflict of Interest and Disclosure Form used to determine whether a conflict of interest exists for a potential panel member when important scientific information is peer reviewed by qualified specialists before public dissemination by the OSHA. Information Quality Act section 515(1), Public Law 106–554 section 515(l), 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. The DOL obtains OMB approval for this information collection under Control Number 1218–0255.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on December 31, 2013. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 16, 2013 (78 FR 42549).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register.** In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0255. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Occupational Safety and Health Administration Conflict of Interest and Disclosure Form.

OMB Control Number: 1218–0255.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 36.

Total Estimated Number of Responses: 36.

Total Estimated Annual Burden Hours: 27.

Total Estimated Annual Other Costs Burden: $0.

Dated: December 19, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30787 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Telephone Point of Purchase Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Telephone Point of Purchase Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before January 27, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at h*ttp://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201308-1220-004* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–BLS, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Fax: 202–395–6881 (this is not a toll-free number), email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Information Management Program, Room N1301, 200 Constitution Avenue, NW., Washington, DC 20210, email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to make minor modifications to the Telephone Point of Purchase Survey (TPOPS) and extend its PRA authorization. The BLS administers the survey quarterly via a computer-assisted-telephone-interview. This survey is flexible and creates the possibility of introducing new products into the CPI in a timely manner. The data collected in this survey are necessary for the continuing construction of a current outlet universe from which locations are selected for the price collection needed for calculating the CPI. Furthermore, the TPOPS provides the weights used in selecting the items that are priced at these establishments. This sample design produces an overall CPI market basket that is more reflective of the prices faced and the establishments visited by urban consumers. This ICR has been classified as a revision to discontinue a now complete cell phone frame test component and because of minor changes to the collection instrument.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1220–0044. The current approval is scheduled to expire on January 31, 2014; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on August 19, 2013 (78 FR 50449).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1220–0044. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–BLS.

Title of Collection: Telephone Point of Purchase Survey.

OMB Control Number: 1220–0044.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 26,653.

Total Estimated Number of Responses: 53,839.

Total Estimated Annual Burden Hours: 11,450.

Total Estimated Annual Other Costs Burden: $0.

Dated: December 19, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30700 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information

collection request (ICR) revision titled, ''Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. 3501 et seq.

DATES: Submit comments on or before January 27, 2014.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201309-1240-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: The ICR seeks to revise the forms associated with regulations administering the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. 901 et seq. The regulations and forms cover the submission of information needed to process benefits claims under the LHWCA and it extensions.

This ICR has been classified as a revision, because of modifications to Form LS–513 (Report of Payments) to collect additional data. An insurance carrier or self-insured employer uses Form LS–513 to file an annual report of total payments made under the LHWCA and its extensions. The modifications to the LS–513 will affect only those few carriers and self-insured employers making payments under the Defense Base Act (DBA), one of the LHWCA's extensions. These entities will now be required to report their DBA payments by contracting agency (*i.e.,* the government agency with which the injured worker's employer contracted) on the form. The OWCP needs this information to cross-reference the information submitted on Form LS–202 (Employer's First Report of Injury or Occupational Illness) and to monitor DBA claims processing and compliance. The ICR is also being revised to reflect that Forms LS–513 and LS–274 (Report of Injury Experience) will not be able to be filed via the Internet, as was previously anticipated.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0014. The current approval is scheduled to expire on August 31, 2015; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 18, 2013.

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0014. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Regulations Governing the Administration of the Longshore and Harbor Workers' Compensation Act.

OMB Control Number: 1240–0014.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 130,036.

Total Estimated Number of Responses: 130,036.

Total Estimated Annual Burden Hours: 44,955.

Total Estimated Annual Other Costs Burden: $46,866.

Dated: December 19, 2013.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2013–30788 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–CF–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before January 27, 2014.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov*. Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

1. An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

2. That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2013–052–C.

Petitioner: Rosebud Mining Company, P.O. Box 1025, Northern Cambria, Pennsylvania 15714.

Mine: Brush Valley Mine, MSHA I.D. No. 36–09437, located in Indiana County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance), (18.35(a)(5)(i) (Portable (trailing) cables and cords)).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of 480-volt trailing cables with a maximum length of 1,200 feet when No. 2 American Wire Gauge (AWG) cable is used and 480-volt trailing cables with a maximum length of 950 feet when No. 4 AWG cable is used on roof bolters. The petitioner states that:

(1) The maximum length for the trailing cable for the 480-volt roof bolters will be 1,200 feet when No. 2 AWG cable is being used. The maximum length of 480-volt trailing cable will be 950 feet when No. 4 AWG cable is being used.

(2) The trailing cable for the 480-volt bolters will not be smaller than No. 4 AWG cable.

(3) All circuit breakers used to protect the No. 2 AWG trailing cable and No. 4 AWG trailing cable exceeding 700 feet in length will have instantaneous trip units calibrated to trip at 500 amperes. The trip setting of these circuit breakers will be sealed to ensure that the settings on these breakers cannot be changed, and these breakers will have permanent, legible labels. Each label will identify the circuit breaker as being suitable for protecting the cables.

(4) Replacement circuit breakers and/or instantaneous trip units used to protect No. 2 or No. 4 AWG trailing cable will be calibrated to trip at 500 amperes and will be sealed.

(5) All components that provide short-circuit protection will have a sufficient interruption rating in accordance with the maximum calculated fault currents available.

(6) During each production day, the trailing cables and circuit breakers will be examined in accordance with all 30 CFR provisions.

(7) Permanent warning labels will be installed and maintained on the load center to identify the location of each short-circuit protection device. These labels will warn miners not to change or alter the settings of these devices.

(8) If the affected trailing cables are damaged in any way during the shift, the cable will be deenergized and repairs made.

(9) The petitioner's alternative method will not be implemented until all miners who have been designated to operate the bolters or any other person designated to examine the trailing cables or trip settings on the circuit breakers have received proper training as to the performance of their duties.

(10) Within 60 days after this proposed decision and order becomes final, the proposed revisions for the petitioner's approved 30 CFR part 48 training plan will be submitted to the District Manager. The training plan will include the following:

(a) The hazards of setting the short-circuit device(s) too high to adequately protect the trailing cables.

(b) How to verify that the circuit interrupting device(s) protecting the trailing cable(s) are properly set and maintained.

(c) Mining methods and operating procedures for protecting the trailing cables against damage.

(d) Proper procedures for examining the trailing cables to ensure safe operating condition by visual inspection of the entire cable, observing the insulation and the integrity of the splices, and examining nicks and abrasions.

The petitioner further states that procedures specified in 30 CFR 48.3 for proposed revisions to approved training plans will apply.

The petitioner asserts that the alternative method will guarantee no less than the same measure of protection for all miners afforded by the existing standard.

Docket Number: M–2013–053–C.

Petitioner: White Buck Coal Company, P.O. Box 190, Leivasy, West Virginia 26676.

Mine: Grassy Creek No. 1 Mine, MSHA I.D. No. 46–08365, located in Nicholas County, West Virginia.

Regulation Affected: 30 CFR 75.1405 (Automatic couplers).

Modification Request: The petitioner requests a modification of the existing standard that requires haulage equipment to be provided with automatic couplers, which couple by impact and uncouple without the necessity of persons going between the ends of such equipment. The petitioner states that:

1. Mine cars and locomotives will not be coupled or uncoupled while in motion.

2. Tow bars, safety chains, and connecting pins of sufficient size and strength will be installed in lieu of the automatic couplers.

3. Connecting pins used to secure tow bars to mine cars or locomotives will be secured in a manner that pins will not become disengaged from mine cars or locomotives while in motion.

4. Supply cars will stay coupled to each other by means of a tow bar, safety chains, and locking pins at all times.

5. Chock blocks or other devices will be used to prevent movement of the cars during coupling and uncoupling.

6. Mine cars or locomotives will be coupled by means of tow bars with jack attachments.

7. An attached jack will support the tow bar during coupling or uncoupling.

8. Mine personnel will use a rod, provided with the jack, of sufficient length to raise or lower the tow bar and maintain a safe distance from pinch points.

9. Mine personnel will attach the draw bar to the motor by a lever with a connecting pin attached. This will be done away from pinch points between the car and locomotive.

10. Mine personnel will not place themselves between cars while the cars are being coupled or uncoupled.

11. The petitioner further states that the purposes of the existing standard are to provide protection for miners from placing themselves in pinch points or danger zones while coupling cars, and to provide protection against cars becoming uncoupled and becoming an uncontrolled hazard. The alternative method of compliance guarantees protection from these hazards by: (a) Still requiring that no coupling/uncoupling activities take place with miners in between cars, and (b) using redundant systems (tow bars, safety chains, and locking pins) to prevent runaway cars.

Within 60 days after the Proposed Decision and Order (PDO) becomes final, the Petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the PDO.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded by the existing standard.

Docket Number: M–2013–054–C.

Petitioner: Peabody Midwest Mining, LLC, Three Gateway Center, suite 1500, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Wildcat Hills Underground Mine, MSHA I.D. No. 11–03156, located in Saline County, Illinois.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance with respect to mining through oil and gas wells. The petitioner projects that a number of oil wells are within the boundaries of the mine and, based on current mine projections, most of these wells will be plugged and mined through over the productive life of the mine.

a. The petitioner proposes to use the following procedures when cleaning out and preparing oil and gas wells prior to plugging:

(1) A diligent effort will be made to clean the borehole to the original total depth. If this depth cannot be reached, the borehole will be cleaned out to a depth to permit the placement of at least 200 feet of expanding cement below the base of the lowest mineable coalbed.

(2) When cleaning the borehole, a diligent effort will be made to remove all of the casing in the borehole. If it is not possible to remove all of the casing, the casing which remains will be perforated, or ripped, at intervals spaced close enough to permit expanding cement slurry to infiltrate the annulus between the casing and the borehole wall for a distance of at least 200 feet below the base of the lowest mineable coalbed.

(3) Place a mechanical bridge plug in the well if a cleaned-out borehole produces gas. Place the mechanical bridge plug in a competent stratum at least 200 feet below the base of the lowest mineable coalbed, but above the top of the uppermost hydrocarbon-producing stratum. If it is not possible to set a mechanical bridge plug, a substantial brush plug may be used in place of the mechanical bridge plug.

(4) A suite of logs will be made consisting of a caliper survey, directional deviation survey, and log(s) suitable for determining the top and bottom of the mineable coalbeds and potential hydrocarbon-producing strata and the location for a bridge plug.

(5) If the uppermost hydrocarbon-producing stratum from the expanding cement plug is within 200 feet of the base of the lowest mineable coalbed, properly placed mechanical bridge plugs or a suitable brush plug will be used to isolate the hydrocarbon producing stratum from the expanding cement plug. Nevertheless, a minimum of 200 feet of expanding cement will be placed below the lowest mineable coalbed.

(6) The wellbore will be completely filled and circulated with a gel that inhibits any flow of gas, supports the walls of the borehole, and increases the density of the expanding cement. This gel will be pumped through open-end tubing run to a point approximately 20 feet above the bottom of the cleaned out area of the borehole or bridge plug.

b. The petitioner will use the following procedures when plugging or replugging gas or oil wells to the surface:

(1) A cement plug will be set in the wellbore by pumping expanding cement slurry down the tubing to displace the gel and fill the borehole to the surface. (As an alternative, the cement slurry may be pumped down the tubing so that the borehole is filled with Portland cement or a Portland cement-fly ash mixture from a point approximately 100 feet above the top of the lowest mineable coalbed to the surface with an expanding cement plug extending from at least 200 feet below the lowest mineable coalbed to the bottom of the Portland cement). There will be at least 200 feet of expanding cement below the base of the lowest mineable coalbed.

(2) Embed a surface casing, small quantity of steel turnings, or, other small magnetic particles in the top of the cement near the surface to serve as a permanent magnetic monument of the borehole. As an alternative, a steel rod may be driven into the ground next to the borehole.

c. The petitioner proposes to use the following procedures when using the vent pipe method for plugging oil or gas wells:

(1) Run a 4½-inch or larger vent pipe into the wellbore to a depth of 100 feet below the lowest mineable coalbed and swedged to a smaller diameter pipe, if desired, that will extend to a point approximately 20 feet above the bottom of the cleaned out area of the borehole or bridge plug.

(2) Set a cement plug in the wellbore by pumping an expanding cement slurry, Portland cement, or a Portland cement-fly ash mixture down the tubing to displace the gel so that the borehole is filled with cement. Fill the borehole and the vent pipe with expanding cement for minimum of 200 feet below the base of the lowest mineable coalbed. The top of the expanding cement will extend upward to a point approximately 100 feet above the top of the highest mineable coalbed.

(3) Evacuate all fluid from the vent pipe to facilitate testing of gases. During the evacuation of fluid, the expanding cement will not be disturbed.

(4) Protect the top of the vent pipe to prevent liquids or solids from entering the wellbore, but permit ready access to the full internal diameter of the vent pipe when necessary.

d. The petitioner proposes to use the following cut-through procedures whenever the safety barrier diameter is reduced to a distance less than the District Manager (DM) would approve pursuant the 30 CFR 75.1700 or proceeds with an intent to cut through a plugged well:

(1) Prior to reducing the safety barrier to a distance less than the DM would approve pursuant to 30 CFR 75.1700 or proceeding with an intent to cut through a plugged well, the operator will notify the DM or his/her designee.

(2) The DM or designee may conduct a conference prior to mining through any plugged well to review and approve the specific procedures for mining through the well. Representatives of the operator, the representative of miners, and the appropriate State agency will be informed within a reasonable time prior to the conference, and be given an opportunity to attend and participate. This meeting may be called by the operator.

(3) Mining in close proximity to or through a plugged well will be done on a shift approved by the DM or designee.

(4) Notify the DM or designee, representative of the miners, and the appropriate State agency in sufficient time prior to the mining through operation to have an opportunity to have representatives present.

(5) When using continuous mining equipment, install drivage sights at the last open crosscut near the place to be mined to ensure intersection of the well. The drivage sights will not be more than 50 feet from the well. If longwall mining methods are later used, install drivage sights on 10-foot centers for a distance of 50 feet in advance of the wellbore. The drivage sights will be installed in the headgate and tailgate.

(6) Firefighting equipment, including fire extinguishers, rock dust, and sufficient fire hose to reach the working face area of the mine-through will be available when either the conventional or continuous mining method is used. Locate the fire hose in the last open crosscut of the entry or room. All fire hoses will be ready for operation during the mining through.

(7) Sufficient supplies of roof support and ventilation materials will be available and located at the last open crosscut. In addition, an emergency plug and/or plugs will be available in the immediate area of the cut-through.

(8) Maintain at least the quantity of air required by the approved mine ventilation plan, but not less than 6,000 cubic feet of air per minute for scrubber equipped continuous miners or not less than 9,000 cubic feet per minute for continuous miner sections using auxiliary fans or line brattice only, to ventilate the working face during the mine-through operation. The quantity of air required by the ventilation plan, but not less than 30,000 cfm, will reach the working face of each future longwall during the mine-through operation.

(9) Check equipment for permissibility and service on the shift prior to mining through the well and maintain the water line to the tail piece with a sufficient amount of fire hose to reach the farthest point of penetration on the section.

(10) Calibrate methane monitor(s) on the continuous mining machine or the longwall shear and face on the shift prior to mining through the well.

(11) When mining is in progress, test methane levels with a hand-held methane detector at least every 10 minutes from the time that mining with the continuous mining machine is within 20 feet of the well until the well is intersected and immediately prior to mining through it or from the time that mining with longwall mining equipment is within 10 feet of the well. No individual is allowed on the return side during the actual cutting process until the mine-through has been completed and the area examined and declared safe.

(12) Keep the working place free from accumulations of coal dust and coal spillages, and place rock dust on the roof, rib, and floor to within 20 feet of the face when mining through the well when using continuous or conventional mining methods. Conduct rock dusting on longwall sections on the roof, rib, and floor up to both the headgate and tailgate gob.

(13) Deenergize all equipment when the wellbore is intersected and thoroughly examine the place and determined it safe before resuming mining. No open flame is permitted in the area until adequate ventilation has been established around the wellbore.

(14) After a well has been intersected and the working place determined safe, mining will continue inby the well a sufficient distance to permit adequate ventilation around the area of the wellbore.

(15) No person will be permitted in the area of the cut-through operation except those actually engaged in the mining operation, mine management, representative of the miners, personnel from MSHA, and personnel from the appropriate State agency.

(16) Mining will be coordinated by a responsible person as defined in 30 CFR 75.1501.

(17) A certified official will directly supervise the mining-through operation and only the certified official in charge will issue instructions concerning the mining-through operation.

(18) MSHA personnel may interrupt or halt the mining-through operation when it is necessary for the safety of the miners.

(19) A copy of the petition will be maintained at the mine and be available to the miners.

(20) The petitioner will file a plugging affidavit stating the persons who participated in the work, a description of the plugging work, and a certification by the petitioner that the well has been plugged.

(21) Unless the existing records show that an abandoned well was plugged using techniques equivalent to the proposed decision and orders terms and condition, and that information is submitted and accepted in accordance as providing the required level of safety by the DM, the well will again be cleaned, inadequate plugging materials drilled out and the well plugged in accordance with the terms and conditions of the proposed decision and order before such wells may be cut through or approached within the allowed limits. Securing and interpreting the suite of drill logs is needed to ensure that, at a minimum, the expanding cement plug extends from at least 200 feet below the lowest mineable seam through 100 feet above the highest mineable seam, unless the seams are separated by an interval greater than 300 feet, in which case, each seam may be plugged individually.

Within 60 days after this petition becomes final, the petitioner will submit proposed revisions for its approved part 48 training plan to the DM. These proposed revisions will include initial and refresher training regarding compliance with the terms and conditions stated in the proposed decision and order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure or protection afforded by the existing standard.

Dated: December 20, 2013.

George F. Triebsch,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2013–30797 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0050]

Standard on the Storage and Handling of Anhydrous Ammonia; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements

specified in the Storage and Handling of Anhydrous Ammonia Standard (29 CFR 1910.111). Paragraphs (b)(3) and (b)(4) of the Standard have paperwork requirements that apply to non-refrigerated containers and systems and refrigerated containers, respectively; employers use these containers and systems to store and transfer anhydrous ammonia in the workplace.

DATES: Comments must be submitted (postmarked, sent, or received) by February 24, 2014.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, OSHA Docket No. OSHA–2010–0050, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0050) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Paragraph (b)(3) of the Standard specifies that systems have nameplates if required, and that these nameplates ''be permanently attached to the system (as specified by paragraph (b)(3)(ii)(j)) so as to be readily accessible for inspection . . .'' In addition, this paragraph requires that markings on containers and systems covered by paragraphs (c) (''Systems utilizing stationary, nonrefrigerated storage containers''), (f) (''Tank motor vehicles for the transportation of ammonia''), (g) (''Systems mounted on farm vehicles other than for the application of ammonia''), and (h) (''Systems mounted on farm vehicles for the application of ammonia'') provide information regarding nine specific characteristics of the containers and systems. Similarly, paragraph (b)(4) of the Standard specifies that refrigerated containers be marked with a nameplate on the outer covering in an accessible place which provides information regarding eight specific characteristics of the container.

The required markings ensure that employers use only properly designed and tested containers and systems to store anhydrous ammonia, thereby preventing accidental release of, and exposure of workers to, this highly toxic and corrosive substance. In addition, these requirements provide the most efficient means for an OSHA compliance officer to ensure that the containers and systems are safe.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and cost) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Anhydrous Ammonia Standard (29 CFR 1910.111). The Agency is requesting that it retain its previous estimate of 345 burden hours associated with this Standard. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Standard on the Storage and Handling of Anhydrous Ammonia (29 CFR 1910.111).

OMB Number: 1218–0208.

Affected Public: Farms.

Number of Respondents: 203,000.

Frequency of Responses: On occasion.

Total Responses: 2,030.

Average Time per Response: 10 minutes (.17 hour) for a worker to replace or revise markings on ammonia containers.

Estimated Total Burden Hours: 345.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0050). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as Social Security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on December 18, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–30702 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0026]

Mechanical Power Presses Standard; Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements specified in the Mechanical Power Presses Standard for General Industry (29 CFR 1910.217(e)(l)).

DATES: Comments must be submitted (postmarked, sent, or received) by February 24, 2014.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0026, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0026) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The collections of information contained in the Mechanical Power

Presses Standard for General Industry are necessary to reduce workers' risk of death or serious injury by ensuring that employers maintain the mechanical power presses used by the workers in safe operating condition.

The following section describes who uses the information collected under each requirement, as well as how they use it.

Section 1910.217(e)(1)(i)

Paragraph (e)(1)(i) requires employers to establish and follow a program of periodic and regular inspections of power presses to ensure that all their parts, auxiliary equipment, and safeguards are in safe operating condition and adjustment. Employers must maintain a certification record of inspections that includes the date of inspection, the signature of the person who performed the inspection, and the serial number, or other identifiers, of the power press that was inspected.

Section 1910.217(e)(1)(ii)

Paragraph (e)(1)(ii) requires employers to inspect and test each press no less than weekly to determine the condition of the clutch/brake mechanism, antirepeat feature, and single-stroke mechanism. Employers must perform and complete necessary maintenance or repair or both before the press is operated. In addition, employers must maintain a record of inspections, tests, and maintenance work. The record must include the date of the inspection, test, or maintenance; the signature of the person who performed the inspection, test, or maintenance; and the serial number, or other identifiers, of the press that was inspected, tested, or maintained.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Mechanical Power Presses Standard for General Industry (29 CFR 1910.217(e)(1). OSHA is requesting an adjustment decrease in the number of burden hours from 1,373,054 hours to 651,691 hours, a total decrease of 721,363 hours. The decrease is based on a determination that it is usual and customary for employers to conduct maintenance and repair activities and to document such activities. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Mechanical Power Presses (29 CFR 1910.217(e)(1)).

OMB Number: 1218–0229.

Affected Public: Business or other for-profits.

Number of Respondents: 295,000.

Frequency of Responses: On occasion, weekly, monthly.

Average Time per Response: Two minutes (.03 hour) to disclose the certification records to 20 minutes (.33 hour) to inspect the parts, auxiliary equipment, and safeguards of each press.

Estimated Total Burden Hours: 651,691.

Estimated Cost) Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov*, which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0026). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, this December 20, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–30841 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0051]

Manlifts; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits public comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the

information collection requirements specified in the Standard on Manlifts (29 CFR 1910.68).

DATES: Comments must be submitted (postmarked, sent, or received) by February 24, 2014.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0051, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Instructions: All submissions must include the Agency name and the OSHA docket number (OSHA–2010–0051) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accord with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 et seq.) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). The OSH Act also requires that OSHA obtain such information with minimum burden upon employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

The Standard specifies two paperwork requirements. The following sections describe who uses the information collected under each requirement, as well as how they use it. The purpose of the requirements is to reduce workers' risk of death or serious injury by ensuring that manlifts are in safe operating condition.

Periodic Inspections and Records (paragraph (e)). This provision requires that each manlift be inspected at least once every 30 days and it also requires that limit switches shall be checked weekly. The manlift inspection is to cover at least the following items: Steps; step fastenings; rails; rail supports and fastenings; rollers and slides; belt and belt tension; handholds and fastenings; floor landings; guardrails; lubrication; limit switches; warning signs and lights; illumination; drive pulley; bottom (boot) pulley and clearance; pulley supports; motor; driving mechanism; brake; electrical switches; vibration and misalignment; and any ''skip'' on the up or down run when mounting a step (indicating worn gears). A certification record of the inspection must be prepared upon completion of the inspection. The record must contain the date of the inspection, the signature of the person who performed the inspection, and the serial number or other identifier of the inspected manlift.

Disclosure of Inspection Certification Records. Employers are to maintain the certification record and make it available to OSHA compliance officers. This record provides assurance to employers, workers, and compliance officers that manlifts were inspected as required by the Standard. The inspections are made to keep equipment in safe operating condition thereby preventing manlift failure while carrying workers to elevated worksites. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the Standard.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting to retain its current burden hour estimate of 37,801 hours.

Type of Review: Extension of a currently approved collection.

Title: Manlifts (29 CFR 1910.68).

OMB Number: 1218–0226.

Affected Public: Business or other for-profits.

Number of Respondents: 18,372.

Frequency of Responses: On occasion; Monthly.

Average Time per Response: Varies from 2 minutes (.03 hour) for an employer to disclose the inspection certification record to 1.05 hour to inspect a manlift.

Estimated Total Burden Hours: 20,957.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on this Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows:

(1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0051). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 et seq.) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on December 20, 2013.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2013–30842 Filed 12–24–13; 8:45 am]

BILLING CODE 4510–26–P

LEGAL SERVICES CORPORATION

Notice and Request for Comments: LSC merger of the migrant service areas in Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama

AGENCY: Legal Services Corporation.

ACTION: Notice and Request for Comments—LSC merger of the migrant service areas in Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama.

SUMMARY: The Legal Services Corporation (LSC) intends to merge the Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama migrant service areas. Grants for these individual service areas have been awarded to Texas RioGrande Legal Aid (TRLA) since 2001. For 2014, LSC will award TRLA 1-year grants for these migrant service areas. LSC intends to merge the seven migrant service area grants into one regional service area grant. Doing so will harmonize the grant structure with the longstanding delivery model.

DATES: All comments must be received on or before the close of business on January 27, 2014.

ADDRESSES: Written comments may be submitted to LSC by email to *competition@lsc.gov* (this is the preferred option); by submitting a form online at *http://www.lsc.gov/contact-us;* by mail to Legal Services Corporation, 3333 K Street NW., Third Floor, Washington, DC 20007, Attention: Reginald Haley; or by fax to 202–337–6813.

FOR FURTHER INFORMATION CONTACT: Reginald J. Haley, Office of Program Performance, Legal Services Corporation, 3333 K St., NW., Washington, DC 20007; or by email at *haleyr@lsc.gov.*

SUPPLEMENTARY INFORMATION: The mission of LSC is to promote equal access to justice and to provide funding for high-quality civil legal assistance to low-income persons. Pursuant to its statutory authority, LSC designates service areas in U.S. states, territories, possessions, and the District of Columbia for which it provides grants to legal aid programs to provide free civil legal services.

The LSC Act charges LSC with ensuring that ''grants and contracts are made so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas.'' 42 U.S.C. 2996f(a)(3). The LSC Act also required LSC to study the legal needs of migrants or seasonal farm workers and implement recommended approaches to meet their special legal needs. 42 U.S.C. 2996f(h).

The regional approach to migrant delivery accomplished by merging the Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama migrant service areas would provide a more economical and effective delivery approach for serving the legal needs of migrants than a state-by-state delivery system would. This model serves two primary purposes—(1) it enables the grantee to pool the funds for these migrant service areas to provide services more effectively to respond to the needs of the migratory workers and families across the region, and (2) it enables LSC to fund a single entity to provide migrant services efficiently to all of these areas.

LSC provides grants through a competitive bidding process, which is regulated by 45 CFR Part 1634. In 2013, LSC implemented a competitive grants process for 2014 calendar year funding that included, inter alia, the Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama migrant service areas. For 2014, LSC will award TRLA 1-year grants for the migrant service areas in Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama. These grants are effective January 1, 2014, through December 31, 2014. LSC intends to merge the Texas, Arkansas, Kentucky, Louisiana, Mississippi, Tennessee, and Alabama migrant service areas into a single migrant service area and merge the 2014 grants to those service areas into a single grant beginning February 3, 2014.

LSC invites public comment on this decision. Interested parties may submit comments to LSC no later than the close of business on January 27, 2014. More information about LSC can be found at: *http://www.lsc.gov.*

Dated: December 20, 2013

Atitaya C. Rok,

Staff Attorney.

[FR Doc. 2013–30836 Filed 12–24–13; 8:45 am]

BILLING CODE 7050–01–P

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Value Engineering

AGENCY: Office of Federal Procurement Policy, Office of Management and Budget.

ACTION: Notice of Final Revision to Office of Management and Budget Circular No. A–131, ''Value Engineering''.

SUMMARY: The Office of Federal Procurement Policy (OFPP) in the Office of Management and Budget (OMB) is publishing final revisions to OMB Circular A–131, Value Engineering, to update and reinforce policies associated with the consideration and use of value engineering (VE). VE is a well-established commercial practice for cutting waste and inefficiency that can help Federal agencies reduce program and acquisition costs, improve the quality and timeliness of performance, and take greater advantage of innovation to meet 21st century expectations and demands. The revisions are designed to ensure that the Federal Government has the capabilities and tools to consider the use of VE for new and ongoing projects, whenever appropriate.

FOR FURTHER INFORMATION CONTACT: Curtina Smith, OFPP, *csmith@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

A. Overview

VE refers to an organized effort to analyze functions of systems, equipment, facilities, services, and supplies for the purpose of achieving an agency's essential functions at the lowest life-cycle cost, consistent with required levels of performance, reliability, quality, and safety. VE challenges agencies to continually think about their mission and functions—in the most basic terms—in order to determine if their requirements are properly defined and if they have considered the broadest possible range of alternatives to optimize value. It promotes ''share-in-savings'' by encouraging contract holders to identify ways to reduce the cost of performance on existing contracts and share with the government in the savings produced from the results. Most importantly, VE enables agencies to achieve greater fiscal responsibility and operate within tighter budgetary constraints. By identifying and eliminating unnecessary program and acquisition costs that do not contribute to the value, function, and performance of the product or service, VE can permit programs to continue delivering the same, or an even higher, level of service for less money—a critical capability for managing in a fiscally austere environment.

Industry first developed VE during World War II as a means of continuing production, despite shortages of critical materials and labor, by analyzing functions to generate alternative materials or systems to accomplish the required tasks at a lower cost. The Federal Government subsequently adopted this tool as a mechanism to incentivize contractors to continually think of ways to drive greater efficiency in their production methodologies by allowing them to share with the Government in the savings generated by their value engineering change proposals.

Over the past several decades, a number of agencies have successfully integrated the use of VE analysis into their management activities. These agencies have reported life-cycle savings through the use of VE in a broad range of acquisition programs, including those involving defense systems, civil works, transportation, construction, engineering, environmental, and manufacturing projects. According to recent reports of VE activities submitted to OMB, VE has generated billions of dollars in savings and cost avoidance. For example, the Department of Defense (DOD) reported cumulative savings of over $10 billion in FYs 2011 and 2012. The Department of Transportation's Federal Highway Administration reports that annual savings for Federally-funded state construction projects have ranged from just over $1 billion to nearly $2 billion between FYs 2010 and 2012. The Department of State reports that it has used VE to identify hundreds of millions of dollars in total life cycle savings since FY 2008—saving well over $40 for every one dollar invested in VE studies.

In 1988, OMB issued Circular A–131 to help agencies in their efforts to establish and improve VE programs so that they realize the benefits of using VE techniques to reduce nonessential contract and program costs. See 53 FR 3140. The Circular was revised in 1993 to require the use of VE as a management tool. See 58 FR 31056. OMB's Office of Federal Procurement Policy issued a series of memoranda in the 1990s to remind agencies of their responsibilities under the program.

Despite the demonstrated ability of VE to facilitate more fiscally responsible management and smarter buying, and its continued popularity in the private sector, Federal agency use of VE has waned in recent years. Insufficient management attention and questions about its applicability to performance based contracting and other buying practices have resulted in VE not being considered in situations where it could have helped agencies save resources. The revisions being made to the Circular are designed to clarify the role of VE in helping agencies meet twenty-first century demands and deliver better value to the taxpayer.

B. Circular Revisions

On June 8, 2012, OMB's OFPP issued a notice in the **Federal Register** of proposed changes to Circular A–131 (See 77 FR 34073, available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/a131-circular-changes-draft.pdf*), which proposed revisions that would:

- Reflect present-day buying strategies and practices by explaining that VE can be used with other management improvement tools, such as lean six sigma, and clarifying that consideration of VE should not exclude services, such as those acquired with performance-based specifications, and construction, including projects where design-build methods are used;
- Adjust the threshold for considering the application of VE, primarily to take into account inflation;
- Reduce the number of projects on which agencies are required to report to OMB, update the reporting format to include a description of the methodology used to calculate savings, and eliminate requirements for a detailed cost summary of program results from inception to date; and
- Remove the provision from the current Circular requiring agency IGs to conduct an automatic audit of VE programs every two years, instead allowing agency management to work with their IGs to consider when review of VE activities may be warranted and relying on review of agency VE programs to be considered over time through internal control assessments of acquisition functions conducted in connection with OMB Circular A–123, *Management Accountability and Control.*

As a result of public comments (discussed below) and discussion with Federal agencies, OFPP is finalizing the proposed Circular with certain changes and additional refinements. Specifically, these changes and refinements to the Circular, which largely address matters relating to scope, agency responsibilities, and application, include:

- Establishing a definition of ''value engineering study'' for purposes of the Circular to recognize that VE may be

tailored and scaled based on factors such as the cost or complexity of the project, the stage in the project lifecycle, and project schedule.

• Clarifying that VE is a process generally performed in a workshop environment by a multidisciplinary team of contractor and/or in-house agency personnel (such as an integrated project team (IPT)), which is facilitated by agency or contractor staff that is experienced, trained and/or certified in leading VE teams through a series of specific phases.

• Directing agencies subject to the Chief Financial Officers Act (CFO Act) to identify a senior accountable official responsible for ensuring the appropriate consideration and use of VE, including maintaining agency guidelines and procedures for identifying agency programs and projects with the most potential to yield savings from VE studies and reporting results to OMB.

• Requiring CFO Act agencies to maintain guidelines and procedures for identifying programs and projects with the most potential to yield savings from VE studies.

• For new projects and programs, increasing the threshold for considering VE from $1 million to $5 million, to recognize that the application of VE has the greatest value early in the investment lifecycle on high dollar programs and projects.

• For existing projects and programs, granting to agencies the discretion to determine the extent to which VE shall be applied, but requiring agencies to establish criteria to help agency managers determine when VE may be suitable.

• Clarifying that documentation must be maintained to explain the basis of waivers and, where VE studies are conducted, the reason for not implementing recommendations made in the studies.

• Emphasizing that VE can also be used with acquisition and commodity management techniques, such as strategic sourcing and modular contracting, to improve performance and quality, lower cost, manage risks more effectively, and shorten project delivery.

The complete text for the final revised OMB Circular A–131, ''Value Engineering'' is available on the OMB Web site at *http://www.whitehouse.gov/omb/circulars_a131/.*

C. Public Comments

In response to its June 8, 2012 notice of proposed changes to Circular A–131, OFPP received public comments from thirteen respondents, including a number of comments expressing support for the renewed attention on this management tool. Copies of the public comments received are available for review at *http://www.regulations.gov/#!docketDetail;D=OFPP-2012-0002.* A short summary of the comments and OFPP's responses and changes adopted in the final revised Circular are described below:

1. *Applicability.* Several respondents commented on the applicability of the Circular's policy. Specifically, concern was raised that the requirement for agencies to use VE ''where appropriate'' is too vague and should be clarified.

OFPP seeks to focus the application of VE where it is likely to have the greatest value while allowing agencies to tailor the use of the tool to meet their mission needs. To clarify this goal, the final Circular requires VE for all new agency projects and programs if the project cost estimate is at least $5 million, except where the agency expressly waives the requirement. This threshold (which is substantially higher than the $1 million threshold in the current version of the Circular) recognizes that VE generally has the greatest impact when it is applied early in the investment lifecycle to higher dollar programs and projects. That said, agencies are encouraged to establish a lower threshold for their agency, as appropriate, after taking into account: (i) The historical costs of their major acquisitions, (ii) projects that have a significant impact on lifecycle costs or agency operations, and (iii) projects with a significant potential for repeat savings, such as manufacturing projects where savings can be applied to future units produced.

The final Circular gives agencies discretion to determine the extent to which VE shall be applied to existing programs and projects, but requires agencies to establish criteria to help agency managers determine when VE may be suitable. Criteria might include a combination of factors such as the priority of the program or project to the agency and the presence of cost overruns, performance shortfalls and/or schedule delays.

Furthermore, the final Circular requires CFO Act agencies to designate a senior accountable official to strengthen accountability for the meaningful consideration of VE. This official's responsibilities include (i) maintaining agency guidelines and procedures, (ii) making training available for program, project, acquisition, information technology, and other agency personnel, (iii) developing plans for using VE and ensuring that funds necessary for conducting agency VE studies are identified and included in annual budget requests to OMB, and (iv) making sure VE activities are appropriately documented and results are reported to OMB.

2. *Measurement of net life-cycle cost savings.* One respondent stated that coverage in the proposed revisions discussing how to measure the net life-cycle cost savings from value engineering, conflicts with the Federal Acquisition Regulation (FAR) clause 52.248–1(b) ''Government costs,'' which states that the term does not include the normal administrative cost of processing the Value Engineering Change Proposal (VECP). The respondent stated that the Circular should be revised to include administrative costs in the overall life-cycle cost within the context of executing the value engineering function at the agency level.

OFPP has revised the wording of the final Circular to clarify that the net life-cycle cost savings from value engineering is determined by subtracting the Government's cost (including administrative costs of processing VECPs that were excluded in calculating VECP saving shares) of performing the value engineering function over the life of the program from life-cycle savings generated by value engineering function.

3. *Coverage in the FAR.* One respondent stated that the current coverage of VE in the FAR is complex and should be updated to (1) reflect a more streamlined and user-friendly approach to the value engineering change proposal process, (2) encourage broader application of VE in situations where use of VE could save money and allow both parties to share in the savings.

OFPP agrees that successful use of VE requires that application to Federal contracts be clear and practical to use. OFPP intends to work with FAR Council members to consider potential regulatory revisions that might help to simplify its application in Federal acquisition. It also intends to work with the Federal Acquisition Institute and the Defense Acquisition University on appropriate training materials for the acquisition workforce.

Joseph G. Jordan,

Administrator for Federal Procurement Policy.

[FR Doc. 2013–30816 Filed 12–24–13; 8:45 am]

BILLING CODE P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

[NARA–2014–012]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice.

SUMMARY: NARA is giving public notice that the agency proposes to request extension of two currently approved information collections. The first is used by researchers who wish to do biomedical statistical research in archival records containing highly personal information. The second is used by customers/researchers for ordering reproductions of NARA's motion picture, audio, and video holdings that are housed in the Washington, DC, area of the National Archives and Records Administration. The second is prepared by organizations that want to make paper-to-paper copies of archival holdings with their personal copiers. The public is invited to comment on the proposed information collection pursuant to the Paperwork Reduction Act of 1995.

DATES: Written comments must be received on or before February 24, 2014 to be assured of consideration.

ADDRESSES: Comments should be sent to: Paperwork Reduction Act Comments (ISSD), Room 4400, National Archives and Records Administration, 8601 Adelphi Rd, College Park, MD 20740–6001; or faxed to 301–713–7409; or electronically mailed to *tamee.fechhelm@nara.gov*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection and supporting statement should be directed to Tamee Fechhelm at telephone number 301–837–1694, or fax number 301–713–7409.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13), NARA invites the general public and other Federal agencies to comment on proposed information collections. The comments and suggestions should address one or more of the following points: (a) Whether the proposed information collections are necessary for the proper performance of the functions of NARA; (b) the accuracy of NARA's estimate of the burden of the proposed information collections; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of information technology; and (e) whether small businesses are affected by these collections. The comments that are submitted will be summarized and included in the NARA request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this notice, NARA is soliciting comments concerning the following information collection:

1. *Title:* Statistical Research in Archival Records Containing Personal Information.

OMB number: 3095–0002.

Agency form number: None.

Type of review: Regular.

Affected public: Individuals.

Estimated number of respondents: 1.

Estimated time per response: 7 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 7 hours.

Abstract: The information collection is prescribed by 36 CFR 1256.28 and 36 CFR 1256.56. Respondents are researchers who wish to do biomedical statistical research in archival records containing highly personal information. NARA needs the information to evaluate requests for access to ensure that the requester meets the criteria in 36 CFR 1256.28 and that the proper safeguards will be made to protect the information.

2. *Title:* Request to use personal paper-to-paper copiers at the National Archives at the College Park facility.

OMB number: 3095–0035.

Agency form number: None.

Type of review: Regular.

Affected public: Business or other for-profit.

Estimated number of respondents: 5.

Estimated time per response: 3 hours.

Frequency of response: On occasion.

Estimated total annual burden hours: 15 hours.

Abstract: The information collection is prescribed by 36 CFR 1254.86. Respondents are organizations that want to make paper-to-paper copies of archival holdings with their personal copiers. NARA uses the information to determine whether the request meets the criteria in 36 CFR 1254.86 and to schedule the limited space available.

Dated: December 19, 2013.

Michael L. Wash,

Executive for Information Services/CIO.

[FR Doc. 2013–30781 Filed 12–24–13; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Education and Human Resources; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub.L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Education and Human Resources (#1119).

Date/Time: January 7, 2014; 11:00am to 3:00 pm.

Place: National Science Foundation, Room 1235, 4201 Wilson Boulevard, Arlington, VA 22230.

To attend virtually via WebEX video, the web address is: *https://nsf.webex.com/nsf/j.php?ED=230238387&RG=1&UID=1577631107&RT=MiMxMQ%3D%3D.* Once the host approves your request, you will receive a confirmation email with instructions for joining the meeting. If you need assistance joining the meeting, contact WebEx Technical Support at 1–800–857–8777, and reference WebEx meeting number 749 890 295 at URL: *https://nsf.webex.com.*

Operated assisted teleconference is available for this meeting. Call 1–866–844–9416 with password EHRAC and you will be connected to the audio portion of the meeting.

To attend the meeting in person, all visitors should contact the Directorate for Education and Human Resources (*ehr_ac@nsf.gov*) at least 24 hours prior to the teleconference to arrange for a visitor's badge. All visitors must report to the NSF visitor desk located in the lobby at the 9th and N. Stuart Streets entrance on the day of the teleconference to receive a visitor's badge.

Meeting materials and minutes will also be available on the EHR Advisory Committee Web site at *http://www.nsf.gov/ehr/advisory.jsp.*

Type of Meeting: Open.

Contact Person: Teresa Caravelli, National Science Foundation,

4201 Wilson Boulevard, Arlington, VA 22230 (703) 292–8600 *tcaravel@nsf.gov.*

Purpose of Meeting: To provide advice with respect to the Foundation's science, technology, engineering, and mathematics (STEM) education and human resources programming.

Agenda

- Remarks by the Committee Chair and NSF Assistant Director for Education and Human Resources (EHR)
- Brief updates on EHR and Committee of Visitor Reports

- Presentation, Discussion, and Committee Endorsement of Subcommittee Reports
  - STEM Learning and Learning Environments Subcommittee
  - STEM Broadening Participation Subcommittee
  - STEM Workforce Development Subcommittee
- Committee discussion of Future AC agenda topics

Dated: December 19, 2013.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 2013–30713 Filed 12–24–13; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–237–EA and 50–249–EA, ASLBP No. 14–930–01–EA–BD01]

Exelon Generation Company, LLC; Establishment of Atomic Safety and Licensing Board

Pursuant to delegation by the Commission dated December 29, 1972, *see* 37 FR 28,710 (1972), and the Commission's regulations, *see, e.g.,* 10 CFR 2.104, 2.105, 2.300, 2.309, 2.313, 2.318, and 2.321, notice is hereby given that an Atomic Safety and Licensing Board (Board) is being established to preside over the following proceeding:

Exelon Generation Company, LLC, (Dresden Nuclear Power Station Confirmatory Order Modifying License).

This Board is being established in response to a hearing request filed by Local Union No. 15, International Brotherhood of Electrical Workers, AFL–CIO pursuant to a notice issued by the NRC Staff, *see* 78 Fed. Reg. 66,965 (Nov. 7, 2013), that provided an opportunity for a hearing on the Confirmatory Order Modifying License (EA–13–068) issued on October 28, 2013 for the Dresden Nuclear Power Station. The Confirmatory Order is the result of an agreement reached during an alternative dispute resolution mediation session conducted on September 18, 2013 between Exelon Generation Company, LLC and the NRC Staff.

The Board is comprised of the following administrative judges:

Paul S. Ryerson, Chairman, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Alex S. Karlin, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Dr. Jeffrey D.E. Jeffries, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

All correspondence, documents, and other materials shall be filed in accordance with the NRC E-Filing rule. *See* 10 CFR 2.302.

Issued at Rockville, Maryland this 19th day of December 2013.

E. Roy Hawkens,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 2013–30865 Filed 12–24–13; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0272]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to comment, request a hearing, and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of four amendment requests. The amendment requests are for H.B. Robinson Steam Electric Plant, Unit 2; Peach Bottom Atomic Power Station, Units 2 and 3; St. Lucie Plant, Units 1 and 2; and Diablo Canyon Nuclear Power Plant, Units 1 and 2. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. In addition, each amendment request contains sensitive unclassified non-safeguards information (SUNSI).

DATES: Comments must be filed by January 27, 2014. A request for a hearing or petition for leave to intervene must be filed by February 24, 2014. Any potential party, as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by January 6, 2014.

ADDRESSES: You may submit comment by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0272. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- Mail comments to: Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments.

A. Accessing Information

Please refer to Docket ID NRC–2013–0272 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this action by the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0272.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may access publicly-available documents online in the NRC Library 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 in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- 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–2013–0272 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission.

The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period should circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility. Should the Commission take action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. Should the Commission make a final No Significant Hazards Consideration Determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at the proceeding.

Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the requestor/petitioner shall provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held. If the final determination is that the amendment request involves no significant hazards

consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of any amendment.

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the Internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov*, or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC's Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC's guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the agency's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html*, by email to *MSHD.Resource@nrc.gov*, or by a toll-free call at 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/*, unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to

file new or amended contentions that are filed after the 60-day deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i)–(iii).

For further details with respect to this amendment action, see the application for amendment which is available for public inspection at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. Publicly available documents created or received at the NRC are accessible electronically through ADAMS in the NRC Library at *http://www.nrc.gov/reading-rm/adams.html.* If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the PDR's Reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.*

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant (HBRSEP), Unit 2, Darlington County, South Carolina

Date of amendment request: September 16, 2013. A publicly available version is in ADAMS under Accession Nos. ML13267A211 and ML13267A212.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The license amendment request (LAR) proposes to transition the fire protection licensing basis from 10 CFR 50.48(b) and (c), National Fire Protection Association (NFPA) 805, ''Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants,'' 2001 Edition. This LAR requests that the NRC review and approve for adoption of a new fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and (c), the guidance in Regulatory Guide (RG) 1.205, Revision 1, ''Risk-Informed Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' and NFPA 805. The LAR also follows the applicable guidance in Nuclear Energy Institute 04–02, Revision 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Operation of the HBRSEP in accordance with the proposed amendment does not result in a significant increase in the probability or consequences of accidents previously evaluated. The proposed amendment does not affect accident initiators or precursors as described in the HBRSEP Updated Final Safety Analysis Report (UFSAR), nor does it adversely alter design assumptions, conditions, or configurations of the facility, and it does not adversely impact the ability of structures, systems, or components (SSCs) to perform their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the way in which safety-related systems perform their functions as required by the accident analysis. The SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition will remain capable of performing their design functions.

The purpose of this amendment is to permit HBRSEP to adopt a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and (c), as well as the guidance contained in RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R, fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic risk assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative for satisfying General Design Criterion 3 (GDC 3) of Appendix A to 10 CFR Part 50, meets the underlying intent of the NRC's existing fire protection regulations and guidance, and achieves defense-in-depth along with the goals, performance objectives, and performance criteria specified in NFPA 805, Chapter 1. In addition, if there are any increases in core damage frequency (CDF) or risk as a result of the transition to NFPA 805, the increase will be small, governed by the delta risk requirements of NFPA 805, and consistent with the intent of the Commission's Safety Goal Policy.

Based on the above, the implementation of this amendment to transition the Fire Protection Plan at HBRSEP to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not result in a significant increase in the probability of any accident previously evaluated.

In addition, all equipment required to mitigate an accident remains capable of performing the assumed function. Therefore, the consequences of any accident previously evaluated are not significantly increased with the implementation of this amendment.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Operation of HBRSEP in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with offsite dose consequences was included in the evaluation of design basis accidents (DBA) documented in the UFSAR as a part of the transition to NFPA 805. The proposed amendment does not impact these accident analyses. The proposed change does not alter the requirements or functions for systems required during accident conditions, nor does it alter the required mitigation capability of the fire protection program, or its functioning during accident conditions as assumed in the licensing basis analyses and/or DBA radiological consequences evaluations.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, or conditions of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to maintain the unit in a safe and stable condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit HBRSEP to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. As indicated in the Statements of Consideration, the NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50, Appendix R fire protection features.

The requirements in NFPA 805 address only fire protection and the impacts of fire effects on the plant have been evaluated. The proposed fire protection program changes do not involve new failure mechanisms or malfunctions that could initiate a new or different kind of accident beyond those already analyzed in the UFSAR. Based on this, as well as the discussion above, the implementation of this amendment to transition the Fire Protection Plan at HBRSEP to one based on NFPA 805, in accordance with 10 CFR 50.48(c), does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Operation of HBRSEP in accordance with the proposed amendment does not involve a significant reduction in a margin of safety. The transition to a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and (c) does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed in the UFSAR to mitigate accidents. The proposed change does not adversely impact

systems that respond to safely shut down the plant and maintain the plant in a safe shutdown condition. In addition, the proposed amendment will not result in plant operation in a configuration outside the design basis for an unacceptable period of time without implementation of appropriate compensatory measures. The purpose of the proposed amendment is to permit HBRSEP to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50, Appendix R required fire protection features (69 FR 33536, June 16, 2004).

The risk evaluations for plant changes, in part as they relate to the potential for reducing a safety margin, were measured quantitatively for acceptability using the delta risk guidance contained in RG 1.205. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods of NFPA 805 do not result in a significant reduction in the margin of safety.

As such, the proposed changes are evaluated to ensure that risk and safety margins are kept within acceptable limits. Based on the above, the implementation of this amendment to transition the Fire Protection Plan at HBRSEP to one based on NFPA 805, in accordance with 10 CFR 50.48(c), will not significantly reduce a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A Charlotte NC 28202.

NRC Branch Chief: Jessie F. Quichocho.

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of application for amendments: June 10, 2013. A publicly available version is in ADAMS under Accession No. ML13175A109.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The proposed amendments would revise the Technical Specifications (TSs) to: (1) Increase the allowable as-found safety relief valve (SRV) and safety valve (SV) lift setpoint tolerance from ±1% to ±3%; (2) increase the required number of operable SRVs and SVs from 11 to 12; and (3) increase the Standby Liquid Control (SLC) System pump discharge pressure from 1255 pounds per square inch gauge (psig) to 1275 psig.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes: (1) Revise Technical Specification (TS) Surveillance Requirement (SR) 3.4.3.1 to increase the allowable as-found Safety Relief Valve (SRV) and Safety Valve (SV) lift setpoint tolerance from ±1% to ±3%; (2) revise TS Limiting Conditions for Operation (LCO) 3.4.3 to increase the required number of operable SRVs and SVs from 11 to 12; and; (3) revise TS SR 3.1.7.8 to increase the SLC System pump discharge pressure from 1255 psig to 1275 psig. As analyzed in Attachment 3 [to the application dated June 10, 2013] (''Peach Bottom Atomic Power Station Units 2 and 3 Safety Valve Setpoint Tolerance Increase Safety Analysis Report,'' NEDC–33533P, Revision 1, dated May 2013), increasing the SRV/SV tolerance results in a change to the TS requirements for the number of SRVs/SVs required to be operable. However, this change does not alter the manner in which the valves are operated. Consistent with current TS requirements, the proposed change continues to require that the SRVs/SVs be adjusted to within ±1% of their nominal lift setpoints following testing. Since the proposed change does not alter the manner in which the valves are operated, there is no significant impact on reactor operation.

The proposed change does not involve a physical change to the valves, nor does it change the safety function of the valves. The proposed TS revision involves no significant changes to the operation of any systems or components in normal or accident operating conditions and no changes to existing structures, systems, or components, with the exception of the SLC System pump discharge pressure. The proposed change to increase the SLC System pump pressure will ensure that the requirements of 10 CFR 50.62, ''Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear power plants,'' continue to be met. The SLC System is not an initiator to an accident; rather, the SLC System is used to mitigate an ATWS event.

Therefore, these changes will not increase the probability of an accident previously evaluated.

Generic considerations related to the change in setpoint tolerance were addressed in NEDC–31753P, ''BWROG [Boiling Water Reactor Owners Group] In-Service Pressure Relief Technical Specification Revision Licensing Topical Report,'' and were reviewed and approved by the USNRC in a safety evaluation dated March 8, 1993. General Electric Hitachi Nuclear Energy (GEH) has completed plant-specific analyses to assess the impact of the setpoint tolerance increase on Peach Bottom Atomic Power Station (PBAPS), Units 2 and 3. The plant specific evaluations, required by the USNRC's safety evaluation and performed to support this proposed change, show that there is no change to the design core thermal limits and adequate margin to the reactor vessel pressure limits using a ±3% lift setpoint tolerance. These analyses also show that operation of Emergency Core Cooling Systems is not affected, and the containment response following a Loss-of-Coolant Accident (LOCA) is acceptable. The plant systems associated with these proposed changes are capable of meeting applicable design basis requirements and retain the capability to mitigate the consequences of accidents described in the Updated Final Safety Analysis Report (UFSAR).

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes: (1) Revise TS SR 3.4.3.1 to increase the allowable as-found SRV and SV lift setpoint tolerance from ±1% to ±3%; (2) revise TS Limiting Conditions for Operation (LCO) 3.4.3 to increase the required number of operable SRVs and SVs from 11 to 12; and; (3) revise TS SR 3.1.7.8 to increase the SLC System pump discharge pressure from 1255 psig to 1275 psig. The proposed change to increase the SLC System pump pressure will ensure that the requirements of 10 CFR 50.62 continue to be met. The proposed change to increase the SRV/SV tolerance was developed in accordance with the provisions contained in the USNRC safety evaluation for NEDC–31753P. Additionally, Attachment 3 [to the application dated June 10, 2013] analyzes the tolerance increase which results in the increase in the required number of SRVs/SVs necessary to remain operable. SRVs/SVs installed in the plant following testing or refurbishment will continue to meet the current tolerance acceptance criteria of ±1% of the nominal setpoint. The proposed change does not affect the manner in which the overpressure protection system is operated; therefore, there are no new failure mechanisms for the overpressure protection system.

The proposed change does not involve physical changes to the valves, nor does it change the safety function of the valves. There is no alteration to the parameters within which the plant is normally operated. As a result, no new failure modes are being introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The margin of safety is established through the design of the plant structures, systems, and components, the parameters within which the plant is operated, and the establishment of the setpoints for the actuation of equipment relied upon to respond to an event. The proposed change does not modify the safety limits or setpoints at which protective actions are initiated, and does not change the requirements governing operation or availability of safety equipment assumed to operate to preserve the margin of safety. Additionally, this change will ensure that the reactor steam dome pressure shall be ≤1325 psig as discussed in Safety Limit [SL] 2.1.2 (''Reactor Coolant System Pressure SL''). The proposed change to increase the SLC System pump discharge pressure will ensure that the requirements of 10 CFR 50.62 continue to be met.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for Licensee: Mr. J. Bradley Fewell, Assistant General Counsel, Exelon Generation Company, LLC, 200 Exelon Way, Kennett Square, PA 19348.

Acting NRC Branch Chief: Veronica Rodriguez.

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant (PSL), Units 1 and 2, St. Lucie County, Florida

Date of amendment request: March 22, 2013, as supplemented by letter dated June 14, 2013. Publicly available versions are in ADAMS under Accession Nos. ML13088A173 and ML13170A156, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The license amendment request (LAR) proposes to transition the fire protection licensing basis from 10 CFR 50.48(b) and (c), National Fire Protection Association (NFPA) 805, ''Performance-Based Standard for Fire Protection for Light Water Reactor Electric Generating Plants,'' 2001 edition. This LAR requests that the NRC review and approve for adoption of a new fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and (c), the guidance in Regulatory Guide (RG) 1.205, Revision 1, ''Risk-Informed Performance-Based Fire Protection for Existing Light-water Nuclear Power Plants,'' and NFPA 805. The LAR also follows the applicable guidance in Nuclear Energy Institute 04–02, Revision 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequence of an accident previously evaluated?

Response: No.

Operation of PSL in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. The Updated Final Safety Analysis Report (UFSAR) documents the analyses of design basis accidents (DBAs) at PSL. The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility and does not adversely affect the ability of structures, systems, and components (SSCs) to perform their design function. SSCs required to safely shut down the reactor and to maintain it in a safe shutdown (SSD) condition will remain capable of performing their design functions.

The purpose of this amendment is to permit PSL to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that National Fire Protection Association (NFPA) 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50, Appendix R fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, in accordance with NFPA 805, have been performed to demonstrate that the risk-informed, performance-based (RI–PB) requirements per NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative to 10 CFR 50.48(b) and satisfies 10 CFR 50.48(a) and General Design Criterion (GDC) 3 of Appendix A to 10 CFR Part 50 and meets the underlying intent of the NRC's existing fire protection regulations and guidance, achieves defense-in-depth (DID) and the goals, performance objectives, and performance criteria specified in Chapter 1 of the standard. The small increase in net change in core damage frequency associated with this License Amendment Request (LAR) submittal is consistent with the Commission's Safety Goal Policy. Additionally, 10 CFR 50.48(c) allows self-approval of fire protection program changes post-transition. If there are any increases post-transition in core damage frequency (CDF) or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

Based on this, the implementation of this amendment does not significantly increase the probability of any accident previously evaluated. Equipment required to mitigate an accident remains capable of performing the assumed function.

Therefore, the consequences of any accident previously evaluated are not significantly increased with the implementation of this amendment.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Operation of PSL in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with offsite dose was included in the evaluation of DBAs documented in the UFSAR. The proposed change does not alter the requirements or function for systems required during accident conditions. Implementation of the new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205 will not result in new or different accidents.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shut down the reactor and maintain it in a safe shutdown condition remain capable of performing their design functions.

The purpose of this amendment is to permit PSL to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50, Appendix R fire protection features (69 FR 33536; June 16, 2004).

The requirements in NFPA 805 address only fire protection and the impacts of fire on the plant that have already been evaluated. Based on this, the implementation of this amendment does not create the possibility of a new or different kind of accident from any kind of accident previously evaluated. The proposed changes do not involve new failure mechanisms or malfunctions that can initiate a new accident.

Therefore, the possibility of a new or different kind of accident from any kind of accident previously evaluated is not created with the implementation of this amendment.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Operation of PSL in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not affected by this change. The proposed amendment does not

adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate accidents in the UFSAR. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition remain capable of performing their design function.

The purpose of this amendment is to permit PSL to adopt a new fire protection licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection systems and features that are an acceptable alternative to the 10 CFR Part 50, Appendix R fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods do not result in a significant reduction in the margin of safety.

Based on this, the implementation of this amendment does not significantly reduce the margin of safety. The proposed changes are evaluated to ensure that the risk and safety margins are kept within acceptable limits. Therefore, the transition does not involve a significant reduction in the margin of safety.

NFPA 805 continues to protect public health and safety and the common defense and security because the overall approach of NFPA 805 is consistent with the key principles for evaluating license basis changes, as described in RG 1.174, is consistent with the defense-in-depth (DID) philosophy, and maintains sufficient safety margins.

Margins previously established for the PSL program in accordance with 10 CFR 50.48(b) and Appendix R to 10 CFR Part 50 are not significantly reduced.

Therefore, this LAR does not result in a reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light, P.O. Box 14000, Juno Beach, Florida 33408–0420.

NRC Branch Chief: Jessie F. Quichocho.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of amendment request: June 26, 2013, as supplemented by letter dated October 3, 2013. Publicly available versions are in ADAMS under Accession Nos. ML131960159 and ML13277A457, respectively.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI) (security-related). The amendment would permit the Pacific Gas and Electric Company (the licensee) to adopt a new fire protection licensing basis based on National Fire Protection Association (NFPA) Standard 805, ''Performance-Based Standard for Fire Protection for Light Water Reactor Generating Plants,'' 2001 Edition, at Diablo Canyon Power Plant, Units 1 and 2, that complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Regulatory Guide (RG) 1.205, of Revision 1 ''Risk Informed Performance-Based Fire Protection for Existing Light-Water Nuclear Power Plants,'' December 2009.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the transition to NFPA 805 involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Operation of Diablo Canyon Power Plant (DCPP) in accordance with the proposed amendment does not increase the probability or consequences of accidents previously evaluated. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based requirements of NFPA 805 have been satisfied. The Updated Final Safety Analysis Report (UFSAR) documents the analyses of design basis accidents (DBA) at DCPP. The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility and does not adversely affect the ability of structures, systems, or components (SSCs) to perform their design functions. SSCs required to safely shutdown the reactor and to maintain it in a safe shutdown (SSD) condition have been identified and remain available to perform their design functions.

The purpose of the proposed amendment is to permit PG&E to adopt a new Fire Protection (FP) licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of Regulatory Guide (RG) 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify FP requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R required fire protection features (69 FR 33536; June 16, 2004). Engineering analyses, in accordance with NFPA 805, have been performed to demonstrate that the deterministic and/or risk-informed, performance based (RI–PB) requirements of NFPA 805 have been met.

NFPA 805, taken as a whole, provides an acceptable alternative for satisfying General Design Criterion 3 (GDC 3) of Appendix A to 10 CFR Part 50, meets the underlying intent of the NRC's existing FP regulations and guidance, and achieves defense-in-depth (DID) and safety margin, and the goals, performance objectives, and performance criteria specified in Chapter 1 of the standard and, if there are any increases in core damage frequency (CDF) or risk, the increase will be small and consistent with the intent of the Commission's Safety Goal Policy.

Based on this, the implementation of the proposed amendment does not increase the probability of any accident previously evaluated. Equipment required to mitigate an accident remains capable of performing the design function. The proposed amendment will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated. The applicable radiological dose criteria will continue to be met. The consequences of any accident previously evaluated are not increased with the implementation of the proposed amendment.

Therefore, the transition to NFPA 805 will not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the transition to NFPA 805 create the possibility of a new or different kind of accident from any kind of accident previously evaluated?

Response: No.

Operation of DCPP in accordance with the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. Any scenario or previously analyzed accident with off-site dose was included in the evaluation of DBAs documented in the UFSAR. The proposed change does not alter the requirements or function for systems required during accident conditions. Implementation of the new FP licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205 will not result in new or different accidents.

The proposed amendment does not adversely affect accident initiators nor alter design assumptions, conditions, or configurations of the facility. The proposed amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shutdown the reactor and maintain it in a SSD condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit PG&E to adopt a new FP licensing basis which complies with the requirements of 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify FP requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R required FP features (69 FR 33536; June 16, 2004). Engineering analyses, which may

include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance based requirements of NFPA 805 have been met.

The requirements of NFPA 805 address only FP and the impacts of fire on the plant that have previously been evaluated. Based on this, the implementation of the proposed amendment does not create the possibility of a new or different kind of accident from any previously evaluated. No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment. Therefore, the probability of a new or different kind of accident from those previously evaluated is not credible with the implementation of this amendment.

Therefore, the transition to NFPA 805 does not create the possibility of a new or different kind of accident from any kind of accident previously evaluated.

3. Does the transition to NFPA 805 involve a significant reduction in the margin of safety?

Response: No.

Operation of DCPP in accordance with the proposed amendment does not involve a significant reduction in the margin of safety. The risk evaluation of plant changes, as appropriate, were measured quantitatively for acceptability using the ΔCDF and ΔLERF [large early release frequency] criteria from Section 5.3.5 of NEI 04–02, Revision 2, and RG 1.205, Revision 1. The proposed amendment does not alter the manner in which safety limits, limiting safety system settings, or limiting conditions for operation are determined. The UFSAR acceptance criteria are not affected by this change. The proposed amendment does not adversely affect existing plant safety margins or the reliability of equipment assumed to mitigate accidents in the UFSAR. This amendment does not adversely affect the ability of SSCs to perform their design function. SSCs required to safely shutdown the reactor and to maintain it in a SSD condition remain capable of performing their design functions.

The purpose of the proposed amendment is to permit PG&E to adopt a new FP licensing basis which complies with the requirements in 10 CFR 50.48(a) and (c) and the guidance in Revision 1 of RG 1.205. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify FP requirements that are an acceptable alternative to the 10 CFR Part 50, Appendix R required FP features (69 FR 33536; June 16, 2004). Engineering analyses, in accordance with NFPA 805, have been performed to demonstrate that the RI–PB requirements per NFPA 805 have been met.

Therefore, the transition to NFPA 805 does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer Post, Esq., Pacific Gas and Electric Company, P.O. Box 7442, San Francisco, California 94120.

NRC Branch Chief: Douglas A. Broaddus.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Carolina Power and Light Company, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit 2, Darlington County, South Carolina

Exelon Generation Company, LLC, and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Florida Power and Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant (PSL), Units 1 and 2, St. Lucie County, Florida

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing SUNSI.

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly-available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after the requestor is granted access to that information. However, if more than 25 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 19th day of December, 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

Day	Event/activity
0	Publication of *Federal Register* notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests.
10	Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding.
60	Deadline for submitting petition for intervention containing: (i) demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+25 Answers to petition for intervention; +7 petitioner/requestor reply).
20	Nuclear Regulatory Commission (NRC) staff informs the requestor of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents).
25	If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requestor to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access.
30	Deadline for NRC staff reply to motions to reverse NRC staff determination(s).
40	(Receipt +30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI.
A	If access granted: issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff.
A + 3	Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order.
A + 28	Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.
A + 53	(Contention receipt +25) Answers to contentions whose development depends upon access to SUNSI.
A + 60	(Answer receipt +7) Petitioner/Intervenor reply to answers.

[3] Requestors should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

Day	Event/activity
>A + 60	Decision on contention admission.

[FR Doc. 2013–30843 Filed 12–24–13; 8:45 am]
BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2013–0252]

Consideration of Approval of Transfer of Renewed Facility Operating Licenses, Materials Licenses, and Conforming Amendments Containing Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License transfer request; opportunity to comment; opportunity to request a hearing and petition for leave to intervene; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is considering approval of an application filed by Constellation Energy Nuclear Group, LLC (Constellation) on August 6, 2013, as supplemented on August 14 and September 23, 2013. The application seeks NRC approval of the transfer of operating licenses for nuclear power plants and spent fuel storage facilities from the current holder, Constellation, to Exelon Generation Company, LCC (Exelon). The facilities are Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Renewed Facility Operating License Nos. DPR–53 and DPR–69; Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI) Materials License No. SNM–2505; Nine Mile Point Nuclear Station, Unit Nos. 1 and 2, Renewed Facility Operating License Nos. DPR–63 and NPF–69; Nine Mile Point Nuclear Station ISFSI General License; R.E. Ginna Nuclear Power Plant Renewed Facility Operating License No. DPR–18; and R.E. Ginna ISFSI General License.

DATES: Comments must be filed by January 27, 2014. A request for a hearing must be filed by January 15, 2014. Any potential party as defined in § 2.4 of Title 10 of the *Code of Federal Regulations* (10 CFR) who believes access to Sensitive Unclassified Non-Safeguards Information (SUNSI) is necessary to respond to this notice must request document access by January 6, 2014.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0252. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–A44MP, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on accessing information and submitting comments, see ''Accessing Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Nadiyah S. Morgan, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone: 301–415–1016; email: *Nadiyah.Morgan@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Accessing Information and Submitting Comments

A. Accessing Information

Please refer to Docket ID NRC–2013–0252 when contacting the NRC about the availability of information regarding this document. You may access publicly-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–2013–0252.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may access publicly available documents online in the NRC Library 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 application dated August 6, 2013, contains proprietary information and accordingly, those portions are being withheld from public disclosure. A redacted version of the application and the supplements is available in ADAMS under Accession Nos. ML13232A156, ML13232A157, ML13228A186, and ML13269A131.
- 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–2013–0252 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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 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 submissions. 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. Background

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of an order under 10 CFR 50.80 approving the direct transfer of control of the Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Renewed Facility Operating License Nos. DPR–53 and DPR–69; Calvert Cliffs Independent Spent Fuel Storage Installation (ISFSI) Materials License No. SNM–2505; Nine

Mile Point Nuclear Station, Unit Nos. 1 and 2, Renewed Facility Operating License Nos. DPR–63 and NPF–69; Nine Mile Point Nuclear Station ISFSI General License; R.E. Ginna Nuclear Power Plant Renewed Facility Operating License No. DPR–18; and R.E. Ginna ISFSI General License (referred to as the facilities) currently held by Constellation Energy Nuclear Group, LLC (Constellation), as owner and licensed operator. The transfer would be to Exelon Generation Company, LLC (Exelon). The Commission is also considering amending the licenses for administrative purposes to reflect the proposed transfer.

According to the application for approval filed by Constellation, Exelon would be responsible for the operation and maintenance of the facilities. No physical changes to the facilities or operational changes are being proposed in the application.

The NRC's regulation at 10 CFR 50.80 state that no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission gives its consent in writing. The Commission will approve an application for the direct transfer of a license if the Commission determines that the proposed transferee is qualified to hold the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission.

Before issuance of the proposed conforming license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended, and the Commission's regulations.

As provided in 10 CFR 2.1315, unless otherwise determined by the Commission with regard to a specific application, the Commission has determined that any amendment to the license of a utilization facility or to the license of an ISFSI which does no more than conform the license to reflect the transfer action, involves ''no significant hazards consideration'' and ''no genuine issue as to whether the health and safety of the public will be significantly affected.'' No contrary determination has been made with respect to this specific license amendment application. In light of the generic determination reflected in 10 CFR 2.1315, no public comments with respect to significant hazards considerations are being solicited, notwithstanding the general comment procedures contained in 10 CFR 50.91.

III. Opportunity To Request a Hearing; Petition for Leave To Intervene

Within 20 days from the date of publication of this notice, any person(s) whose interest may be affected by the Commission's action on the application may request a hearing and intervention via electronic submission through the NRC's E-filing system. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart C, ''Rules of General Applicability: Hearing Requests, Petitions to Intervene, Availability of Documents, Selection of Specific Hearing Procedures, Presiding Officer Powers, and General Hearing Management for NRC Adjudicatory Hearings,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.309, which is available at the NRC's PDR, located at O1F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's public Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.*

A petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings that the NRC must make to support the granting of a license amendment in response to the application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at the hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application for amendment that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application for amendment fails to contain information on a relevant matter as required by law, the identification of each failure, and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Requests for hearing, petitions for leave to intervene, and motions for leave to file contentions after the deadline in 10 CFR 2.309(b) will not be entertained absent a determination by the presiding officer that the new or amended filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1).

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by January 15, 2014. The petition must be filed in accordance with the filing instructions in Section IV of this document, and should meet the requirements for petitions for leave to intervene set forth in this section, except that under § 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. A State, local governmental body, Federally-recognized Indian Tribe, or agency

thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by February 24, 2014.

IV. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/apply-certificates.html.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's public Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call to 1–866–672–7640. The NRC Meta System Help Desk is available between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in NRC's electronic hearing docket which is available to the public at *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of

interest in the proceeding. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

Within 30 days from the date of publication of this notice, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to Cindy Bladey, Chief, Rules, Announcements, and Directives Branch (RADB), Office of Administration, Mail Stop: 3WFN–06–44M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001 and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this application, see the application dated August 6, 2013, as supplemented by letters dated August 14 and September 23, 2013.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation.

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing Sensitive Unclassified Non-Safeguards Information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request such access. A ''potential party'' is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requestor shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are *Hearing.Docket@nrc.gov* and *OGCmailcenter@nrc.gov,* respectively.[1] The request must include the following information:

(1) A description of the licensing action with a citation to this **Federal Register** notice;

(2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and

(3) The identity of the individual or entity requesting access to SUNSI and the requestor's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order[2] setting forth terms and conditions to prevent the unauthorized or inadvertent disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 20 days after the requestor is granted access to that information. However, if more than 20 days remain between the date the petitioner is granted access to the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline. This provision does not extend the time for filing a request for a hearing and petition to intervene, which must comply with the requirements of 10 CFR 2.309.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff either after a determination on standing and need for access, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requestor may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) the presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an administrative law judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) officer if that officer has been designated to rule on information access issues.

H. Review of Grants of Access. A party other than the requestor may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest independent of the proceeding. Such a challenge must be filed with the Chief Administrative Judge within 5 days of the notification by the NRC staff of its grant of access.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by

[1] While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's ''E-Filing Rule,'' the initial request to access SUNSI under these procedures should be submitted as described in this paragraph.

[2] Any motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge if the presiding officer has not yet been designated, within 30 days of the deadline for the receipt of the written access request.

the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.[3]

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR Part 2. Attachment 1 to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 18th day of December 2013.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

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[FR Doc. 2013–30883 Filed 12–24–13; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Customer Service Surveys, OMB Control No. 3206–0236

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on the information collection request (ICR) 3206–0236, Customer Service Surveys. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the

validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until February 24, 2014. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Personnel Management, Office of the Chief Information Officer, 1900 E. Street NW., Washington, DC 20415, Attention: PRA Officer or sent by email to *pra@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Personnel Management, Office of the Chief Information Officer, 1900 E. Street NW., Washington, DC 20415, Attention: PRA Officer or by email to *pra@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) leads Federal agencies in shaping human resources management systems to effectively recruit, develop, manage and retain a high quality and diverse workforce. Customer service surveys are valuable tools to gather information from our customers so we can design and implement new ways to improve our performance to meet their needs. This collection request includes surveys that we currently use or plan to use during the next three years to measure our performance in providing services to meet our customer needs. The survey instruments include direct mail, telephone contact, focus groups and web exit surveys. Our customers include the general public, Federal benefit recipients, Federal agencies and Federal employees. We estimate 911,232 customer service surveys will be completed in the next 3 years. The time estimate varies from 2 minutes to 25 minutes to complete. The estimated burden is 55,587 hours over the next 3 years.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2013–31002 Filed 12–24–13; 8:45 am]

BILLING CODE 6325–47–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Performance Measurement Surveys, OMB Control No. 3206–0253

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on the information collection request (ICR) 3206–0253, Performance Measurement Surveys. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until February 24, 2014. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Personnel Management, Office of the Chief Information Officer, 1900 E. Street NW., Washington, DC 20415, Attention: PRA Officer or sent by email to *pra@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Personnel Management, Office of the Chief Information Officer, 1900 E. Street NW., Washington, DC 20415, Attention: PRA Officer or sent by email to *pra@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) leads Federal agencies in shaping human resources management systems to effectively recruit, develop, manage and retain a high quality and diverse workforce. Performance measurement surveys are valuable tools to gather information from our customers so we can design and implement new ways to improve our performance to meet their needs. This collection request includes surveys that we currently use or plan to use during the next three years to measure our performance in providing services to meet our customer needs. The survey instruments include direct mail, telephone contact, focus groups and web exit surveys. Our customers include the general public, Federal benefit recipients, Federal agencies and Federal employees. We estimate 272,100 performance measurement surveys will be completed in the next 3 years. The time estimate varies from 15 minutes to 20 minutes to complete. The estimated burden is 75,575 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2013–31011 Filed 12–24–13; 8:45 am]

BILLING CODE 6325–47–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Program Services Evaluation Surveys, OMB Control No. 3206–0252

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-Day Notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on the information collection request (ICR) 3206–0252, Program Services Evaluation Surveys. As required by the Paperwork Reduction Act of 1995, (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is

particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of OPM, including whether the information will have practical utility;

2. Evaluate the accuracy of the OPM's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until February 24, 2014. This process is conducted in accordance with 5 CFR part 1320.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Personnel Management, Office of the Chief Information Officer, 1900 E Street NW., Washington, DC 20415, Attention: PRA Officer or sent by email to *pra@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Office of Personnel Management, Office of the Chief Information Officer, 1900 E Street NW., Washington, DC 20415, Attention: PRA Officer or sent by email to *pra@opm.gov.*

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) leads Federal agencies in shaping human resources management systems to effectively recruit, develop, manage and retain a high quality and diverse workforce. Program services evaluation surveys are valuable tools to gather information from our customers so we can design and implement new ways to improve our programs to meet their needs. This collection request includes surveys that we currently use or plan to use during the next three years to measure our ability to deliver program services to meet our customer needs. The survey instruments include direct mail, telephone contact, focus groups and web exit surveys. Our customers include the general public, Federal benefit recipients, Federal agencies and Federal employees. We estimate 12,300 program services evaluation surveys will be completed in the next 3 years. The time estimate varies from 1 minute to 40 minutes to complete. The estimated burden is 3,755 hours.

U.S. Office of Personnel Management.

Katherine Archuleta,

Director.

[FR Doc. 2013–31009 Filed 12–24–13; 8:45 am]

BILLING CODE 6325–47–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 30840; File No. 812–14198]

Forethought Variable Insurance Trust, et al.; Notice of Application

December 19, 2013.

AGENCY: Securities and Exchange Commission (the ''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A) and (B) of the Act, under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act, and under section 6(c) of the Act for an exemption from rule 12d1–2(a) under the Act.

SUMMARY OF THE APPLICATION: Applicants request an order that would (a) permit certain series of registered open-end management investment companies to acquire shares of other registered open-end management investment companies and unit investment trusts (''UITs'') that are within or outside the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the acquiring investment companies, and (b) permit certain series of registered open-end management investment companies relying on rule 12d1–2 under the Act to invest in certain financial instruments.

APPLICANTS: Forethought Variable Insurance Trust (the ''Trust''), Forethought Investment Advisors, LLC (the ''Manager''), and Northern Lights Distributors, LLC (the ''Distributor'').

DATES: *Filing Dates:* The application was filed on August 8, 2013, and amended on November 20, 2013.

HEARING OR NOTIFICATION OF HEARING: An order granting the application 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, 2014, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: The Commission: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090; Applicants: the Trust and the Manager, 300 North Meridian Street, Suite 1800, Indianapolis, IN 46204; the Distributor, 17605 Wright Street, Omaha, NE 68130.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or David P Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is a Delaware statutory trust, registered under the Act as an open-end management investment company, and is comprised of multiple series, each of which has its own investment objective, policies and restrictions.[1] Shares of the Series are not offered directly to the public. Shares of the Series are offered through separate accounts that are registered as UITs under the Act (''Registered Separate Accounts'') or accounts that are exempt from registration under the Act (''Unregistered Separate Accounts,'' and together with the Registered Separate Accounts, ''Separate Accounts'') of Forethought Insurance Company (the ''Participating Insurance Company'') and serve as the underlying funding

[1] Applicants request that the order extend to any future series of the Trust, and any other existing or future registered open-end management investment company and series thereof that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Trust and are, or may in the future be, advised by the Manager or any other investment adviser controlling, controlled by, or under common control with the Manager (each, a ''Series''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

vehicles for variable annuity contracts (the ''Contracts'') issued by the Participating Insurance Company. Shares of the Series may also be offered to qualified pension and retirement plans, certain of the general accounts of the insurance companies that are permitted to hold shares of Series that are designed to fund insurance products, or to other Series.

2. The Manager is an Indiana Limited Liability Company registered as an investment adviser under the Investment Advisers Act of 1940, as amended (the ''Advisers Act''), and serves as investment adviser to the Series.

3. The Distributor is a Nebraska limited liability company and serves as the Trust's principal underwriter and distributor. The Distributor is registered as a broker-dealer with the Commission and the Financial Industry Regulatory Authority, Inc. (''FINRA'').

4. Applicants request relief to permit: (a) Certain Series (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies and UITs that are not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds of Funds (the ''Unaffiliated Investment Companies'' and ''Unaffiliated Trusts,'' respectively, and together, the ''Unaffiliated Funds''); [2] (b) the Unaffiliated Investment Companies, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934, as amended (the ''Exchange Act'', and any such broker or dealer, a ''Broker''), to sell shares of the Unaffiliated Investment Companies to the Funds of Funds in excess of the limitations in section 12(d)(1)(B) of the Act; (c) the Funds of Funds to acquire shares of certain other Series in the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds (the ''Affiliated Funds,'' and together with the Unaffiliated Funds, the ''Underlying Funds''); [3] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Fund of Funds in excess of the limitations in section 12(d)(1)(B) of the Act. Applicants also request an order under sections 6(c) and 17(b) of the Act exempting the transactions described in (a) through (d) above from section 17(a) of the Act to the extent necessary to permit an Underlying Fund that is an affiliated person of a Fund of Funds to sell its shares to, and redeem its shares from, the Fund of Funds.

5. Applicants also request an exemption to the extent necessary to permit a Fund of Funds that invests in Underlying Funds in reliance on section 12(d)(1)(G) of the Act (a ''Section 12(d)(1)(G) Fund of Funds''), and that is eligible to invest in securities (as defined in section 2(a)(36) of the Act) in reliance on rule 12d1–2 under the Act, to also invest, to the extent consistent with its investment objectives, policies, strategies and limitations, in financial instruments that may not be securities within the meaning of section 2(a)(36) of the Act (''Other Investments'').

Applicants' Legal Analysis

A. Investments in Underlying Funds—Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company (an ''acquiring company'') from acquiring shares of another investment company (an ''acquired company'') if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter and any Broker from selling the shares of the investment company to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally.

2. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) of the Act if the exemption is consistent with the public interest and the protection of investors. Applicants seek an exemption under section 12(d)(1)(J) of the Act from the limitations of sections 12(d)(1)(A) and (B) of the Act to the extent necessary to permit the Funds of Funds to acquire shares of the Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) of the Act and to permit the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections 12(d)(1)(A) and (B) of the Act, which include concerns about undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants state that the proposed arrangement will not result in undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. The concern about undue influence will not arise in connection with a Fund of Funds' investment in the Affiliated Funds, since the Affiliated Funds will be part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Funds of Funds. To limit the control that a Fund of Funds or its affiliated persons may have over an Unaffiliated Fund, applicants state that condition 1 prohibits: (a) The Manager and any person controlling, controlled by or under common control with the Manager, any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the Act advised or sponsored by the Manager or any person controlling, controlled by or under common control with the Manager (collectively, the ''Group'') and (b) any other investment adviser within the meaning of section 2(a)(20)(B) of the Act to a Fund of Funds (each, a ''Subadviser''), any person controlling, controlled by or under common control with a Subadviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by a Subadviser or any person controlling, controlled by or

[2] Certain of the Unaffiliated Funds may have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices (''ETFs'').

[3] Certain of the Underlying Funds currently pursue, or may in the future pursue, their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

under common control with the Subadviser (collectively, the ''Subadviser Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act.

5. Applicants further state that condition 2 precludes a Fund of Funds, the Manager, any Subadviser, promoter or principal underwriter of a Fund of Funds, and any person controlling, controlled by or under common control with any of those entities (each, a ''Fund of Funds Affiliate'') from taking advantage of an Unaffiliated Fund, with respect to transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or the Unaffiliated Fund's investment adviser(s), sponsor, promoter, principal underwriter and any person controlling, controlled by or under common control with any of those entities (each, an ''Unaffiliated Fund Affiliate'').

6. Condition 5 precludes a Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) from causing an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an officer, director, member of an advisory board, Manager, Subadviser, or employee of the Fund of Funds, or a person of which any such officer, director, Manager, Subadviser, member of an advisory board, or employee is an affiliated person (each, an ''Underwriting Affiliate,'' except any person whose relationship to the Unaffiliated Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an ''Affiliated Underwriting.''

7. As an additional assurance that an Unaffiliated Investment Company understands the implications of an investment by a Fund of Funds under the requested order, prior to an investment in the shares of the Unaffiliated Investment Company in excess of the limit in section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute an agreement (the ''Participation Agreement'') stating, without limitation, that their respective boards of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their respective responsibilities under the order. Applicants note that an Unaffiliated Investment Company (other than an ETF whose shares are purchased by a Fund of Funds in the secondary market) will retain the right at all times to reject any investment by a Fund of Funds.[4]

8. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. With respect to investment advisory fees, applicants state that, in connection with the approval of any investment advisory contract under section 15 of the Act, the Board of the Trust, including a majority of the trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act (for any Board, the ''Independent Trustees''), will find that the advisory fees charged to a Fund of Funds under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to any Underlying Fund's advisory contract(s). Applicants further state that the Manager will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the Act) received from an Unaffiliated Fund by the Manager, or an affiliated person of the Manager, other than any advisory fees paid to the Manager or an affiliated person of the Manager by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

9. Applicants state that with respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in Rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830''),[5] if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of the Fund of Funds will not exceed the limits applicable to funds of funds as set forth in NASD Conduct Rule 2830.

10. Applicants represent that each Fund of Funds will represent in the Participation Agreement that no Participating Insurance Company sponsoring a Registered Separate Account funding Contracts will be permitted to invest in the Fund of Funds unless the Participating Insurance Company has certified to the Fund of Funds that the aggregate amount of all fees and charges associated with each Contract that invests in the Fund of Funds, including fees and charges at the Separate Account, Fund of Funds, and Underlying Fund levels, is reasonable in relation to the services rendered, the expenses expected to be incurred, and the risks assumed by the Participating Insurance Company.

11. Applicants state that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Underlying Fund will be prohibited from acquiring securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the Act and either is an Affiliated Fund or is in the same ''group of investment companies,'' as defined in Section 12(d)(G)(ii) of the Act, as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

B. Investments in Underlying Funds—Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and its affiliated persons or affiliated persons of such persons. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or

[4] An Unaffiliated Investment Company, including an ETF, would retain its right to reject any initial investment by a Fund of Funds in excess of the limit in section 12(d)(1)(A)(i) of the Act by declining to execute the Participation Agreement with the Fund of Funds.

[5] Any references to NASD Conduct Rule 2830 include any successor or replacement rule to NASD Conduct Rule 2830 that may be adopted by FINRA.

more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under common control and therefore affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Funds may be deemed to be affiliated persons of one another if a Fund of Funds acquires 5% or more of an Underlying Fund's outstanding voting securities. In light of these possible affiliations, section 17(a) of the Act could prevent an Underlying Fund from selling shares to, and redeeming shares from, a Fund of Funds.[6]

3. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) of the Act if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the Act, as the terms are fair and reasonable and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be based on the net asset value of each Underlying Fund.[7] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and Underlying Fund, and with the general purposes of the Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the Act by a securities association registered under section 15A of the Exchange Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the Act.

2. Rule 12d1–2 under the Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the Act.

3. Applicants state that the proposed arrangement would comply with the provisions of rule 12d1–2 under the Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments as described in the application would not raise any of the concerns that the requirements of section 12(d)(1) of the Act were designed to address.

4. Consistent with its fiduciary obligations under the Act, each Section 12(d)(1)(G) Fund of Funds' board of trustees will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

Applicants agree that the order granting the requested relief shall be subject to the following conditions:

A. Investments in Underlying Funds by Funds of Funds

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. The members of a Subadviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding voting securities of an Unaffiliated Fund, the Group or a Subadviser Group, each in the aggregate, becomes a holder of more than 25% of the outstanding voting securities of the Unaffiliated Fund, then the Group or the Subadviser Group (except for any member of the Group or the Subadviser Group that is a Separate Account) will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Subadviser Group with respect to an Unaffiliated Fund for which the Subadviser or a person controlling, controlled by, or under common control with the Subadviser acts as the investment adviser within the meaning section 2(a)(20)(A) of the Act (in the case of an Unaffiliated Investment

[6] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Funds of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e)(1) of the Act. The Participation Agreement also will include this acknowledgement.

[7] To the extent purchases and sales of shares of an ETF occur in the secondary market (and not through principal transactions directly between a Fund of Funds and an ETF), relief from section 17(a) of the Act would not be necessary. The requested relief is intended to cover, however, transactions directly between ETFs and a Fund of Funds. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because the investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF also is a Manager to the Fund of Funds.

Company) or the sponsor (in the case of an Unaffiliated Trust). A Registered Separate Account will seek voting instructions from its Contract holders and will vote its shares of an Unaffiliated Fund in accordance with the instructions received and will vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received. An Unregistered Separate Account will either (i) vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares; or (ii) seek voting instructions from its Contract holders and vote its shares in accordance with the instructions received and vote those shares for which no instructions were received in the same proportion as the shares for which instructions were received.

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of the Trust, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that the Manager and any Subadviser are conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or a Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of an Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interests of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth (a) the party from whom the securities were acquired, (b) the identity of the underwriting syndicate's members, (c) the terms of the purchase, and (d) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the Board of the Trust, including a majority of the Independent Trustees, shall find that the advisory fees charged to the Fund of Funds under the advisory contract(s) are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the Trust.

10. The Manager will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the Act) received from an Unaffiliated Fund by the Manager, or an affiliated person of the Manager, other than any advisory fees paid to the Manager or its affiliated person by an Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Subadviser will waive fees otherwise payable to the Subadviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Subadviser, or an affiliated person of the Subadviser, from an Unaffiliated Fund, other than any advisory fees paid to the Subadviser or an affiliated person of the Subadviser by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Subadviser. In the event that the Subadviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. With respect to Registered Separate Accounts that invest in a Fund of Funds, no sales load will be charged at the Fund of Funds level or at the Underlying Fund level. Other sales charges and service fees, as defined in NASD Conduct Rule 2830, if any, will only be charged at the Fund of Funds level or at the Underlying Fund level, not both. With respect to other investments in a Fund of Funds, any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act, except to the extent that such Underlying Fund (a) acquires such securities in compliance with section 12(d)(1)(E) of the Act and either is an Affiliated Fund or is in the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes, or (ii) engage in interfund borrowing and lending transactions.

B. Other Investments by Section 12(d)(1)(G) Funds of Funds

13. Applicants will comply with all provisions of rule 12d1–2 under the Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30771 Filed 12–24–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71143]

Order Granting Application by Financial Industry Regulatory Authority, Inc. for Exemption Pursuant to Section 36(a) of the Exchange Act From the Rule Filing Requirements of Section 19(b) of the Exchange Act With Respect to Certain Rules Incorporated by Reference

December 19, 2013.

The Financial Industry Regulatory Authority, Inc. (''FINRA'') has filed with the Securities and Exchange Commission (''Commission'') an application for an exemption under Section 36(a)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] from the rule filing requirements of Section 19(b) of the Exchange Act [2] with respect to certain rules of other self-regulatory organizations (''SROs'') that FINRA seeks to incorporate by reference. Section 36 of the Exchange Act authorizes the Commission to conditionally or unconditionally exempt any person, security, or transaction, or any class thereof, from any provision of the Exchange Act or rule thereunder, if necessary or appropriate in the public interest and consistent with the protection of investors.

FINRA Rule 2360 (Options) and FINRA Rule 2359 (Position and Exercise Limits; Liquidations) incorporate by reference comparable position and exercise limit rules of the options exchanges. Specifically: (i) FINRA Rule 2360(b)(3)(B) incorporates position limits for index options established by the exchange on which the option trades; (ii) FINRA Rule 2360(b)(2) incorporates position and exercise limits for FLEX Equity Options (as defined in FINRA Rule 2360(a)(16)) established by the exchange on which such FLEX Equity Options are traded; and (iii) FINRA Rule 2359 incorporates position and exercise limits for index warrants established by the exchange on which the index warrant is listed.[3] Thus, FINRA members comply with these FINRA rules by complying with the relevant, incorporated exchange rule.[4]

In addition, if its request for an exemption is granted, FINRA intends to propose further amendments to FINRA Rule 2360, pursuant to Section 19(b)(1) of the Exchange Act, to incorporate by reference other rules of the options exchanges regarding position limits. Specifically, with respect to standardized equity options, FINRA intends to propose that FINRA Rule 2360(b)(3) be amended so that the FINRA position limit will be the highest position limit established by an exchange on which the option trades.[5] With respect to conventional equity options,[6] FINRA intends to propose that FINRA Rule 2360(b)(3) be amended so that the position limit tiers for such options reflect the same tier structure used in exchange rules for standardized equity options and, for each tier, incorporate for conventional equity options the same position limit that exchange rules establish for standardized equity options in the equivalent tier.[7] In addition, FINRA

[1] 15 U.S.C. 78mm(a)(1).

[2] 15 U.S.C. 78s(b).

[3] *See* FINRA Rules 2359 and 2360; *see also* Letter from Robert L.D. Colby, Chief Legal Officer, FINRA, to Elizabeth M. Murphy, Secretary, Commission, dated October 10, 2013 (''FINRA Exemptive Request''), at 1 n.1.

[4] FINRA has not previously sought an exemption from the Commission pursuant to Section 36(a)(1) of the Exchange Act from the rule filing requirements of Section 19(b) of the Exchange Act with respect to these incorporations by reference.

[5] *See* FINRA Exemptive Request, *supra* note 3, at 1 n.2. Based on the standardized equity option position limits currently imposed by the option exchanges, this incorporation by reference would have the immediate effect of eliminating FINRA's position limit for standardized options on Standard and Poor's Depository Receipts Trust (''SPY'') and increasing FINRA's position limit for standardized options on the iShares MSCI Emerging Markets Index Fund (''EEM'') to 500,000 contracts.

[6] The term ''conventional option'' means any option contract not issued, or subject to issuance, by the Options Clearing Corporation. *See* FINRA Rule 2360(a)(9).

[7] *See* FINRA Exemptive Request, *supra* note 3, at 1 n.2. This aspect of FINRA's intended proposal would not change position limits for conventional equity options, as FINRA's rule currently imposes conventional equity option position limits that are

Rule 2360(b)(4) sets forth exercise limits by referring to the position limits in FINRA Rule 2360(b)(3).[8] Accordingly, FINRA's anticipated proposed rule change also would correspondingly raise exercise limits.[9]

FINRA has requested, pursuant to Rule 0–12 under the Exchange Act,[10] that the Commission grant it an exemption from the rule filing requirements of Section 19(b) of the Exchange Act for changes to FINRA Rule 2359 and FINRA Rule 2360, as amended by FINRA's intended proposal, that are effected solely by virtue of a change to the corresponding cross-referenced rules of the options exchanges. Specifically, FINRA requests that it be permitted to incorporate by reference changes made to each such options exchange rule without the need for FINRA to file separately the same proposed rule changes pursuant to Section 19(b) of the Exchange Act.[11] By virtue of these incorporations by reference, the requirements applicable to FINRA members will change when the applicable incorporated exchanges' rules change, without the need for FINRA to file separately the proposed rule changes pursuant to Section 19(b) of the Exchange Act.[12] FINRA represents that the rules it seeks to incorporate by reference into FINRA Rules 2359 and 2360 are categories of exchange rules (rather than individual rules within a category) that are not trading rules.[13] FINRA has agreed to provide written notice to its members whenever an exchange proposes a change to its relevant, cross-referenced rule (or series of rules).[14]

FINRA believes this exemption is necessary and appropriate to maintain the consistency between FINRA rules and the relevant provisions of the exchanges' rules at all times, thus helping to ensure identical regulation of members of FINRA that are also members of one or more exchanges with respect to the incorporated provisions, as well as helping to ensure that FINRA-only members are subject to consistent regulation as members that are members of exchanges.[15] Without such an exemption, such members could be subject to two different standards.[16]

The Commission has issued exemptions to other exchanges similar to FINRA's request.[17] In granting one such exemption in 2010, the Commission repeated a prior, 2004 Commission statement that it would consider similar future exemption requests from other SROs, provided that:

- An SRO wishing to incorporate rules of another SRO by reference has submitted a written request for an order exempting it from the requirement in Section 19(b) of the Exchange Act to file proposed rule changes relating to the rules incorporated by reference, has identified the applicable originating SRO(s), together with the rules it wants to incorporate by reference, and otherwise has complied with the procedural requirements set forth in the Commission's release governing procedures for requesting exemptive orders pursuant to Rule 0–12 under the Exchange Act; [18]
- An incorporating SRO has requested incorporation of categories of rules (rather than individual rules within a category) that are not trading rules (*e.g.,* the SRO has requested incorporation of rules such as margin, suitability, or arbitration); and
- The incorporating SRO has reasonable procedures in place to provide written notice to its members each time a change is proposed to the incorporated rules of another SRO.[19]

The Commission believes that FINRA has satisfied each of these conditions. The Commission also believes that granting FINRA an exemption from the rule filing requirements under Section 19(b) of the Exchange Act will promote efficient use of Commission and FINRA resources by avoiding duplicative rule filings based on simultaneous changes to identical rule text sought by more than one SRO.[20] The Commission therefore finds it appropriate in the public interest and consistent with the protection of investors to exempt FINRA from the rule filing requirements under Section 19(b) of the Exchange Act with respect to the above-described rules it has incorporated, and intends to incorporate, by reference. This exemption is conditioned upon FINRA promptly providing written notice to its members whenever an exchange changes a rule that FINRA has incorporated by reference.

Accordingly, *it is ordered,* pursuant to Section 36 of the Exchange Act,[21] that FINRA is exempt from the rule filing requirements of Section 19(b) of the Exchange Act solely with respect to changes to the rules identified in its request that incorporate by reference certain rules of the options exchanges,[22] provided that FINRA promptly provides written notice to its members whenever an exchange proposes to change a rule that FINRA has incorporated by reference.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

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the same as the tiered limits for standardized equity options set forth in FINRA Rule 2360(b)(3)(A)(ii) through (v) for which the underlying security qualifies or would be able to qualify. *See* FINRA Rule 2360(b)(3)(A)(viii). Currently, FINRA Rule 2360(b)(3)(A)(viii) cross references FINRA Rule 2360(b)(3)(A)(ii) through (v) instead of reproducing the language of those paragraphs setting forth the position limit tiers. This aspect of FINRA's intended proposal would amend FINRA's conventional equity option position limit rule to replace that cross reference with the actual language setting forth the position limit tiers.

[8] *See* FINRA Exemptive Request, *supra* note 3, at 1 n.2.

[9] *Id.*

[10] 17 CFR 240.0–12.

[11] *See* FINRA Exemptive Request, *supra* note 3, at 2.

[12] *Id.*

[13] *Id.*

[14] *Id.* at 3. FINRA states that it will provide such notice on its Web site where it posts its own proposed rule change filings as required by Rule 19b–4(l). In addition, FINRA states that the Web site posting will include a link to the location on the exchange's Web site where the proposed rule change is posted. *Id.* at 3 n.8.

[15] *Id.* at 2–3.

[16] *Id.* at 3.

[17] For example, on behalf of their respective options markets, BATS Exchange, Inc., NASDAQ OMX BX, Inc., and The NASDAQ Stock Market LLC incorporate, among other things, the position limit rules of other exchanges. *See, e.g.,* Securities Exchange Act Release No. 61534 (February 18, 2010), 75 FR 8760 (February 25, 2010) (order granting BATS Exchange, Inc. exemptive request relating to rules incorporated by reference by the BATS Exchange Options Market rules) (''BATS Options Market Order''); Securities Exchange Act Release No. 67256 (June 26, 2012), 77 FR 39277, 39286 (July 2, 2012) (order approving SR–BX–2012–030 and granting exemptive request relating to rules incorporated by reference by the BX Options rules); Securities Exchange Act Release No. 57478 (March 12, 2008), 73 FR 14521, 14539–40 (March 18, 2008) (order approving SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080, and granting exemptive request relating to rules incorporated by reference by The NASDAQ Options Market).

[18] *See* 17 CFR 240.0–12 and Securities Exchange Act Release No. 39624 (February 5, 1998), 63 FR 8101 (February 18, 1998) (Commission Procedures for Filing Applications for Orders for Exemptive Relief Pursuant to Section 36 of the Exchange Act; Final Rule).

[19] *See* BATS Options Market Order, *supra* note 17 (citing Securities Exchange Act Release No. 49260 (February 17, 2004), 69 FR 8500 (February 24, 2004) (order granting exemptive request relating to rules incorporated by reference by several SROs) (''2004 Order'')).

[20] *See* BATS Options Market Order, *supra* note 17, 75 FR at 8761; *see also* 2004 Order, *supra* note 19, 69 FR at 8502.

[21] 15 U.S.C. 78mm.

[22] *See supra* notes 3 through 9, and accompanying text.

[23] 17 CFR 200.30–3(a)(76).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71142; File No. TP 14–03]

Order Granting a Limited Exemption From Rule 102(a) of Regulation M to Certain Business Development Companies Pursuant to Rule 102(e) of Regulation M

December 19, 2013.

By letter dated December 19, 2013 (''letter''), as supplemented by conversations with the staff of the Division of Trading and Markets (''Staff''), counsel for CION Investment Corporation (''Company''), an unlisted business development company (''BDC''),[1] requested on behalf of the Company that the Securities and Exchange Commission (''Commission'') issue an exemption from Rule 102 of Regulation M.[2] Specifically, the letter requests that the Commission exempt the Company from the requirements of Rule 102(a) so that the Company may conduct a periodic share repurchase program during the course of the continuous offering of shares of the Company (''Shares'').

Rule 102(a) of Regulation M specifically prohibits issuers, selling security holders, and any of their affiliated purchasers from directly or indirectly bidding for, purchasing, or attempting to induce another person to bid for or purchase a ''covered security'' until the applicable restricted period has ended. As a consequence of the continuous offering of the Shares, the Company will be engaged in a distribution of the Shares pursuant to Rule 102. As a result, bids for or purchases of Shares or any reference security by the Company or any affiliated purchaser of the Company are prohibited during the restricted period specified in Rule 102, unless specifically excepted by or exempted from Rule 102. As the Company seeks to engage in periodic repurchases of Shares during the applicable restricted period, absent an exception these repurchases would violate Rule 102(a).

The request is similar to a number of requests from unlisted BDCs for conditional exemptive relief from Rule 102 that were granted pursuant to delegated authority.[3] Like other BDC repurchase programs that have been given exemptive relief from Rule 102, the repurchase program is designed to provide a limited source of liquidity for the Company's shareholders as there is no trading market for the Shares. In addition, like other BDC repurchase programs, the repurchase program is fully disclosed to shareholders in the prospectus so the existence of the repurchase program should be known by investors, thus minimizing potential manipulative effects. The relief requested is also similar to that extended to unlisted real estate investment trusts to permit similar repurchase programs.[4] Based on our experience with these prior requests, we believe that it is appropriate to extend exemptive relief for all BDC repurchase programs that meet the same criteria. Accordingly, we find that it is appropriate in the public interest and is consistent with the protection of investors to grant a conditional exemption from Rule 102(a) to permit any unlisted company, including the Company, that has elected to be treated as a BDC under the 1940 Act to engage in periodic repurchases of their shares during the applicable restricted period, subject to the conditions described below.

Pursuant to the conditions to this exemptive relief, any BDC seeking to rely on this exemption must terminate their repurchase program should a secondary trading market for its common stock develop. As a result, the repurchase programs being given exemptive relief in this order should not have a manipulative effect on the applicable distribution. This exemptive relief is further conditioned on the repurchase program purchasing shares of common stock at a price that does not exceed the then current public offering price of such securities. This should help ensure that the repurchase programs being extended relief in this order do not have a manipulative effect on the price of such distributions as the purchases should not improve the offering price.

Conclusion

It is hereby ordered, pursuant to Rule 102(e), that any unlisted company that has elected to be treated as a BDC under the 1940 Act is exempt from Rule 102(a) for the limited purpose of engaging in periodic repurchases of their shares during the applicable restricted period, subject to the following conditions:

- Any company relying upon this exemption shall terminate its repurchase program if a secondary market for the shares being repurchased develops; and
- Any repurchase pursuant to this exemption will be made at a price that does not exceed the then current public offering price for such securities.

This exemptive relief is subject to modification or revocation at any time the Commission determines that such action is necessary or appropriate in furtherance of the purposes of the Exchange Act. In addition, persons relying on this exemption are directed to the anti-fraud and anti-manipulation provisions of the federal securities laws, particularly Section 10(b) of the Exchange Act, and Rule 10b–5 thereunder. Responsibility for compliance with these and any other applicable provisions of the federal securities laws must rest with the persons relying on this exemption. This order should not be considered a view with respect to any other question that the transactions may raise, including, but not limited to the adequacy of the disclosure concerning, and the applicability of other federal or state laws to, such transactions.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Kevin M. O'Neill,

Deputy Secretary.

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[1] *See* Section 2(a)(48) of the Investment Company Act of 1940 (''1940 Act'') (defining ''business development company'').

[2] 17 CFR 242.102.

[3] *See, e.g.,* Order Granting Business Development Corporation of America a Limited Exemption from Rule 102(a) of Regulation M Pursuant to Rule 102(e), Exchange Act Rel. No. 67620 (August 8, 2012); Order Granting FS Investment Corporation II a Limited Exemption from Rule 102(a) of Regulation M Pursuant to Rule 102(e), Exchange Act Rel. No. 67163 (June 7, 2012); and Letter from Josephine J. Tao, Assistant Director, to Steven B. Boehm, Sutherland Asbill and Brennan LLP regarding FS Investment Corporation (April 20, 2009).

[4] Letter from James A. Brigagliano, Associate Director, to Dennis O. Garris, Alston & Bird LLP regarding Class Relief for REIT Share Redemption Programs (October 22, 2007).

[5] 17 CFR 200.30–3(a)(6).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71137; File No. SR–CHX–2013–22]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Single-Sided Order Fees and Credits

December 19, 2013.

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 18, 2013, the Chicago Stock Exchange, Inc. (''CHX'' or ''Exchange'') filed with

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 the Substance of the Proposed Rule Change

CHX proposes to amend its Schedule of Participant Fees and Assessments (the ''Fee Schedule'') to amend the Single-Sided Order Fees and Credits and the Order Cancellation Fee. The Exchange proposes to implement the fee changes on January 2, 2014. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/rules/proposed_rules.htm,* 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Section E.1 of the Fee Schedule, effective January 2, 2014. Specifically, the Exchange proposes to amend Section E.1 to set the Liquidity Providing Credit for all single-sided orders of 100 or more shares executed in the Matching System in Tape A, B, and C securities priced greater than or equal to $1.00/share at $0.0020/share. The Exchange does not propose to make any other amendments to the Fee Schedule.

Current Section E.1

On July 1, 2013, the Exchange adopted current Section E.1 of the Fee Schedule,[4] which applies to all single-sided orders of 100 or more shares executed in the CHX Matching System. Specifically, the Exchange set the Liquidity Providing Credit for all Tape A, B, and C securities priced greater than or equal to $1.00/share at $0.00250/share and set the corresponding Liquidity Removing Fee at $0.0030/share. In doing so, the Exchange unified pricing across all Tapes, eliminated the distinction between Derivative Securities Products and Non-Derivative Securities Products throughout the Fee Schedule and eliminated the distinction between ''Regular Trading Session'' and ''Early or Late Trading Session'' in Section E.1 of the Fee Schedule.[5]

Proposed Section E.1

The Exchange now proposes to reduce the Liquidity Providing Credit for all single-sided orders of 100 shares or more executed in the Matching System in Tape A, B, and C securities priced greater than or equal to $1.00/share from $0.00250/share to $0.0020/share. As such, the Exchange proposes to amend paragraph (b) under Section E.1 to replace ''$0.00250/share'' with ''$0.0020/share.''

However, the Exchange does not propose to change the corresponding Liquidity Removing Fee, which is currently $0.0030/share. In addition, for all single-sided orders of 100 or more shares executed in the CHX Matching System in securities priced less than $1.00/share, the Exchange will maintain the current Liquidity Providing Credit of $0.00009/share and the Liquidity Removing Fee of 0.30% of the trade value.

Despite the proposed decrease in the Liquidity Providing Credit, the Exchange believes that a combination of the proposed Liquidity Providing Credit and the Exchange's recently-adopted Market Data Revenue Rebates program[6] will continue to incentivize activity by Participants on the Exchange's trading facilities, encourage order flow, and allow the Exchange to remain competitive in today's orders marketplace.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act[7] in general, and furthers the objectives of Section 6(b)(4) of the Act[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls, and does not unfairly discriminate between customers, issuers, or broker dealers.

Specifically, since the proposed Liquidity Providing Credit will continue to apply to all single-sided orders of 100 or more shares executed in the CHX Matching System and the corresponding Liquidity Removing Fee will remain unchanged, the Exchange believes that the proposed Section E.1 will equitably allocate credits and fees among Participants in a non-discriminatory nature. Furthermore, the proposed Liquidity Providing Credit of $0.0020/share is reasonable, where the proposed value is similar to liquidity credits offered by other exchanges, such as NASDAQ.[9]

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 the proposed rule change reflects this competitive environment.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the proposed Liquidity Providing Credit will contribute to the protection of investors and the public interest by maintaining the simplified schedule of credits paid and fees assessed by the Exchange, as it will be applied to all single-sided orders of 100 shares or more executed in the Matching System in Tape A, B, and C securities priced greater than or equal to $1.00/share. Moreover, the combination of the proposed Liquidity Providing Credit

[4] *See* Securities Exchange Act Release No. 69903 (July 1, 2013), 78 FR 40788 (July 8, 2013) (SR–CHX–2013–12) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Single-Sided Order Fees and Credits and the Order Cancellation Fee''); *see also* Securities Exchange Act Release No. 69903A (August 13, 2013), 78 FR 49308 (August 13, 2013).

[5] *Id.*

[6] *See* Section P of the Fee Schedule; *see also* Securities Exchange Act Release No. 70546 (October 3, 2013), 78 FR 61413 (September 27, 2013) (''Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Adopt a Market Data Revenue Rebates Program'').

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4).

[9] NASDAQ ''Rebate to Add Displayed Liquidity, Shares Executed at or Above $1.00'' ranges from $0.0020/share to $0.00305/share.

and Market Data Revenue Rebates will continue to incentivize order senders to submit orders to the Exchange, which will, in turn, enhance competition amongst competing trading centers and contribute to the production of investors and the public interest.

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)(ii) of the Act [10] and subparagraph (f)(2) of Rule 19b–4 thereunder [11] because it establishes or changes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

As fully discussed above, the Exchange believes that the proposed Fee Schedule will create equable credit and fee amounts to incent activity among all Participants within the Exchange's trading facilities.

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–CHX–2013–22 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CHX–2013–22. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of CHX. 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–CHX–2013–22, and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30758 Filed 12–24–13; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71146; File No. SR–NYSEArca–2013–141]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Adopt New NYSE Arca Equities Rule 7.25 in Order To Create a Crowd Participant Program To Incent Competitive Quoting and Trading Volume in Exchange-Traded Products by Market Makers Qualified With the Exchange as CPs

December 19, 2013.

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 6, 2013, 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 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 proposes to [sic] adopt new NYSE Arca Equities Rule 7.25 (''Rule 7.25'') in order to create a Crowd Participant (''CP'') program (the ''CP Program'') to incent competitive quoting and trading volume in exchange-traded products (''ETPs'') by Market Makers qualified with the Exchange as CPs. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

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 adopt new Rule 7.25 in order to create the CP Program to incent competitive quoting and trading volume in ETPs by Market Makers [4] qualified with the Exchange as CPs.

Background

By establishing this new class of market participant, the Exchange is seeking to incentivize Market Makers on the Exchange to quote and trade in certain low-volume ETPs by offering issuers an alternative fee program funded by participating issuers and credited to CPs from the Exchange's general revenues. At the same time, the Exchange is seeking to add competition among existing qualified Market Makers on the Exchange. By requiring CPs to quote at the National Best Bid (''NBB'') or the National Best Offer (''NBO,'' and together with NBB, ''NBBO'') for a percentage of the regular trading day, the Exchange proposes to reward competitive liquidity-providing Market Makers. The Exchange believes that this rebate program will encourage the additional utilization of, and interaction with, the Exchange and further enhance the Exchange's standing as a premier venue for price discovery, liquidity, competitive quotes and price improvement, which will benefit investors.

The Exchange also believes that the voluntary CP Program will offer an alternative to the existing Lead Market Maker (''LMM'') program on the Exchange, as well as an alternative to the ETP Incentive Program under NYSE Arca Equities Rule 8.800,[5] for issuers to consider when determining where to list their securities. While the LMM program, the ETP Incentive Program and the proposed CP Program would share certain similarities (e.g., each is designed to incentivize quoting and trading), they are each fundamentally different. For example, the LMM program is designed to incentivize firms to take on the LMM designation and foster liquidity provision and stability in the market. In order to accomplish this, the Exchange currently provides LMMs with an opportunity to receive incrementally higher transaction credits and incur incrementally lower transaction fees (''LMM Rates'') compared to standard liquidity maker-taker rates (''Standard Rates'').[6] LMM Rates are intended to balance the increased risks and requirements assumed by LMMs. The ETP Incentive Program, however, is designed to enhance the market quality of, and incentivize Market Makers to take LMM assignments in, certain lower-volume ETPs by offering an alternative fee structure for such LMMs, which is funded from the Exchange's general revenues. ETP Incentive Program costs are offset by charging participating issuers non-refundable Optional Incentive Fees, which are credited to the Exchange's general revenues. LMMs under the ETP Incentive Program have additional, more stringent performance standards as compared to the LMM program.

Both the CP Program, if approved, and the ETP Incentive Program would be subject to one-year pilot periods. During these pilot periods, the Exchange would provide the Securities and Exchange Commission (''Commission'') with certain market quality reports each month, which would also be posted on the Exchange's Web site. The analysis and market quality data provided in the CP Program reports would be identical to that of the ETP Incentive Program reports. The CP Program pilot reports would also compare, to the extent practicable, the CP Program against the ETP Incentive Program, including with respect to the potential impact that one program may have on the other and how the analysis included in the reports with respect to the CP Program, as described further below, compares to the Exchange's similar analysis with respect to the ETP Incentive Program. Other aspects of the CP Program that would be the same as, or substantially similar to, the ETP Incentive Program are (1) payment of an optional fee by a participating issuer, which would be credited to the Exchange's general revenues (although the fee amounts would differ between the CP Program and the ETP Incentive Program); (2) issuer eligibility (although the CP Program would permit an issuer's ETP to participate therein even if the issuer had suspended the issuance of new shares of such ETP, whereas the ETP Incentive Program does not); (3) the notifications provided by the Exchange on its Web site related to the CP Program; (4) the press releases, and the contents thereof, required of issuers whose ETPs are participating in the CP Program; and (5) the consolidated average daily volume (''CADV'') threshold related to an ETP's ''graduation'' from the CP Program (although the threshold under the CP Program would be two million shares, whereas the threshold under the ETP Incentive Program is one million shares).

The CP Program differs from the LMM program and the ETP Incentive Program primarily by providing for competition among market participants to earn incentive rebates (referred to as ''CP Payments'') based on CP performance in an assigned ETP. In this regard, under the LMM program and the ETP Incentive Program, only one Market Maker—the LMM—is incentivized to be active with respect to the market for the particular ETP. However, as proposed under the CP Program, multiple CPs would compete for the daily CP Payments, which, like the ETP Incentive Program, would be funded from the Exchange's general revenues and offset by charging issuers an optional, non-refundable ''CP Program Fee,'' which would be credited to the Exchange's general revenues. As proposed, CPs would be subject to a daily quoting requirement in order to be eligible to receive CP Payments. CPs would also be subject to a monthly quoting requirement in order to remain qualified as CPs. The Exchange believes that offering three programs with different structures and incentives would allow issuers and Market Makers to choose an alternative that makes the most sense for their business models and allow the Exchange and the Commission to compare the features of, participation in, and performance of the programs over time before determining whether to convert the CP Program, the ETP Incentive Program, or both to permanent status.

The Exchange does not anticipate that offering the CP Program would have any adverse impact on the ETP Incentive Program or the existing LMM program. Rather, the Exchange believes that it is in the interest of issuers, LMMs, Market Makers, and the investing public to have the benefit of alternatives with respect

[4] A Market Maker is an Equity Trading Permit Holder that acts as a Market Maker pursuant to NYSE Arca Equities Rule 7. *See* NYSE Arca Equities Rule 1.1(v). An Equity Trading Permit Holder is a sole proprietorship, partnership, corporation, limited liability company, or other organization in good standing that has been issued an Equity Trading Permit. *See* NYSE Arca Equities Rule 1.1(n).

[5] *See* Securities Exchange Act Release No. 69706 (June 6, 2013), 78 FR 35340 (June 12, 2013) (SR–NYSEArca–2013–34).

[6] The Exchange generally employs a maker-taker transactional fee structure, whereby an Equity Trading Permit Holder that removes liquidity is charged a fee (''Take Rate''), and an Equity Trading Permit Holder that provides liquidity receives a credit (''Make Rate''). *See* Trading Fee Schedule, *available at https://usequities.nyx.com/sites/usequities.nyx.com/files/nyse_arca_marketplace_fees_for_12-3-13.pdf.*

to the particular program that an issuer's ETP participates in on the Exchange. The Exchange believes that an issuer would select the program that it believes is best suited for its ETP. In this regard, to the extent an issuer's ETP is participating in, for example, the ETP Incentive Program, but decides that the CP Program may actually be better tailored for the ETP, the issuer could withdraw the ETP from the ETP Incentive Program at the end of a calendar quarter and apply for the ETP to participate in the CP Program. This would also be true for issuers that choose to withdraw their ETPs from the CP Program and instead have their ETPs participate in the ETP Incentive Program. After participating in either the CP Program or the ETP Incentive Program, an issuer could also decide that the traditional LMM program is the best program for its ETP.

Proposed Rule

Proposed NYSE Arca Equities Rule 7.25(a) would describe a CP, which would be an Equity Trading Permit Holder that (1) would be qualified as a Market Maker, and in good standing, on the Exchange; (2) would electronically enter quotes and orders into the systems and facilities of the Exchange; and (3) would be obligated to maintain a displayed bid or offer at the NBB or the NBO, respectively, in each assigned ETP consistent with paragraph (g) of proposed Rule 7.25.[7]

Proposed NYSE Arca Equities Rule 7.25(b) would describe the products eligible for the CP Program.[8] Specifically, an ETP would be eligible to participate in the CP Program if:

(1) it is listed on the Exchange as of the commencement of the pilot period or becomes listed during the pilot period;

(2) the listing is under NYSE Arca Equities Rules 5.2(j)(3) (Investment Company Units), 5.2(j)(5) (Equity Gold Shares), 8.100 (Portfolio Depositary Receipts), 8.200 (Trust Issued Receipts), 8.201 (Commodity-Based Trust Shares), 8.202 (Currency Trust Shares), 8.203 (Commodity Index Trust Shares), 8.204 (Commodity Futures Trust Shares), 8.300 (Partnership Units), 8.600 (Managed Fund Shares), or 8.700 (Managed Trust Securities);

(3) it is neither participating in the ETP Incentive Program under NYSE Arca Equities Rule 8.800 nor has an LMM assigned to it;[9]

(4) with respect to an ETP that was listed on the Exchange before the commencement of the CP Program, the ETP has a CADV of two million shares or less for at least the preceding three months; and

(5) it is compliant with continuing listing standards, if the ETP is added to the CP Program after listing on the Exchange.

Proposed NYSE Arca Equities Rule 7.25(c) would describe the issuer application process.[10] Specifically, under proposed NYSE Arca Equities Rule 7.25(c)(1), to be eligible for an ETP to participate in the CP Program, the issuer must be current in all payments due to the Exchange.

Proposed NYSE Arca Equities Rule 7.25(c)(2) would describe that an issuer that wished to have an ETP participate in the CP Program and pay the Exchange a CP Program Fee would be required to submit a written application in a form prescribed by the Exchange for each ETP. An issuer could elect for its ETP to participate at the time of listing or thereafter at the beginning of each quarter. The Exchange notes that it may, on a CP Program-wide basis, limit the number of ETPs that any one issuer may have in the CP Program, and any such limitation would be uniformly applied to all issuers.[11]

Proposed NYSE Arca Equities Rule 7.25(c)(3) would describe that the Exchange would communicate the ETP(s) proposed for inclusion in the CP Program on a written solicitation that would be sent to all qualified CPs along with the CP Program Fee the issuer will pay the Exchange for each ETP, which would be set forth in the Exchange's Listing Fee Schedule.[12]

Proposed NYSE Arca Equities Rules 7.25(c)(4) and (5) would describe required public notices relating to the CP Program. Under proposed NYSE Arca Equities Rule 7.25(c)(4), the Exchange would provide notification on a dedicated page on its Web site regarding (i) the ETPs participating in the CP Program, (ii) the date a particular ETP began participating in the CP Program, (iii) the date the Exchange received written notice of an issuer's intent to withdraw its ETP from the CP Program, and the intended withdrawal date, if provided, (iv) the date a particular ETP ceased participating in the CP Program, (v) the CPs assigned to each ETP participating in the CP Program, (vi) the date the Exchange received written notice of a CP's intent to withdraw from its ETP assignment(s) in the CP Program, and the intended withdrawal date, if provided, and (vii) the amount of the CP Program Fee for each ETP. This page would also include a fair and balanced description of the CP Program, including (a) a description of the CP Program's operation as a pilot, including the effective date thereof, (b) the potential benefits that may be realized by an ETP's participation in the CP Program, (c) the potential risks that may be attendant with an ETP's participation in the CP Program, (d) the potential impact resulting from an ETP's entry into and exit from the CP Program, and (e) how interested parties can request additional information regarding the CP Program and/or the ETPs participating therein.

Under proposed NYSE Arca Equities Rule 7.25(c)(5), an issuer of an ETP that is approved to participate in the CP Program would be required to issue a press release to the public when an ETP commences or ceases participation in the CP Program. The press release would be in a form and manner prescribed by the Exchange, and if practicable, would be issued at least two

[7] The Exchange's proposed description of a CP would be substantially the same as a ''Competitive Liquidity Provider'' or ''CLP'' under Interpretation and Policy .02(a) of BATS Exchange, Inc. (''BATS'') Rule 11.8 (the ''Competitive Liquidity Provider Program'' or ''CLP Program'').

[8] The products that would be eligible to join the CP Program would be substantially the same as the products eligible for the ETP Incentive Program under Rule 8.800(a), except that proposed Rule 7.25(b)(3) would be added to describe that, to participate in the CP Program, an ETP could neither participate in the ETP Incentive Program under NYSE Arca Equities Rule 8.800 nor have an LMM assigned to it.

[9] If an issuer of an ETP with an LMM assigned to it chose to have the ETP participate in the CP Program, the LMM would be relieved of its status as such. The LMM would be permitted to apply for CP status for the particular ETP. In this regard, the Exchange believes that existing Market Maker identifiers could be utilized to identify CP activity for purposes of the CP Program, since the same Market Maker could not also act in the capacity as an LMM, either pursuant to the LMM Program or the ETP Incentive Program.

[10] The issuer application process under proposed Rule 7.25(c) would be substantially similar to the process under Rule 8.800(b) for issuers whose ETPs participate in the ETP Incentive Program, except that (i) proposed Rule 7.25(c)(2) would not include a restriction with respect to the number of ETPs that an issuer could designate to participate in the CP Program that were listed on the Exchange prior to the pilot period, (ii) as described below, an issuer whose ETP is participating in the CP Program would not be able to determine the amount of the CP Program Fee, and (iii) the process described under Rule 8.800(b)(4)-(5) for the ETP Incentive Program related to issuer-LMM contact, LMM meetings/presentations to/with the Exchange, and issuer indications of preference regarding the specific LMM assigned to an ETP would not be applicable.

[11] This would be similar to the manner in which the Nasdaq Stock Market LLC (''NASDAQ'') may, in relation to its Market Quality Program (''MQP''), on an MQP-wide basis limit the number of MQP securities that any one ''MQP Company'' may have in the MQP. *See* NASDAQ Rule 5950(a)(1)(A). *See also* note 50, *infra* [sic].

[12] The Exchange notes that, whereas the Optional Incentive Fee for the ETP Incentive Program is determined by the issuer within a range of $10,000 to $40,000, the CP Program Fee would be fixed at $50,000 for any issuers whose ETPs are participating.

days before the ETP commences or ceases participation in the CP Program.[13] For example, there could be instances in which it would not be known two days in advance that an ETP would be ceasing participation in the CP Program, in which case the Exchange would request that the issuer distribute the press release as soon as possible under the particular circumstances. The issuer would also be required to dedicate space on its Web site, or, if it does not have a Web site, on the Web site of the adviser or sponsor of the ETP, that (i) includes any such press releases and (ii) provides a hyperlink to the dedicated page on the Exchange's Web site that describes the CP Program.[14]

Proposed NYSE Arca Equities Rule 7.25(d) would describe the CP application process.[15] To qualify as a CP, as described in proposed NYSE Arca Equities Rule 7.25(d)(1), an Equity Trading Permit Holder must: [16]

(A) be qualified as a Market Maker, and in good standing, on the Exchange; and

(B) have adequate information barriers between the business unit of the Equity Trading Permit Holder acting as a CP in a proprietary capacity and the Equity Trading Permit Holder's customer, research and investment banking business, if any.

To become a CP, an Equity Trading Permit Holder must submit a CP application form with all supporting documentation to the Exchange. Exchange staff would determine whether an applicant was qualified to become a CP based on the qualifications described in proposed Rule 7.25(d)(1). After an applicant submits a CP application to the Exchange, with supporting documentation, the Exchange would notify the applicant of its decision. If an applicant were approved by the Exchange to receive CP status, such applicant would be required to have connectivity with relevant Exchange systems before such applicant would be permitted to quote and trade as a CP on the Exchange.[17] In the event that an applicant were disapproved by the Exchange, such applicant could seek review under existing NYSE Arca Equities Rule 10.13 and/or reapply for CP status at least three calendar months following the month in which the applicant received the disapproval notice from the Exchange.[18] The Exchange does not anticipate placing a limit on the number of CPs assigned to a particular ETP or on the number of ETPs that a particular CP would be assigned to. This is consistent with the goal of the CP Program, which is to promote quoting and trading and to add competition on the Exchange.[19]

Proposed NYSE Arca Equities Rule 7.25(e) would describe an issuer's payment of the CP Program Fee. An issuer of an ETP that is participating in the CP Program would be required to pay the Exchange a CP Program Fee in accordance with the Exchange's Listing Fee Schedule, which would be credited to the Exchange's general revenues. In this regard, the Exchange proposes to amend its Listing Fee Schedule to provide that the CP Program Fee under Rule 7.25 would be $50,000.[20] Specifically, the Listing Fee Schedule would specify that the CP Program Fee for each ETP would be paid by the issuer to the Exchange in quarterly installments at the beginning of each quarter and prorated if the issuer commenced participation for an ETP in the CP Program after the beginning of a quarter.[21] The CP Program Fee paid by an issuer would be credited to the Exchange's general revenues. The issuer would not receive a credit from the Exchange following the end of the quarter if a CP were assigned to the ETP during such quarter, even if the assigned CPs did not satisfy their daily or monthly quoting requirements in any given month in such quarter for the ETP.[22] If the ETP had a sponsor, the sponsor could pay the CP Program Fee to the Exchange.[23]

Proposed NYSE Arca Equities Rule 7.25(f) would describe Size Event Tests (''SETs'').[24] The Exchange would measure the performance of a CP in an assigned ETP by calculating SETs during Core Trading Hours on every day on which the Exchange is open for business. The Exchange would measure the quoted displayed size at the NBB (NBO) of each CP at least once per second to determine bid (offer) SETs (a ''Bid (Offer) SET''). A CP would be considered to have a winning Bid (Offer) SET (a ''Winning Bid (Offer) SET'') for a particular ETP if, at the time of the SET, the CP:

(A) was quoting at least 500 shares of the ETP at the NBB (NBO);

(B) had the greatest aggregate displayed size at the NBB (NBO); and

(C) was quoting an offer (bid) of at least 100 shares at a price at or within 1.2% of the CP's best bid (offer).

Proposed NYSE Arca Equities Rule 7.25(g) would describe the CP quoting requirements.[25] Under the general

[13] The issuer's press release would be required to include language describing, for example, that while the impact of participation in or exit from the CP Program, which is optional, cannot be fully understood until objective observations can be made in the context of the CP Program, potential impacts on the market quality of the issuer's ETP may result, including with respect to the average spread and average quoted size for the ETP.

[14] These disclosure requirements would be in addition to, and would not supersede, the prospectus disclosure requirements under the Securities Act of 1933 or the Investment Company Act of 1940.

[15] The proposed CP application process would be substantially similar to the BATS CLP Program application process under Interpretation and Policy .02(e) of BATS Rule 11.8.

[16] The proposed qualifications would be, in the Exchange's opinion, more straightforward as compared to the BATS CLP Program qualifications under Interpretation and Policy .02(c) of BATS Rule 11.8. For example, proposed Rule 7.25(d)(1) would not require unique identifiers, since an ETP could participate only in one of either the LMM program, the ETP Incentive Program or the proposed CP Program, such that unique identifiers to distinguish Market Maker activity on the Exchange would not be necessary. Several other BATS CLP requirements (e.g., regarding trading infrastructure) are overarching for Market Makers on the Exchange, generally, and therefore are not specifically included in Rule 7.25.

[17] If approved to receive CP status, a CP would be assigned to participating ETPs in the same manner that Market Makers are currently assigned to securities listed on the Exchange.

[18] NYSE Arca Equities Rule 10.13 provides the procedure for persons aggrieved by certain actions taken by the Exchange to apply for an opportunity to be heard and to have the action reviewed.

[19] This would be unlike securities traded on the Exchange for which a single LMM is assigned as well as for securities participating in the ETP Incentive Program.

[20] As noted above, whereas the Optional Incentive Fee for the ETP Incentive Program is determined by the issuer within a range of $10,000 to $40,000 per ETP, the CP Program Fee would be fixed at $50,000 per ETP for any issuers whose ETPs are participating. Like the ETP Incentive Program, the issuer would still be required to pay applicable Listing Fees and Annual Fees. Under the current Listing Fee Schedule, an issuer of an ETP is required to pay a Listing Fee that ranges from $5,000 to $45,000. An ETP issuer also pays a graduated Annual Fee based on the number of shares of the ETP that are outstanding. The Annual Fee ranges from $5,000 to $55,000.

[21] The description of payment of the CP Program Fee by issuers would be substantially similar to that of the Optional Incentive Fee under the ETP Incentive Program, including by describing the circumstance under which the issuer would not receive a credit from the Exchange.

[22] As described in proposed NYSE Arca Equities Rule 7.25(e)(1), an ETP would not be permitted to begin participation in the CP Program unless there were eligible CPs assigned to such ETP.

[23] This is identical to the ETP Incentive Program, including that the term ''sponsor'' means the registered investment adviser that provides investment management services to an ETP or any of such investment adviser's parents or subsidiaries.

[24] The Exchange notes that the ETP Incentive Program only contemplates one LMM for each participating ETP. The concept of SETs is substantially similar to that of the BATS CLP Program under Interpretation and Policy .02(g)(1) and (4) (5) of BATS Rule 11.8.

[25] The proposed CP quoting requirements would be substantially similar to the quoting requirements of the BATS CLP Program under Interpretation and Policy .02(g)(1)(A) and (B) and (g)(2)–(4) of BATS Rule 11.8, except that, as described in proposed Rule 7.25(g)(4), for purposes of meeting the daily and monthly quoting requirements, CP quotes may be for the account of the CP in either a proprietary

Continued

quoting requirement of proposed Rule 7.25(g)(1), each CP assigned to one or more ETPs in the CP Program would be required to maintain continuous, two-sided displayed quotes or orders in accordance with existing NYSE Arca Equities Rule 7.23(a)(1) for each such ETP. Under the daily quoting requirement of proposed Rule 7.25(g)(2), a CP would be required to have Winning Bid (Offer) SETs equal to at least 10% of the total Bid (Offer) SETs on any trading day in order to meet its daily quoting requirement and to be eligible for the daily CP Payments for an ETP, as described in the Exchange's Trading Fee Schedule. Furthermore, under the monthly quoting requirement of proposed Rule 7.25(g)(3), a CP must have displayed quotes or orders of at least 100 shares at the NBB (NBO) at least 10% of the time that the Exchange calculates Bid (Offer) SETs to meet its monthly quoting requirement. Finally, proposed Rule 7.25(g)(4) would provide that, for purposes of meeting the daily and monthly quoting requirements, CP quotes may be for the account of the CP in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person.[26] For purposes of measuring CP quoting, the Exchange would include all Market Maker quotes and orders in assigned ETPs of an Equity Trading Permit Holder that is a CP.

By way of comparison, although CPs and LMMs share certain quoting requirements, the additional CP requirements to receive a payment under the CP Program differ from those of LMMs. All CPs, LMMs in the LMM program, and LMMs in the ETP Incentive Program must meet the general Market Maker quoting requirements under Rule 7.23. Under this rule, they must maintain continuous, two-sided trading interest where the price of the bid (offer) interest is not more than a designated percentage away from the then current NBBO. LMMs in the LMM program are also subject to the heightened performance standards of Rule 7.24, which relate to (i) percentage of time at the NBBO; (ii) percentage of executions better than the NBBO; (iii) average displayed size; and (iv) average quoted spread. Rule 7.24 does not apply, however, to LMMs in the ETP Incentive Program or CPs. Instead, ETP Incentive Program LMMs are subject to the specific performance standards under Rule 8.800(c), which relate only to quoting.[27]

Proposed NYSE Arca Equities Rule 7.25(h) would describe the CP Payment by the Exchange. Specifically, the Exchange would credit a CP for a CP Payment from its general revenues in accordance with the Exchange's Trading Fee Schedule. In this regard, the Exchange proposes to amend its Trading Fee Schedule to provide for the CP Payment. Specifically, the Trading Fee Schedule would specify the amount of the total daily rebate, which would not exceed an amount equal to the CP Program Fee paid to the Exchange by an issuer, less a 5% Exchange administration fee, divided by the number of trading days in the calendar year.[28] Half of this amount would be for bid SETs and half would be for offer SETs. Additionally, 70% of the bid (offer) SET amount would be credited to the CP with the highest number of Winning Bid (Offer) SETs and 30% of the bid (offer) SET amount would be credited to the CP with the second-highest number of Winning Bid (Offer) SETs.[29] If only one CP were eligible for the bid (offer) SET amount, 100% of such rebate would be provided to such CP. If more than two CPs had an equal number of Winning Bid (Offer) SETs, the CP with the higher executed volume in the ETP on the Exchange on the particular trading day would be awarded the applicable daily rebate. A rebate would not be provided if no eligible CPs existed (e.g., if CPs were assigned to the ETP but did not satisfy the requirements to have a Winning Bid or Winning Offer).

The Exchange would credit a CP for the CP Payment at the end of each month. If the ETP were withdrawn from the CP Program pursuant to proposed paragraph (i) of Rule 7.25 during the month, then the CP would not be eligible for a CP Payment after the date of such withdrawal. Additionally, if an issuer did not pay its quarterly installments to the Exchange on time and the ETP continued to be included in the CP Program, the Exchange would continue to credit CPs in accordance with the Exchange's Fee Schedule.

Proposed NYSE Arca Equities Rule 7.25(i) would describe the withdrawal of an ETP.[30] Specifically, if an ETP liquidated or suspended the redemption of shares it would be automatically withdrawn from the CP Program as of the ETP liquidation or suspension date.[31] Also, the Exchange would withdraw an ETP from the CP Program upon request from the issuer. Additionally, if the issuer was not current in all payments due to the Exchange after two consecutive quarters, such ETP would be automatically removed from the CP Program.[32] Finally, if an ETP maintained a CADV of two million shares or more for three consecutive months, it would be automatically withdrawn from the CP Program within

capacity or a principal capacity on behalf of an affiliated or unaffiliated person. The Exchange notes that the proposed quoting requirements under the CP Program would differ significantly from the LMM Performance Standards under the ETP Incentive Program because only one LMM is assigned to each ETP participating in the ETP Incentive Program, whereas several CPs may be assigned to each ETP participating in the CP Program.

[26] A CP's quotes in a principal capacity could include quotes submitted to the Exchange on behalf of customers or other unaffiliated or affiliated persons.

[27] ETP Incentive Program LMMs must meet a ''Market Wide Requirement,'' under which an LMM must maintain quotes or orders at the NBBO or better (the ''Inside'') during the month during Core Trading Hours in accordance with certain maximum width and minimum depth thresholds based on daily share volume and share price, as set forth in Commentary .01 to Rule 8.800, unless the thresholds are otherwise met by quotes or orders of all market participants across all markets trading the security. ETP Incentive Program LMMs must also meet an ''NYSE Arca-Specific Requirement'' under which the LMM must maintain quotes or orders on NYSE Arca at the NBBO that meet either a time-at-the-Inside requirement or a size-setting NBBO requirement. Finally, for at least 90% of the time when quotes may be entered during Core Trading Hours each trading day, as averaged over the course of a month, an LMM must maintain (A) at least 2,500 shares of attributable, displayed posted buy liquidity on the Exchange that is priced no more than 2% away from the NBB for the particular ETP; and (B) at least 2,500 shares of attributable, displayed posted offer liquidity on the Exchange that is priced no more than 2% away from the NBO for the particular ETP.

[28] BATS similarly provides a daily payment pursuant to its CLP Program, which is also based on size event tests. For example, for ''Tier I'' securities, BATS pays $500 per day to CLPs, which is split between bid and offer size event tests. BATS allocates the payment to CLPs on a pro rata basis based on the combined sum of their winning bid/offer size event tests. *See* Interpretation and Policy .02(k)(1) of BATS Rule 11.8.

[29] The Trading Fee Schedule would include a cross-reference to the definition of Winning Bid (Offer) SET, as described above and as proposed within paragraph (f) of Rule 7.25.

[30] Inherent in the withdrawal of an ETP is that any CPs assigned to such ETP would be relieved of such assignment.

[31] The Exchange notes that under Rule 8.800(e)(1) of the ETP Incentive Program, an ETP would also be automatically withdrawn if it suspended the creation of shares. The Exchange believes that an ETP would benefit from having CPs assigned during a period when the issuer has suspended the issuance of new shares, in that the added liquidity that CPs would provide would contribute to the quality of the market for such an ETP, especially during such a time when liquidity in the ETP might otherwise be limited. The Exchange further notes that the BATS CLP Program does not require withdrawal in relation to suspension of creation of shares for participating securities.

[32] This would be identical to the process under Rule 8.800(e)(5) of the ETP Incentive Program. Only the ETP for which an issuer is not current in payments would be subject to withdrawal. For example, if an issuer listed two ETPs on the Exchange that participated in the CP Program, and was current in payments for one but not for the other, only the latter ETP would be subject to withdrawal from the CP Program.

one month thereafter.[33] If after such automatic withdrawal the ETP failed to maintain a CADV of two million shares or more for three consecutive months, the issuer of the ETP could reapply for the CP Program one month thereafter. The Exchange believes that setting a two-million-share threshold would provide an objective measurement for evaluating the effectiveness of the CP Program, such that the Exchange and the Commission could compare the quality of the market for ETPs, both during their participation in the CP Program and after their ''graduation'' from the CP Program.

Finally, proposed NYSE Arca Equities Rule 7.25(j) would describe the withdrawal of CP status. Specifically, a CP that did not satisfy the monthly quoting requirement of proposed paragraph (g)(3) of Rule 7.25 for three consecutive months would be subject to the potential withdrawal of its CP status.[34] Any such withdrawal determinations would be for a specific ETP.[35] A CP could also initiate withdrawal from an ETP assignment in the CP Program by giving notice to the Exchange. The Exchange would effect such withdrawal as soon as practicable, but no later than 30 days after the date the notice is received by the Exchange. Such withdrawal could be for a specific ETP or for all ETPs to which the CP is assigned.

Implementation of CP Program

The CP Program would be offered to issuers from the date of implementation, which would occur no later than 90 days after Commission approval of this filing, until one calendar year after implementation. During the pilot period, the Exchange would assess the CP Program and could expand the criteria for ETPs that are eligible to participate, which would be accomplished pursuant to a proposed rule change with the Commission. At the end of the pilot period, the Exchange would determine whether to continue or discontinue the CP Program or make it permanent and submit a rule filing as necessary. If the Exchange determined to change the terms of the CP Program while it was ongoing, it would submit a proposed rule change with the Commission.

During the CP Program, the Exchange would provide the Commission with certain market quality reports each month, which would also be posted on the Exchange's Web site. Such reports would include the Exchange's analysis regarding the CP Program and whether it is achieving its goals,[36] as well as market quality data such as, for all ETPs listed as of the date of implementation of the CP Program and listed during the pilot period (for comparative purposes, including comparable ETPs that are listed on the Exchange but not participating in the CP Program), volume (CADV and NYSE Arca ADV), NBBO bid/ask spread differentials, CP participation rates, NYSE Arca market share, CP time spent at the Inside, CP time spent within $0.03 of the Inside, percentage of time NYSE Arca had the best price with the best size, CP quoted spread, CP quoted depth, and Rule 605 statistics (one-month delay) as agreed upon by the Exchange and the Commission staff. These reports would also compare, to the extent practicable, ETPs before and after they are in the CP Program, and would further provide data and analysis about the market quality of ETPs that exceed the two-million-share CADV threshold and ''graduate,'' or are otherwise withdrawn or terminated from, the CP Program. These reports would also compare, to the extent practicable, the CP Program against the ETP Incentive Program, including with respect to the potential impact that one program may have on the other and how the analysis described above with respect to the CP Program compares to the Exchange's similar analysis with respect to the ETP Incentive Program. In connection with this proposal, the Exchange would provide other data and information related to the CP Program as may be periodically requested by the Commission. In addition, and as described further below, issuers could utilize ArcaVision to analyze and replicate data on their own.[37] The Exchange believes that this information will help the Commission, the Exchange, and other interested persons to evaluate whether the CP Program has resulted in the intended benefits it is designed to achieve, any unintended consequences resulting from the CP Program, and the extent to which the CP Program alleviates or aggravates any potential concerns related to the CP Program, including relating to issuer payments to market makers.

Benefits and Risks of the CP Program

The proposed CP Payment is designed to encourage Market Makers to pursue assignments as CPs and thereby support the provision of consistent liquidity in ETPs listed on the Exchange. The Exchange believes that providing a CP Payment would create an equitable system of incentives for Market Makers. The Exchange would administer all aspects of the CP Payments, which, as noted above, would be paid by the Exchange to CPs out of the Exchange's general revenues. The Exchange believes that the CP Program would increase the supply of Market Makers seeking to take on ETP assignments, ultimately leading to improved market quality for long-term investors in ETPs, which would lead to multiple benefits.

Despite such anticipated benefits that the CP Program may bring to the market for ETPs, there are also potential risks that may be attendant with an ETP's participation in the CP Program, including with respect to the potential impact on price and liquidity of an ETP resulting from an ETP's entry into and exit from the CP Program. For example, while the impact of participation in or exit from the CP Program, which is optional, could not be fully understood until objective observations could be made in the context of the CP Program, potential impacts on the market quality of the issuer's ETP may result, including with respect to the average spread and average quoted size for the ETP.

Relief From FINRA Rule 5250

FINRA has filed an immediately effective rule change with the Commission indicating FINRA's view that, where a market maker payment is provided for under the rules of an exchange that are effective after being filed with, or filed with and approved by, the Commission pursuant to the requirements of the Act, comity should be afforded to such exchange rulemaking and the payment should not

[33] Except for the difference in thresholds, this would be identical to the process under Rule 8.800(e)(4) of the ETP Incentive Program.

[34] This would be substantially similar to the potential loss of CLP status under the BATS CLP Program under Interpretation and Policy .02(j)(1)(B) and (j)(2) of BATS Rule 11.8.

[35] For example, if a CP satisfied its monthly quoting requirement for one ETP but not for another ETP that it was assigned to, the CP would be subject to withdrawal for the latter ETP, but not the former.

[36] The Exchange believes that an initial indicator of the success of the CP Program will be the extent to which issuers elect to have their ETPs participate therein, as well as the number of Market Makers that choose to act as CPs.

[37] NYSE Arca provides ArcaVision free of charge to the public via the Web site *www.ArcaVision.com*. ArcaVision offers a significant amount of trading data and market quality statistics for every Regulation NMS equity security traded in the United States, including all ETPs. Publicly available reports within ArcaVision, which include relevant comparative data, are the Symbol Summary, Symbol Analytics, Volume Comparison and Quotation Comparison reports, among others. In addition, users can create the reports on a per-symbol basis over a flexible time frame. They can also take advantage of predefined, accurate and up-to-date symbol sets based on type of ETP or issuer. Users can also create their own symbol lists. ArcaVision will allow an ETP issuer to see additional information specific to its CPs and other Market Makers in each ETP via the ''ArcaVision Market Maker Summary'' reporting mechanism.

be prohibited under FINRA Rule 5250.[38] Accordingly, the Exchange believes that the CP Program would be within the scope of the carveout from the prohibitions of Rule 5250 that is provided therein.[39]

Relief From Regulation M

Rule 102 of Regulation M prohibits an issuer from directly or indirectly attempting ''to induce any person to bid for or purchase, a covered security during the applicable restricted period'' unless an exemption is available.[40] The payment of the optional CP Program Fee by the issuer (or sponsor on behalf of the issuer) for the purpose of incentivizing Market Makers to become CPs in an issuer's security could constitute an attempt by the issuer to induce a bid for a purchase of a ''covered security'' during a restricted period.[41] As a result, absent exemptive relief, participation in the CP Program by an issuer (or sponsor on behalf of the issuer) could violate Rule 102 of Regulation M. For the reasons discussed below, the Exchange believes that exemptive relief from Rule 102 should be granted for the CP Program.

First, the Exchange notes that the Commission and its staff have previously granted relief from Rule 102 to a number of ETPs (''Existing Relief'') in order to permit the ordinary operation of such ETPs.[42] In granting the Existing Relief, the Commission has relied in part on the exclusion from the provisions of Rule 102 provided by paragraph (d)(4) of Rule 102 for securities issued by an open-end management investment company or unit investment trust. In granting the Existing Relief from Rule 102 to other types of ETPs, for which the (d)(4) exception is not available, the staff has relied on (i) representations that the fund in question would continuously redeem ETP shares in basket-size aggregations at their net asset value (''NAV'') and that there should be little disparity between the market price of an ETP share and the NAV per share and (ii) a finding that ''[t]he creation, redemption, and secondary market transactions in [shares] do not appear to result in the abuses that . . . Rules 101 and 102 of Regulation M . . . were designed to prevent.'' [43] The crux of the Commission's findings in granting the Existing Relief rests on the premise that the prices of ETP shares closely track their per-share NAVs. Given that the CP Program neither alters the derivative pricing nature of ETPs nor impacts the arbitrage opportunities inherent therein, the conclusion on which the Existing Relief is based remains unaffected by the CP Program. In this regard, most ETPs that would be eligible to participate in the CP Program would have previously been granted relief from Rule 102. Moreover, and as noted above, an ETP that liquidated or suspended the redemption of shares would be automatically withdrawn from the CP Program as of the ETP liquidation or suspension date.

Second, the CP Program requires, among other things, that a CP make two-sided quotes and not just bids. It is not intended to raise ETP prices but rather to improve market quality. In light of the derivative nature of ETPs described above, the Exchange does not expect that CPs would quote outside of the normal quoting ranges for these products as a result of the CP Payment, but rather would quote within their normal ranges as determined by market factors. Indeed, the CP Program would not create any incentive for a CP to quote outside such ranges. In this regard, the Exchange believes that the secondary market price for shares of the ETPs participating in the CP Program would not vary substantially from the NAV of such ETP shares during the duration of the ETP's participation in the CP Program because participating ETPs would likely have a pricing mechanism that would be expected to keep the price of the ETP shares tracking the NAV of the ETP shares, which should make the shares less susceptible to price manipulation.[44] The Exchange anticipates monitoring the secondary market price for shares of an ETP during its participation in the CP Program compared to the NAV of such ETP. If the Exchange were to identify any unusual movements in share prices or variances between secondary market prices and NAVs, and it was determined that such unusual movements or variances resulted from the ETP's participation in the CP Program, the Exchange would consider amending the CP Program in a manner designed to contribute to preventing such unusual movements or variances from occurring in the future.

Third, the CP Program includes significant disclosure provisions, which the Exchange believes will help to alert and educate potential and existing investors in the ETPs participating in the CP Program, as well as other market participants, about the CP Program, including regarding which ETPs are participating in the CP Program, which CPs are assigned to each ETP, the amount of CP Program Fee an issuer will incur as a result of participating in the CP Program, the maximum amount of CP Payments a CP could potentially receive from the Exchange under the CP Program, and the potential benefits and risks of the CP Program. The Exchange believes that the disclosures that are built into the CP Program would contribute to minimizing concerns regarding a particular ETP's participation in the CP Program.

Finally, the staff of the Exchange, which is a self-regulatory organization, would be interposed between the issuer

[38] *See* Securities Exchange Act Release No. 69398 (April 18, 2013), 78 FR 24261 (April 24, 2013) (SR–FINRA–2013–020).

[39] The Exchange also notes that FINRA surveils trading on the Exchange, including ETP trading, pursuant to a Regulatory Services Agreement (''RSA''). The Exchange is responsible for FINRA's performance under this RSA.

[40] Rule 102 provides that ''[i]n connection with a distribution of securities effected by or on behalf of an issuer or selling security holder, it shall be unlawful for such person, or any affiliated purchaser of such person, directly or indirectly, to bid for, purchase, or attempt to induce any person to bid for or purchase, a covered security during the applicable restricted period'' unless an exception is available. *See* 17 CFR 242.102.

[41] The Commission previously granted a limited exemption from Rule 102 of Regulation M solely to permit the payment of the ETP Incentive Program Optional Incentive Fee during its pilot period, subject to certain conditions. *See* Securities Exchange Act Release No. 69707 (June 6, 2013), 78 FR 35330 (June 12, 2013) (Order Granting a Limited Exemption from Rule 102 of Regulation M Concerning the NYSE Arca, Inc.'s Exchange Traded Product Incentive Program Pilot Pursuant to Regulation M Rule 102(e)). The Commission previously stated its belief that the payment of the ETP Incentive Program Optional Incentive Fee by an issuer (or a sponsor on behalf of the issuer) for the purpose of incentivizing market makers to become LMMs in the issuer's securities would constitute an indirect attempt by the issuer to induce a bid for or a purchase of a covered security during a restricted period, which would violate Rule 102. *See id.* at 35331.

[42] *See, e.g.,* Letter from James A. Brigagliano, Acting Associate Director, Division of Market Regulation, to Stuart M. Strauss, Esq., Clifford Chance US LLP (Oct. 24, 2006) (regarding class relief for exchange traded index funds).

[43] *See* Rydex Specialized Products LLC, SEC No-Action Letter (June 21, 2006).

[44] The transparent nature of an ETP's portfolio composition, as well as its accessibility and the elasticity of shares outstanding, contributes to an arbitrage process that will lead to executions of orders priced at or near NAVs. The typical unit size is 50,000 shares to 100,000 shares and each share represents fractional ownership of the portfolio, allowing low minimum investments to access the exposure of a large notional portfolio. ETP supply (i.e., shares outstanding) can be increased or decreased through the creation and redemption process. Clearing firms that are authorized participants will have the opportunity to deliver, or take delivery of, unit-sized amounts of the underlying securities. Proprietary traders engaging in arbitrage are able to calculate an estimated intraday NAV. Such traders understand what the intrinsic per-share price is, hedge themselves using the underlying securities or correlated equivalents, and manage their positions by either creating or redeeming units. If and when the quote is priced beyond the intrinsic value of an ETP, an arbitrage opportunity can arise, and market participants will arbitrage such spread until price equilibrium is restored.

and the CPs, administering a rules-based program with numerous structural safeguards described in the previous section. Specifically, both CPs and issuers would be required to apply to participate in the program and to meet certain standards. The Exchange would collect the CP Program Fees from issuers and credit them to the Exchange's general revenues. A CP would be eligible to receive a CP Payment, again from the Exchange's general revenues, only after it met the proposed CP quoting requirements set and monitored by the Exchange. Application to, continuation in, and withdrawal from the CP Program would be governed by published Exchange rules and policies, and there would be extensive public notice regarding the CP Program and payments thereunder on both the Exchange's and the issuers' Web sites. Given these structural safeguards, the Exchange believes that payments under the CP Program are appropriate for exemptive relief from Rule 102.

In summary, the Exchange believes that exemptive relief from Rule 102 should be granted for the CP Program because, for example, (1) the CP Program would not create any incentive for a CP to quote outside of the normal quoting ranges for the ETPs included therein and the secondary market price for shares of the ETPs participating in the CP Program would not vary substantially from the NAV of such ETP shares during the duration of the ETP's participation in the CP Program; (2) the CP Program has numerous structural safeguards, such as the application process for issuers and CPs, the interpositioning of the Exchange between issuers and CPs, and significant public disclosure surrounding the CP Program, which in general is designed to help inform investors about the potential impact of the CP Program; (3) the CP Program includes significant disclosure provisions, which the Exchange believes will help to alert and educate potential and existing investors in the ETPs participating in the CP Program; and (4) the CP Program does not alter the basis on which Existing Relief is based and, furthermore, most ETPs that would be eligible to participate in the CP Program would have previously been granted relief from Rule 102.[45]

Surveillance

The Exchange believes that its surveillance procedures would be adequate to properly monitor the trading of CP Program ETPs on the Exchange during all trading sessions and to detect and deter violations of Exchange rules and applicable federal securities laws. Trading of the ETPs through the Exchange would be subject to FINRA's surveillance procedures for derivative products including ETFs.[46] The Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other exchanges that are members or affiliates of the ISG,[47] and from issuers and public and non-public data sources such as, for example, Bloomberg.

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that Equity Trading Permit Holders or issuers would have in complying with the proposed change.

The Exchange believes that it is subject to significant competitive forces in setting the proposed fees, as described below in the Exchange's statement regarding the burden on competition.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[48] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[49] in particular. The proposed rule change is consistent with Section 6(b)(5) of the Act in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the CP Program would enhance quote competition, improve liquidity, support the quality of price discovery, promote market transparency, and increase competition for listings and trade executions while reducing spreads and transaction costs. The Exchange further believes that enhancing liquidity in CP Program ETPs would help raise investors' confidence in the fairness of the market generally and their transactions in particular. As such, the CP Program would foster cooperation and coordination with persons engaged in facilitating securities transactions, enhance the mechanism of a free and open market, and promote fair and orderly markets in ETPs on the Exchange. The Exchange also believes that the CP Program would offer an alternative to the existing LMM program on the Exchange, as well as an alternative to the ETP Incentive Program, for issuers to consider when determining where to list their securities, which would contribute to removing impediments to and perfecting the mechanism of a free and open market and a national market system.

The Exchange believes that these three programs can exist concurrently. The Exchange believes that an initial indicator of the success of the CP Program will be the extent to which issuers elect to have their ETPs participate therein, as well as the number of Market Makers that choose to act as CPs. The Exchange believes that offering three programs with different structures and incentives will allow issuers and Market Makers to choose an alternative that makes the most sense for their business models and allow the Exchange and Commission to compare the features of, participation in, and performance of the programs over time before determining whether to convert either of the pilot programs to permanent status. Additionally, and as described above, to the extent an issuer's ETP is participating in, for example, the ETP Incentive Program, but decides that the CP Program may actually be better tailored for the ETP, the issuer would be able to withdraw the ETP from the ETP Incentive Program at the end of a calendar quarter and apply for the ETP to participate in the CP Program. This would also be true for issuers that choose to withdraw their ETPs from the CP Program and instead have their ETPs participate in the ETP Incentive Program. After participating in either the CP Program or the ETP Incentive Program, an issuer could also decide that the traditional LMM program is the best program under which to list its ETP.

[45] The Exchange notes that the Commission granted a limited exemption from Rule 102 of Regulation M to the Exchange related to the ETP Incentive Program as well as to NASDAQ related to its MQP, which is similar to the Exchange's ETP Incentive Program. *See* Securities Exchange Act Release No. 69707 (June 6, 2013) (Order Granting a Limited Exemption from Rule 102 of Regulation M Concerning the NYSE Arca, Inc.'s Exchange-Traded Product Incentive Program Pilot Pursuant to Regulation M Rule 102(e)). *See also* Securities Exchange Act Release No. 69196 (March 20, 2013), 78 FR 18410 (March 26, 2013) (Order Granting a Limited Exemption From Rule 102 of Regulation M Concerning the NASDAQ Market Quality Program Pilot Pursuant to Regulation M Rule 102(e)). These exemptions include certain conditions related to, among other things, notices to the public. The Exchange notes that if the Commission were to provide exemptive relief from Rule 102 of Regulation M for the CP Program it may include similar conditions.

[46] *See supra* note 38 [sic].

[47] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.*

[48] 15 U.S.C. 78f(b).

[49] 15 U.S.C. 78f(b)(4) and (5).

The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because it imposes objective criteria that CPs must satisfy in order to qualify for the proposed CP Payment and to remain qualified as CPs. The Exchange further believes that the proposal will promote just and equitable principles of trade because it will impose the same requirements on all CPs. Additionally, the Exchange believes that the proposal will remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because it will incentivize competitive quoting and trading by Market Makers qualified with the Exchange as CPs. Accordingly, this will contribute to the protection of investors and the public interest because it may provide a better trading environment for investors in ETPs included in the CP Program and, generally, encourage greater competition between markets. The Exchange believes that the proposal is not unfairly discriminatory due to the fact that qualification as an Exchange Market Maker, and, in turn, as a CP, is equally available to all Equity Trading Permit Holders that satisfy the requirements of proposed Rule 7.25. The Exchange further believes that the proposal is not unfairly discriminatory because of the quoting requirements applicable to CPs in order to become eligible for the CP Payment.

The Exchange believes that designating ETPs as the products eligible for inclusion in the CP Program is reasonable because it would incentivize Market Makers to undertake CP assignments in ETPs. The Exchange also believes that it is reasonable for an ETP that is participating in the ETP Incentive Program under NYSE Arca Equities Rule 8.800 or has an LMM assigned, to not be eligible to participate in the CP Program. This is because there are existing incentives provided by these other programs (i.e., the ''LMM Payment'' under Rule 8.800 and, under the LMM program, the incrementally higher transaction credits and incrementally lower transaction fees for LMMs as compared to standard liquidity maker-taker rates for non-LMMs) to incent competitive quoting and trading volume in ETPs listed on the Exchange. This is also equitable and not unfairly discriminatory because it would apply to each ETP that is participating in the CP Program.

The Exchange believes that the proposed rule change will not significantly affect the protection of investors or the public interest because the CP Program will incentivize competitive quoting by Market Makers qualified with the Exchange, provide a better trading environment for investors and, generally, encourage greater competition between markets. Additionally, the Exchange believes that the proposed change will not impose any significant burden on competition because the CP Program is designed to encourage the additional utilization of, and interaction with, the Exchange and provide customers with a premier venue for price discovery, liquidity, competitive quotes and price improvement. Additionally, permitting CP orders and quotes to be for the account of the CP in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person is identical to the manner in which Supplemental Liquidity Providers (''SLPs'') on the New York Stock Exchange (''NYSE'') that are also qualified as Market Makers are able to enter orders for their own accounts, in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person.

The Exchange believes that the proposed rule change is consistent with the Act, including with respect to the proposed two-million-share CADV threshold. The Exchange does not believe that this would unfairly discriminate between issuers of ETPs with a CADV of two million shares or more, as compared to issuers of ETPs with a CADV of less than two million shares, because the process for ETPs to ''graduate'' from the CP Program would provide an objective measurement for evaluating the effectiveness of the CP Program, such that the Exchange and the Commission could compare the quality of the market for ETPs, both during their participation in the CP Program and after their ''graduation'' from the CP Program. The Exchange believes that this is consistent with its proposal to operate the CP Program as a one-year pilot program, which would allow for the assessment of whether the CP Program is achieving its intended goal. Additionally, the two-million-share CADV ''graduation,'' combined with the operation of the CP Program on a pilot basis, would allow for the assessment, prior to any proposal or determination to make the CP Program permanent, of whether the CP Program has any unintended impact on the participating ETPs, securities not participating in the program, or the market or market participants generally.

With respect to the proposed fees, the Exchange believes that the proposed rule change is consistent with Sections 6(b)(4) and 6(b)(5) of the Act, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities and that it is not unfairly discriminatory. The Exchange believes that the proposed CP Program Fee for ETPs is reasonable, given the additional costs to the Exchange of providing the CP Payments, which are paid by the Exchange out of the Exchange's general revenues. The Exchange also believes that the proposed fees are reasonable because they would be used by the Exchange to offset the cost that the Exchange would incur related to the CP Program. These costs would include, but not be limited to, administration of the proposed CP Payments, including new technology processes and infrastructure surrounding such payments and the monitoring related thereto. As such, the Exchange believes that it is reasonable for it to retain an administration fee to recover the costs of administering the CP Program.

The Exchange believes that the CP Program Fee is reasonable, equitably allocated, and not unreasonably discriminatory because it is entirely voluntary on an issuer's part to join the CP Program. The fee of $50,000 would be the same for all issuers participating in the CP Program and credited to the Exchange's general revenues. Only issuers that voluntarily join the CP Program would be required to pay the fees. The Exchange believes that this is fairer than requiring all issuers to pay higher fees to fund the CP Program. Additionally, it is reasonable for an issuer to receive a credit from the Exchange following the end of a quarter if no CPs were assigned to the ETP during the entire such quarter because the ETP would not have had any CP quoting and trading activity during such quarter.

The Exchange believes that the CP Payment is equitable and not unfairly discriminatory in that any Market Maker could seek to participate in the CP Program as a CP. The Exchange further believes that the CP Payment, which would be paid from the Exchange's general revenues, is fair and equitable in light of the CP's quoting requirements, which would be higher than the standards for Market Makers not participating in the CP Program.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[50] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in

[50] 15 U.S.C. 78f(b)(8).

furtherance of the purposes of the Act. To the contrary, the Exchange believes that the CP Program, which is entirely voluntary, would encourage competition among markets for issuers' listings and among Market Makers for CP assignments.

The CP Program is designed to improve the quality of market for ETPs, thereby incentivizing them to list on the Exchange. The competition for listings among the exchanges is fierce. The Exchange notes that, in addition to the similarities described above between the proposed CP Program and the Exchange's ETP Incentive Program, BATS and NASDAQ have already implemented and received approval for, respectively, programs similar to the Exchange's proposed CP Program.[51] Additionally, the aspect of the proposed CP Program related to the capacity in which CPs may enter orders and quotes (i.e., permitting CP orders and quotes to be for the account of the CP in either a proprietary capacity or a principal capacity on behalf of an affiliated or unaffiliated person) is also substantially similar to the NYSE SLP program.[52]

In addition, the Exchange believes that the CP Program will properly promote competition among Market Makers to seek assignment as CPs for eligible ETPs. The Exchange believes that market quality would be significantly enhanced for ETPs with CPs assigned as compared to ETPs without a CP or LMM. The Exchange believes that market quality would be even further enhanced as a result of the quoting requirements that the Exchange would impose on CPs in the CP Program. The Exchange anticipates that the increased activity of these CPs would attract other market participants to the Exchange, and could thereby lead to increased liquidity on the Exchange in such ETPs. For these reasons, the Exchange does not believe that the proposed rule change would impose any unnecessary or inappropriate burden on competition.

[51] *See* Interpretation and Policy .02 of BATS Rule 11.8 and Securities Exchange Act Release Nos. 66307 (February 2, 2012), 77 FR 6608 (February 8, 2012) (SR–BATS–2011–051) and 66427 (February 21, 2012), 77 FR 11608 (February 27, 2012) (SR–BATS–2012–011). *See also* NASDAQ Rule 5950 and Securities Exchange Act Release No. 69195 (March 20, 2013), 78 FR 18393 (March 26, 2013) (SR–NASDAQ–2012–137).

[52] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108). *See also* Securities Exchange Act Release No. 67154 (June 7, 2012), 77 FR 35455 (June 13, 2012) (SR–NYSE–2012–10).

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 within such longer period up to 90 days after publication (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–NYSEArca–2013–141 *on the subject line.*

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2013–141. 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–NYSEArca–2013–141 and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30767 Filed 12–24–13; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71139; File No. SR–ISE–2013–73]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Extend the Penny Pilot Program

December 19, 2013.

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 18, 2013, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange 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 ISE proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies

[53] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

(''Penny Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com,* at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq–100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31.[3] The Exchange proposes to extend the time period of the Penny Pilot Program through June 30, 2014, and to provide revised dates for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2014. The replacement issues will be selected based on trading activity for the six month period beginning June 1, 2013, and ending November 30, 2013. This filing does not propose any substantive changes to the Penny Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(f)(6) thereunder.[5] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b-4(f)(6)(iii) thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[8] However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[10] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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,

[3] *See* Exchange Act Release No. 69828 (June 21, 2013), 78 FR 38745 (June 27, 2013) (SR–ISE–2013–40).

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and 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 pre-filing requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 3.

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–ISE–2013–73 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2013–73. 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 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–ISE–2013–73 and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30760 Filed 12–24–13; 8:45 am]

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[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71148; File No. SR–BOX–2013–43]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Amendment Nos. 1 and 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, to Permit Complex Orders to Participate in Price Improvement Periods

December 19, 2013.

I. Introduction

On September 5, 2013, BOX Options Exchange LLC (''Exchange'' or ''BOX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to add new BOX Rule 7245 to permit Complex Orders to participate in Price Improvement Period auctions (the ''COPIP'') and make certain other conforming changes to accommodate the new COPIP Rule. The proposed rule change was published for comment in the **Federal Register** on September 23, 2013.[3] On November 1, 2013, the Commission extended the time period for Commission action on the proposal to December 20, 2013.[4] On December 16, 2013, BOX filed Amendment No. 1 to the proposal.[5] On December 19, 2013, BOX filed Amendment No. 2 to the proposal.[6] The Commission received no comments regarding the proposal, as amended. The Commission is publishing this notice to solicit comments on Amendment Nos. 1 and 2 from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis.

II. Description of the Proposal

Under proposed BOX Rule 7245, Options Participants would be permitted to submit Complex Orders [7] to the COPIP in substantially the same manner as they currently submit orders for single options series instruments to the Price Improvement Period (''PIP''), except as necessary to account for distinctions between non-Complex Orders on the BOX Book [8] and Complex Orders. COPIP also would preserve the already established execution priority of interest on the BOX Book over Complex Orders [9] by providing that the bids and offers on the BOX Book for the individual legs of a Strategy (''BOX Book Interest'') will execute in priority over Complex Orders at the same price.[10]

A. Auction Eligibility and Auction Process

Under proposed BOX Rule 7245, an Options Participant executing agency

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 70427 (September 17, 2013), 78 FR 58364 (''Notice'').

[4] *See* Securities Exchange Act Release No. 70799 (November 1, 2013), 78 FR 66980 (November 7, 2013).

[5] In Amendment No. 1, BOX added further information relating to the ability of BOX members (''Options Participants'') to respond adequately within the 100 millisecond COPIP period and the effect of Unrelated Orders received during overlapping PIP and COPIP auctions, including additional rule text in proposed BOX IM–7245–3 to describe such effect. BOX also provided an analysis of whether the proposed COPIP rules are consistent with Section 11(a) of the Act and the rules thereunder and additional rule text in existing BOX IM–7245–2(b) regarding prohibited conduct. In addition, BOX also modified its proposed rule text for BOX Rule 7130(a) to reflect a proposed rule change (*see* Securities Exchange Act Release No. 70395 (September 15, 2013), 78 FR 57911 (September 20, 2013)) that was approved after the initial filing of this proposed rule change. Amendment No. 1 has been placed in the public comment file for SR–BOX–2013–43 at *http://www.sec.gov/comments/sr-box-2013-43/box201343.shtml* (*see* letter from Lisa J. Fall, President, BOX, to Elizabeth M. Murphy, Secretary, Commission, dated December 16, 2013) and also is available on the Exchange's Web site at *https://lynxstorageaccount.blob.core.windows.net/boxvr/SE_resources/SR–BOX–2013–43_Amendment_1.pdf.*

[6] In Amendment No. 2, BOX corrected one sentence to conform it to discussion elsewhere in the Amendment No. 1 analysis of whether the proposed COPIP rules are consistent with Section 11(a) of the Act and the rules thereunder. Amendment No. 2 has been placed in the public comment file for SR–BOX–2013–43 at *http://www.sec.gov/comments/sr-box-2013-43/box201343.shtml* (*see* letter from Lisa J. Fall, President, BOX, to Elizabeth M. Murphy, Secretary, Commission, dated December 19, 2013) and also is available on the Exchange's Web site at *https://lynxstorageaccount.blob.core.windows.net/boxvr/SE_resources/SR–BOX–2013–43_Amendment_2.pdf.*

[7] As defined in proposed BOX Rule 7240(a)(5), the term ''Complex Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

[8] The ''BOX Book'' is defined as the ''electronic book of orders on each single option series maintained by the BOX Trading Host.'' BOX Rule 100(a)(10).

[9] The execution priority of interest on the BOX Book over Complex Orders is consistent with existing BOX Rules 7240(b)(3)(i). *See also* Notice, 78 FR at 58366–67 for an example illustrating the execution and allocation of a COPIP with BOX Book Interest.

[10] *See* proposed BOX Rule 7245(f)(3)(i). The term ''Strategy'' is defined as a particular combination of components of a Complex Order and their ratios to one another. *See* BOX Rule 7240(a)(7).

orders for single options series instruments may designate for price improvement and submission to the COPIP a Customer Order that is a BOX-Top Order, Market Order or marketable Limit Order. Specifically, to initiate a COPIP, the Options Participant would submit a Customer Order (the ''COPIP Order'') to BOX with a matching contra order on the opposite side of the market from the COPIP Order (''Primary Improvement Order'') equal to the full size of the initiating COPIP Order. The Primary Improvement Order must represent either: (1) A single price (''Single-Priced Primary Improvement Order'') that is equal to or better than cNBBO,[11] cBBO[12] and BBO on the Complex Order Book for the strategy at the time of the commencement of the COPIP; or (2) an auto-match submission that will automatically match both the price and size of all competing orders, including Improvement Orders[13] and Unrelated Orders[14] at any price level achieved during the COPIP or only up to a limit price (''Max Improvement Primary Improvement Order'').[15]

In order to initiate a COPIP, the Primary Improvement Order must designate the auction start price for the COPIP (''COPIP Start Price''), which price must be equal to or better than cNBBO, cBBO and BBO on the Complex Order Book for the Strategy at the time of commencement of the COPIP.[16] As with the PIP for single options series, an Initiating Participant in a COPIP is not permitted to cancel or to modify the size of a Single-Priced Primary Improvement Order or the COPIP Order at any time during a COPIP, and may modify only the price of its Single-Priced Primary Improvement Order by improving it.[17] The subsequent price modifications to a Single-Priced Primary Improvement Order are treated as new Improvement Orders for the sake of establishing priority in the COPIP process.[18] Similarly, the Initiating Participant is not permitted to cancel or modify the Max Improvement Primary Improvement Order, including the COPIP Start Price, the designated limit price or the size.[19]

BOX will commence a COPIP by broadcasting a message via the High Speed Vendor Feed (''HSVF'') (''the ''COPIP Broadcast'') that: (1) States that a Primary Improvement Order has been processed; (2) contains information concerning the strategy, size, COPIP Start Price, and side of the market; and (3) states when the COPIP will conclude.[20] During the COPIP, Improvement Orders are also broadcast via the HSVF data feed.[21] All market participants are able to receive the COPIP Broadcast and notification of Improvement Orders via the HSVF.[22]

As in the PIP, unless the COPIP terminates early, the COPIP duration is one hundred milliseconds,[23] commencing upon the dissemination of the COPIP Broadcast. The Exchange notes its belief that, because the 100 millisecond COPIP duration would be the same as the current duration of the PIP, the COPIP duration is adequate and would not create any additional burden for Options Participants participating in a COPIP.[24]

During a COPIP, Order Flow Providers (''OFPs'') and Market Makers (except for the Initiating Participant) may submit Improvement Orders for their own account. OFPs may submit Improvement Orders for the account of a Public Customer under any type of instruction they wish to accept.[25] An Improvement Order submitted to the COPIP for the account of a Public Customer must be identified as a Public Customer Order.[26] Options Participants who submit Improvement Orders for a COPIP will be deemed ''COPIP Participants'' for that specific COPIP only, and may continually submit competing Improvement Orders during that COPIP.[27]

Just as in a PIP, Options Participants that submit Improvement Orders in a COPIP may: (1) Submit competing Improvement Order(s) for any size up to the size of the COPIP Order; (2) submit competing Improvement Order(s) for any price equal to or better than the COPIP Start Price; (3) improve the price of their Improvement Order(s) at any point during the COPIP; and (4) decrease the size of their Improvement Order(s) only by improving the price of that Complex Order.[28] Improvement Orders may be submitted in one-cent increments.[29] Unlike a PIP, the COPIP will not include Customer COPIP Orders (''CPOs'') as defined in BOX Rule 7150(h).

B. COPIP Order Execution and Allocation

As with a PIP, a COPIP will conclude at the end of the auction period.[30] Order execution and allocation in a COPIP is similar to order execution and allocation in a simple order PIP.[31] The COPIP Order will execute against the best prevailing order(s) on BOX, except any proprietary order from the Initiating Participant sent prior to the COPIP Broadcast in accordance with price/time priority, subject to the exceptions describe below. The ''best prevailing order(s) on BOX includes Improvement Order(s) or Unrelated Order(s) received by BOX during the COPIP, but excludes all Unrelated Orders that were

[11] As defined in Rule 7240(a)(3), the term ''cNBBO'' means the best net bid and offer price for a Complex Order Strategy based on the NBBO for the individual options components of such Strategy.

[12] As defined in Rule 7240(a)(1), the term ''cBBO'' means the best net bid and offer price for a Complex Order Strategy based on the BBO on the BOX Book for the individual options components of such Strategy.

[13] For purposes of the COPIP, the term ''Improvement Order'' is defined as a competing Complex Order submitted to BOX by an Order Flow Provider or BOX Market Maker during a COPIP. *See* proposed BOX Rule 7245(a)(1).

[14] The term ''Unrelated Order'' is defined as a non-Improvement Order entered on BOX during a COPIP or BOX Book Interest during a COPIP. *See* proposed BOX Rule 7245(a)(2).

[15] *See* proposed BOX Rule 7245(f).

[16] *See id.*

[17] *See* proposed BOX Rule 7245(f)(2).

[18] *See id.*

[19] *See id.*

[20] *See* proposed BOX Rule 7245(f).

[21] *See* proposed BOX Rule 7245(f)(1).

[22] *See* Notice 78 FR at 58366.

[23] *See* proposed BOX Rule 7245(f)(1).

[24] *Id. See also* Amendment No. 1, *supra* note 5. The Exchange also notes that it surveyed all Participants that had responded to at least one PIP during the past six months, inquiring whether the 100 millisecond duration for the COPIP provided adequate time to response. The Exchange received responses from eighty percent of the Options Participants contacted, all of which indicated that they believe they will be able to receive, process, and communicate multiple COPIP Broadcast responses back to BOX within substantially less than 100 milliseconds. *See id.*

[25] *See* proposed BOX Rule 7245(f)(1).

[26] *Id.*

[27] *Id.*

[28] *See* proposed BOX Rule 7245(f)(2). Generally, Improvement Orders may not be executed unless the price is equal to or better than the cNBBO at the commencement of the COPIP. *See* proposed BOX Rule 7245(k). However, where an Exchange Official (as defined in BOX Rule 100(a)(24)) determines that quotes from one or more particular markets in one or more classes of options are not reliable, the Exchange Official may direct the senior person in charge of the BOX Market Operations Center (as defined in BOX Rule 100(a)(31)) to exclude the unreliable quotes from the Improvement Period determination of the cNBBO for Complex Order Strategies of which such option class(es) are a component. The Exchange Official may determine quotes in one or more particular options classes in a market are not reliable only in the following circumstances: (1) Quotes Not Firm: A market's quotes in a particular options class are not firm based upon direct communication to the Exchange from the market or the dissemination through OPRA of a message indicating that disseminated quotes are not firm; (2) Confirmed Quote Problems: A market has directly communicated to the Exchange or otherwise confirmed that the market is experiencing systems or other problems affecting the reliability of its disseminated quotes. *See* proposed BOX Rule 7245(k)(1). Improvement Orders may be executed at a price that is not equal to or better than the cNBBO at the commencement of the COPIP where the away options exchange posting orders on a single option series comprising the cNBBO is conducting a trading rotation in that options class. *See* proposed BOX Rule 7245(k)(2).

[29] *See* proposed BOX Rule 7245(f)(2).

[30] *See* proposed BOX Rule 7245(f)(3).

[31] *See* BOX Rule 7150(f)(3).

immediately executed during the interval of the COPIP. Such Unrelated Orders may include agency orders on behalf of Public Customers, market makers at away exchanges and non-BOX Options Participant broker-dealers, as well as non-COPIP proprietary orders submitted by BOX Options Participants. Any unfilled portion of an Improvement Order will be cancelled.[32]

1. Priority and Allocation

The priority and trade allocation privileges retained by Initiating Participants in a COPIP are substantially similar to those currently afforded Initiating Participants in a PIP.[33] Notwithstanding the foregoing execution rules for a COPIP, BOX Book Interest will execute in priority over Complex Orders at the same price,[34] so as to preserve the already established execution priority of interest on the BOX Book over Complex Orders.[35] Further, no Complex Order for a non-Market Maker broker-dealer account of an Options Participant will be executed before all Public Customer Complex Order(s), whether Improvement Order(s) or non-Improvement Order(s), and all non-BOX Options Participant broker-dealer Complex Order(s) at the same price have been filled; provided however, that all Complex Orders on the Complex Order Book prior to the COPIP Broadcast, excluding any proprietary order(s) from the Initiating Participant, will be filled in time priority before any other Complex Order at the same price.[36]

Subject to the execution priority of BOX Book Interests described above, the Initiating Participant will retain certain priority and trade allocation privileges upon conclusion of a COPIP.[37] In instances in which a Single-Priced Primary Improvement Order, as modified (if at all), is matched by or matches any Complex Order(s) or BOX Book Interest at any price level, the Initiating Participant would retain priority for up to forty percent (40%) of the original size of the COPIP Order, notwithstanding the time priority of the Primary Improvement Order or Complex Order(s). However, if only one Complex Order or BOX Book Interest matches or is better than the Initiating Participant's Single-Priced Primary Improvement Order, then the Initiating Participant may retain priority for up to fifty percent (50%) of the original size of the COPIP Order. The Initiating Participant will receive additional allocation only after all other Complex Orders have been filled at that price level.[38] For purposes of determining whether the Initiating Participant is entitled to receive a forty percent (40%) or a fifty percent (50%) priority allocation, BOX will count BOX Book Interest as a single competing order in a COPIP.

In instances in which a Max Improvement Primary Improvement Order is submitted by the Initiating Participant, the Initiating Participant would be allocated its full size at each price level, except where restricted by the designated limit price and subject to the limitations discussed in the next following paragraph below, until a price level is reached where the balance of the COPIP Order can be fully executed. Only at such price level would the Initiating Participant retain priority for up to forty percent (40%) of the remaining size of the COPIP Order. However, if only one competing Complex Order or BOX Book Interest matches the Initiating Participant at the final price level, then the Initiating Participant may retain priority for up to fifty percent (50%) of the remaining size of the COPIP Order.[39] As with Single-Priced Primary Improvement Orders,[40] for purposes of determining whether the Initiating Participant is entitled to receive a forty percent (40%) or a fifty percent (50%) priority allocation, BOX will count BOX Book Interest as a single competing order in a COPIP.

The Primary Improvement Order will follow, in time priority, all Complex Orders on the Complex Order Book prior to the COPIP Broadcast that are equal to the Single Priced Primary Improvement Order price; or the execution price of a Max Improvement Primary Improvement Order that results in the balance of the COPIP Order being fully executed, except any proprietary order(s) from the Initiating Participant. Such proprietary order(s) would not be executed against the COPIP Order during or at the conclusion of the COPIP.[41]

The Primary Improvement Order will yield priority to certain competing Complex Orders in substantially the same circumstances as occurs in the PIP.[42] When a Single-Priced or Max Improvement Primary Improvement Order for the proprietary account of an OFP is matched by or matches any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at any price level, it will yield priority to them.[43] When an unmodified Single-Priced Primary Improvement Order for the account of a Market Maker is matched by any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at the initial COPIP price level, it will yield priority to them.[44] When a Max Improvement or a modified Single-Priced Primary Improvement Order for the account of a Market Maker matches any competing Public Customer Complex Order(s), whether Improvement Order(s), Unrelated Order(s) or any non-BOX Options Participant broker-dealer Complex Order(s) at subsequent price levels, it will yield priority to them.[45]

Consistent with the PIP, when the Primary Improvement Order receives a trade allocation, it will be entitled to a trade allocation of at least one (1) Strategy.[46] At its option, the Initiating Participant may designate a lower (but not higher) minimum priority and trade allocation privilege percentage upon the conclusion of the COPIP auction than it is otherwise entitled to receive. When starting a COPIP, the Initiating Participant may submit to BOX the Primary Improvement Order with a designation of the total amount of the COPIP Order it is willing to ''surrender'' to the other COPIP Participants (''COPIP

[32] *See* proposed BOX Rule 7245(f)(3).

[33] *See* BOX Rule 7150(g). For example, Quotes are included in the PIP rules but are not part of the COPIP rules because quotes are not provided on Complex Orders. *See* BOX Rule 7250(g)(3).

[34] *See* proposed BOX Rule 7245(f)(3)(i).

[35] The execution priority of interest on the BOX Book over Complex Orders is consistent with existing BOX Rules 7240(b)(3)(i). *See also* Notice, 78 FR at 58366–67 for an example illustrating the execution and allocation of a COPIP with BOX Book Interest.

[36] *See* proposed BOX Rule 7245(f)(3)(ii).

[37] *See* proposed BOX Rules 7245(f)(3)(iii) and 7245(g).

[38] *See* proposed BOX Rule 7245(g)(1). *See also* Notice, 78 FR at 58367–68 for examples illustrating the execution and allocation of a COPIP with Primary Improvement Order priority.

[39] *See* proposed BOX Rule 7245(g)(2). *See also* Notice, 78 FR at 58368 for an example illustrating the execution and allocation of a COPIP with Max Improvement Primary Improvement Order.

[40] *See* proposed BOX Rule 7245(g)(1). *See also* Notice, 78 FR at 58367–68 for examples illustrating the execution and allocation of a COPIP with Primary Improvement Order priority.

[41] *See* proposed BOX Rule 7245(g)(3).

[42] *See* BOX Rule 7150(g)(4).

[43] *See* proposed BOX Rule 7245(g)(4)(i). *See also* Notice, 78 FR at 58368–69 for an example illustrating the execution and allocation of a COPIP with an Initiating Participant yielding to a Public Customer Order.

[44] *See* proposed BOX Rule 7245(g)(4)(ii). *See also* Notice, 78 FR at 58369 for an example illustrating the execution and allocation of a COPIP with an Initiating Market Maker yielding to a Public Customer Order at a single price level.

[45] *See* proposed BOX Rule 7245(g)(4)(iii). *See also* Notice, 78 FR at 58369–70 for an example illustrating the execution and allocation of a COPIP with an order from a Market Maker Initiating Participant yielding to a Public Customer Order at any price level.

[46] *See* proposed BOX Rule 7245(g)(5).

Surrender Quantity''). Under no circumstances will the Initiating Participant receive an allocation percentage preference of more than fifty percent (50%) with one competing order, including counting BOX Book Interest as a competing order, or forty percent (40%) with multiple competing orders, including counting BOX Book Interest as a competing order.[47] Upon the conclusion of the COPIP auction, trade allocations will be adjusted to the other COPIP Participants will be allocated up to the COPIP Surrender Quantity. The Primary Improvement Order will be allocated the remaining size of the COPIP Order above the COPIP Surrender Quantity, if any, as described above. If the aggregate size of other COPIP Participants' contra Complex Orders is not equal to or greater than the COPIP Surrender Quantity, then the remaining COPIP Surrender Quantity will be left unfilled and the Primary Improvement Order will be allocated the remaining size of the COPIP Order described above.[48]

2. Early Executions and Early Termination

Executions prior to the regular ending time of a COPIP are handled substantially the same as in a PIP,[49] with necessary changes to account for differences between Complex Orders and orders on single series options instruments. In cases where an Unrelated Order is submitted to BOX on the same side as the COPIP Order such that it would cause an execution to occur prior to the end of the COPIP, the COPIP will be deemed concluded and the COPIP Order will be executed pursuant to BOX Rule 7245(f). Specifically, the submission to BOX of a BOX-Top Complex Order or Market Complex Order on the same side as a COPIP Order will prematurely terminate the COPIP when, at the time of the submission of such orders, the best Complex Order or BOX Book Interest is equal to or better than the cNBBO on the opposite side of the COPIP Order. The submission to BOX of executable BOX Book Interest or an executable Limit Complex Order on the same side as a COPIP Order will prematurely terminate the COPIP if: (1) At the time of submission of the Limit Complex Order, the Limit Complex Order price is equal to or better than cNBBO, and BBO on the Complex Order Book or cBBO is equal to or better than the cNBBO, on the opposite side of the market or (2) at the time of submission of the BOX Book Interest, the BOX Book Interest is executable against the Complex Order Book. Following the conclusion of the COPIP, any remaining Improvement Orders are cancelled, any remaining non-Improvement Orders are filtered pursuant to BOX Rule 7240(b)(3)(iii) and any remaining BOX Book Interest is filtered pursuant to BOX Rule 7130(b).[50]

In cases where an Unrelated Order that is a non-Improvement Order is submitted to BOX on the opposite side of the COPIP order, such that it would cause an execution to occur prior to the end of the COPIP, the non-Improvement Order will be immediately executed against the COPIP Order up to the lesser of the size of the COPIP Order or the size of the non-Improvement Order, at a price equal to either: (1) At least one penny better than the cBBO, if the cBBO on the opposite side of the market from the non-Improvement Order is equal to or better than the cNBBO at the time of execution; or (2) the cNBBO. Specifically, a BOX-Top Complex Order or a Market Complex Order on the opposite side of a COPIP Order will immediately execute against the COPIP Order when, at the time of the submission of such Complex Order, the best Improvement Order does not cross the cNBBO on the same side of the market as the COPIP Order. The submission to BOX of an executable Limit Complex Order on the opposite side of a COPIP Order will immediately execute against a COPIP Order when the Limit Complex Order price is equal to or crosses any of the cNBBO, cBBO or BBO on the Complex Order Book for the Strategy.[51] In cases where an Unrelated Order that is a BOX Book Interest exists on the opposite side of the COPIP order, such that it would cause an execution to occur prior to the end of the COPIP, the BOX Book Interest will immediately be executed against the COPIP Order up to the lesser of the size of the COPIP Order or the size of the BOX Book Interest, at a price equal to the BOX Book Interest price.[52] The remainder of the Unrelated Order, if any, will be filtered according to the existing Complex Order filter rules.[53] The remainder of the COPIP Order, if any, will be executed at the conclusion of the COPIP pursuant to BOX Rule 7245(f). Following the conclusion of the COPIP, any remaining Improvement Orders are cancelled.[54]

C. Overlapping Auctions

A COPIP will not run simultaneously with another COPIP in the same Complex Order Strategy, nor will COPIPs interact, queue or overlap in any manner.[55] Any request to initiate a COPIP while another COPIP is already in progress in the same Strategy will be rejected.[56] The Exchange, however, will operate price improvement auctions in both single option series and Complex Orders at the same time.[57] Specifically, BOX will accept orders designated for the PIP on a single option series where a COPIP on a Complex Order Strategy that includes such a series may be in progress. BOX also will accept Complex Orders designated for the COPIP where a PIP on either of the component series may be in progress. Order execution at the conclusion of any such PIPs will occur as described in the current PIP rules [58] and Complex Order execution at the conclusion of any such COPIPs will occur as set forth in proposed BOX Rule 7245.[59] The Exchange believes this simultaneous price improvement auction functionality will reduce order cancelation and, thereby remove impediments to, and perfect the mechanism of, a free and open market and a national market system.[60]

BOX's current rules provide that, when an Unrelated Order on a single option series is submitted to BOX, the Unrelated Order first interacts with an ongoing PIP, if any, prior to being entered on the BOX Book.[61] Any unexecuted quantity of the order remaining after interacting with the PIP is then filtered as provided in BOX Rule 7130(b) prior to entry on the BOX

[47] *See* proposed BOX Rule 7245(g)(6)(i).

[48] *See* proposed BOX Rule 7245(g)(6)(ii). *See also* Notice, 78 FR at 58370–71 for an example illustrating the execution and allocation of a COPIP with a COPIP Surrender Quantity.

[49] *See* BOX Rule 7150(i) and (j).

[50] *See* proposed BOX Rule 7245(h). *See also* Notice, 78 FR at 58371–72 for examples illustrating the execution and allocation for the early termination of COPIP due to Unrelated Orders on the same side as a COPIP Order.

[51] *See* proposed BOX Rule 7245(i)(1).

[52] *See* proposed BOX Rule 7245(i)(2).

[53] *See* BOX Rule 7240(b)(3)(iii) for existing Complex Order filter rules.

[54] *See* proposed BOX Rule 7245(i)(3). *See also* Notice, 78 FR at 58372–73 for examples illustrating the execution and allocation for the early termination of COPIP due to Unrelated Orders on the opposite side as a COPIP Order.

[55] *See* BOX IM–7150–3.

[56] *See* proposed BOX IM–7245–3.

[57] BOX notes that processes on the BOX system are sequential and all orders receive a unique time stamp. As a result, no two orders (include PIP and COPIP Orders) or events may be treated as occurring simultaneously on the BOX system. *See* Amendment No. 1, *supra* note 5.

[58] PIP execution rules are set forth in BOX Rule 7150.

[59] *See* proposed BOX IM–7245–3.

[60] *See* Amendment No. 1, *supra* note 5. Amendment No. 1 also contains detailed examples outlining the operation of the PIP and COPIP in several multiple auction situations.

[61] *See* BOX Rule 7150(i) for Unrelated Orders on the same side as the PIP Order. *See* BOX Rule 7150(j) for Unrelated Orders on the opposite side of the PIP Order.

Book.[62] Once entered on the BOX Book, the order may be combined with other orders on other single options series (thereby becoming BOX Book Interest) [63] and, as such, will be available to interact with the Complex Order Book, including any ongoing COPIP, if possible.[64]

The proposed COPIP rules provide that when an Unrelated Order that is a Complex Order is submitted to BOX, the Unrelated Order first interacts with an ongoing COPIP, if any, prior to being entered on the Complex Order Book.[65] Any unexecuted quantity of the Complex Order remaining after interacting with the COPIP is then filtered as provided in BOX Rule 7240(b)(3) prior to entry on the Complex Order Book.[66] The Exchange's current Complex Order rules provide that one or more Legging Orders will be generated from Complex Orders on the BOX Book if the other leg for the Complex Order can be executed on BOX at the NBBO for the series.[67] Once a Legging Order is generated, it will be available to interact with the BOX Book, including any ongoing PIP, if possible.[68]

A single option instrument simultaneously may be a component of more than one different Complex Order Strategy. Because a COPIP may be initiated on each different Strategy, multiple COPIPs sharing the same component single option instrument may run simultaneously. In this case, and assuming that the necessary prices and quantities exist on each leg, BOX Book interest will generate an Unrelated Order on each such Strategy to interact with each of the ongoing COPIPs. In the event the same order on the BOX Book could interact with multiple COPIPs simultaneously, the order will interact with the COPIP on the Strategy for which the greatest difference exists between the price of the resulting BOX Book Interest and the corresponding best price Complex Order on the Complex Order Book on the same side as the COPIP Order.[69] If this calculation produces the same result for each COPIP, then the order will interact with the COPIP on the Strategy that was created first on the BOX System.[70] The execution price will be at a price equal to the BOX Book Interest price.[71]

As in the PIP, COPIP Options Participants must ensure that they comply with all the procedures set forth in the BOX Rules; that they act with due skill, care and diligence; and that the interests of their Customers are not prejudiced.[72] An Options Participant must not use the COPIP process to create a misleading impression of market activity (*i.e.,* the facilities may be used only where there is a genuine intention to execute a bona fide transaction).[73]

D. COPIP Pilot Program

The Exchange proposes a COPIP Pilot Program that expires on July 18, 2014, during which there will be no minimum size requirement for Customer Orders to be eligible for the COPIP process.[74] During the COPIP pilot period, the Exchange will provide certain information, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size COPIP orders, that there is significant price improvement for all orders executed through the COPIP and that an active and liquid market is functioning on BOX outside of the COPIP mechanism.[75]

[62] BOX Rules 7150(i) and 7150(j) each provide that, after the Unrelated Order interacts with the PIP, any remainder of the Unrelated Order is filtered pursuant to BOX Rule 7130(b). BOX Rule 7130(b) describes the filtering process used by the BOX Trading Host to ensure that the Unrelated Order will not execute outside the NBBO price (*see* BOX Rule 7130(b)(1)). Upon completion of the filtering process, BOX Rule 7130(b)(4)(i) provides that any remainder of the Unrelated Order is entered on the BOX Book.

[63] *See* proposed BOX Rule 7245(a)(3).

[64] *See* Amendment No. 1, Examples 10(a) and (b), illustrating the operation of the proposed rules when a single option instrument order is received during a PIP and a COPIP on the same side as the PIP Order and on the opposite side of the PIP Order, respectively.

[65] *See* proposed BOX Rule 7245(h) for Unrelated Orders on the same side as the COPIP Order; *see also* proposed BOX Rule 7245(i)(1) for Unrelated Orders on the opposite side of the COPIP Order.

[66] Proposed BOX Rules 7245(h) and 7245(i)(3) each provide that, after the Unrelated Order interacts with the COPIP, any remainder of the Unrelated Order is filtered pursuant to Rule 7240(b)(3)(iii). BOX Rule 7240(b)(3)(iii) describes the filtering process used by the BOX Trading Host. Upon completion of the filtering process, BOX Rule 7240(b)(3)(iii) provides that any remainder of the Unrelated Order is entered on the Complex Order Book. *See also* Amendment No. 1, Example 10(c) and (d) illustrating the operation of the proposed rules when a Complex Order is received during the PIP and COPIP on the same side of the COPIP Order and on the opposite side of the COPIP Order.

[67] *See* BOX Rule 7240(c)(1).

[68] BOX Rule 7240(c)(1) describes how Legging Orders are priced and ranked on the BOX Book and displayed and executed on BOX. BOX Rule 7150(i) describes how Legging Orders on the same side as the PIP Order may immediately execute against a PIP and BOX Rule 7150(j) describes how Legging Orders on the opposite side of the PIP Order may immediately execute against a PIP. BOX Rule 7150(f)(3) describes how Legging Orders are executed at the conclusion of a PIP.

[69] This calculation is for the purpose of identifying the Strategy with which the BOX Book Interest will interact and not the price at which the actual execution will occur. *See* Amendment No. 1, Example 11, illustrating the operation of the rules when the same order could interact with two COPIPs.

[70] *See* proposed BOX IM–7245–3(b). *See also* Amendment No. 1, *supra* note 5.

[71] *See* proposed BOX Rule 7245(i)(2).

[72] *See* proposed BOX Rule 7245(c).

[73] *See* proposed BOX Rule 7245(e).

[74] *See* proposed BOX IM–7245–1.

[75] *See id.* BOX will provide the following information each month to the Commission: (1) The number of orders of 50 Strategies or greater entered into the COPIP; (2) the percentage of all orders of 50 Strategies or greater submitted to the Exchange that are entered into the COPIP; (3) the spread, at the time a Complex Order of 50 Strategies or greater is submitted to the COPIP; (4) the percentage of COPIP trades executed at cNBBO, plus $.01, plus $.02, plus $.03, etc.; and (5) the number of COPIP Orders submitted by OFPs when the spread was at a particular increment (*e.g.,* $.05, $.10, $.15, etc.). Also, with respect to item (5) above, for each spread increment, the Exchange proposes to provide the percentage of orders of fewer than 50 Strategies submitted to the COPIP that were traded: (a) By the OFP that submitted the order to the COPIP; (b) by an Options Participant other than the OFP that submitted the order to the COPIP; (c) by a Public Customer; and (d) as an Unrelated Order. Additionally, for each spread increment, the Exchange proposes to provide the percentage of orders of 50 Strategies or greater submitted to the COPIP that were traded: (a) by the OFP that submitted the order to the COPIP; (b) by an Options Participant other than the OFP that submitted the order to the COPIP; (c) by a Public Customer; and (d) as an Unrelated Order. *See* Notice, 78 FR at 58373.

BOX will further provide for the first and third Wednesday of each month: (a) The total number of COPIP auctions on that date; (b) the number of COPIP auctions where the order submitted to the COPIP was fewer than 50 Strategies; (c) the number of COPIP auctions where the order submitted to the COPIP was 50 Strategies or greater; (d) the number of COPIP auctions where the number of Options Participants (excluding the Initiating Participant) was each of zero, one, two, three, four, etc. *See id.* at 58374.

Finally, during the COPIP pilot period, BOX will provide information each month with respect to situations in which the COPIP is terminated prematurely or in which a Market Order, Limit Order, BOX-Top Order or BOX Book Interest immediately execute with a COPIP Order before the conclusion of the COPIP. The following information is proposed to be provided: (1) the number of times that a Market Order, Limit Order, BOX-Top Order or BOX Book Interest on the same side of the market as the COPIP Order prematurely terminated the COPIP, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the COPIP that was terminated, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the COPIP Order; (2) For the orders addressed in each of (1)(a) and (1)(b) above, the percentage of COPIP premature terminations due to the receipt, during the COPIP, of a Market Order, Limit Order, BOX-Top Order or BOX Book Interest on the same side of the market as the COPIP Order; and the average amount of price improvement provided to the COPIP Order where the COPIP is prematurely terminated; (3) the number of times that a Market Order, Limit Order, BOX-Top Order or BOX Book Interest on the opposite side of the market as the COPIP Order immediately executed against the COPIP Order, and (a) the number of times such orders were entered by the same (or affiliated) firm that initiated the COPIP, and (b) the number of times such orders were entered by a firm (or an affiliate of such firm) that participated in the execution of the COPIP Order; (4) for the orders addressed in each of (3)(a) and (3)(b) above, the percentage of COPIP early executions due to the receipt, during the COPIP, of a Market Order, Limit Order, BOX-Top Order or BOX Book Interest on the

Continued

E. Additional Changes

The Exchange proposes to make certain miscellaneous conforming and clarifying changes to its rules consistent with the adoption of the COPIP rule as described in more detail in the Notice.[76] BOX Rule 100(a)(19) will be amended to limit the term Directed Order to contracts on a single options series. BOX Rules 3000(b), 7070(a), 7110(e), 7130(a), 7140, 7150, and 7240(b) will be amended to conform the application of these rules to the operation of the COPIP. BOX Rule 7070(a) will be further amended to reflect that Fill and Kill orders do not participate in the Pre-Opening Phase. BOX Rule 7150 will be further amended to explain that: (i) The PIP Broadcast is disseminated via the HSVF; and (ii) a PIP on a single option series and a COPIP on a Complex Order Strategy that includes such series may operate simultaneously.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[77] In particular, the Commission finds that the proposed rule change is consistent with Sections 6(b)(5) of the Act,[78] which requires, among other things, that the rules of a national securities 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; and not be designed to permit unfair discrimination between customers, issuers, brokers or dealers.

The Commission believes that allowing BOX Options Participants to enter complex orders into the COPIP could provide opportunities for complex orders to receive price improvement. The Commission notes that the COPIP Start Price will be equal to or better than cNBBO, cBBO and BBO on the Complex Order Book for the Strategy at the time of commencement of the COPIP and that a Options Participant that enters a COPIP Order in the COPIP must submit a Primary Improvement Order for the full size of that COPIP Order.[79] The Commission also notes that once an order has been submitted as a COPIP Order or Primary Improvement Order, it may not be cancelled.[80] Therefore, a COPIP Order submitted to the COPIP Auction, regardless of its size, will be guaranteed an execution price of at least the cNBBO, cBBO or BBO on the Complex Order Book for the Strategy at the time the COPIP commences and, moreover, will be given an opportunity for execution at a better price. The Commission also notes that established priority of interest on the BOX Book over Complex Orders contained in BOX Rule 7240(b)(3)(i) will apply to the COPIP.[81]

IV. Section 11(a) of the Act

Section 11(a)(1) of the Act[82] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises discretion (collectively, ''covered accounts''), unless an exception applies. For the reasons set forth below, the Commission believes that the proposed COPIP rules will satisfy the requirements of Section 11(a) of the Act. Specifically, other than the portions of the proposal that will satisfy Rule 11a2–2(T) under the Act as discussed below, the Commission believes that the proposed COPIP rules will satisfy the requirements of 11(a)(1)(G) of the Act because the proposed COPIP rules will cause Complex Orders for the account of non-Market Maker BOX Options Participants to yield priority to Complex Orders of non-Options Participants, provided that BOX Options Participants comply with the requirements set forth in Rule 11a1–1(T) thereunder. The Commission further believes that the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) will satisfy the conditions of Rule 11a2–2(T) under the Act.

A. Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) Thereunder

Section 11(a)(1)(G) of the Act[83] provides an exception from the general prohibition set forth in Section 11(a)(1), for any transaction for a member's own account, provided that: (i) Such member is primarily engaged in the business of underwriting and distributing securities issued by other persons, selling securities to customers, and acting as broker, or any one or more of such activities, and whose gross income is derived principally from such business and related activities; and (ii) the transaction is effected in compliance with the rules of the Commission, which, at a minimum, assure that the transaction is not inconsistent with the maintenance of fair and orderly markets and yields priority, parity, and precedence in execution to orders for the account of persons who are not members or associated with members of the exchange.[84] In addition, Rule 11a1–1(T) under the Act specifies that a transaction effected on a national securities exchange for the account of a member which meets the requirements of Section 11(a)(1)(G)(i) of the Act is deemed, in accordance with the requirements of Section 11(a)(1)(G)(ii), to be not inconsistent with the maintenance of fair and orderly markets and to yield priority, parity, and precedence in execution to orders for the account of non-members or persons associated with non-members of the exchange, if such transaction is effected in compliance with certain requirements.[85]

opposite side of the market as the COPIP Order; and the average amount of price improvement provided to the COPIP Order where the COPIP Order is immediately executed; and (5) the average amount of price improvement provided to the COPIP Order when the COPIP runs for one hundred milliseconds. *See id.*

[76] *See* Notice, 78 FR at 58374.

[77] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[78] 15 U.S.C. 78f(b)(5).

[79] Proposed BOX Rule 7245(f).

[80] Proposed BOX Rule 7245(f).

[81] Proposed BOX Rule 7245(f)(3)(i).

[82] 15 U.S.C. 78k(a)(1).

[83] 15 U.S.C. 78k(a)(1)(G).

[84] *Id.*

[85] Rule 11a1–1(T)(a)(1)–(3) provides that each of the following requirements must be met: (1) A member must disclose that a bid or offer for its account is for its account to any member with whom such bid or offer is placed or to whom it is communicated, and any such member through whom that bid or offer is communicated must disclose to others participating in effecting the order that it is for the account of a member; (2) immediately before executing the order, a member (other than the specialist in such security) presenting any order for the account of a member on the exchange must clearly announce or otherwise indicate to the specialist and to other members then present for the trading in such security on the exchange that he is presenting an order for the account of a member; and (3) notwithstanding rules of priority, parity, and precedence otherwise applicable, any member presenting for execution a bid or offer for its own account or for the account of another member must grant priority to any bid or offer at the same price for the account of a person who is not, or is not associated with, a member, irrespective of the size of any such bid or offer or the time when entered. *See* 17 CFR 240.11a1–1(T)(a)(1)–(3).

Under the proposed COPIP rules, other than for Complex Orders on the Complex Order Book prior to the COPIP Broadcast, Complex Orders for non-Market Maker broker-dealer accounts of Options Participants are required to yield priority to all Public Customer Complex Orders and all non-BOX Options Participant broker-dealer Complex Orders at the same price when executing against a COPIP Order.[86] In addition, the proposed COPIP rules require the Primary Improvement Order to yield priority to Public Customer Complex Orders and non-BOX Options Participant broker-dealer Complex Orders at the same price.[87] Because the proposed COPIP rules will require BOX Options Participants that are not market makers [88] to yield priority in the COPIP to all non-member orders, the Commission believes that the proposal with respect to transactions effected through COPIP, other than the portions of the proposal that will satisfy Rule 11a2–2(T) under the Act as discussed below, is consistent with the requirements in Section 11(a) of the Act and Rule 11a1–1(T) thereunder.[89] The Commission also reminds exchanges and their members, however, that, in addition to yielding priority to non-member orders (including complex orders) at the same price, members must also meet the other requirements under Section 11(a)(1)(G) of the Act and Rule 11a1–1(T) thereunder (or satisfy the requirements of another exception) to effect transactions for their own accounts.

B. Rule 11a2–2(T) under the Act (''Effect versus Execute'' Rule)

Rule 11a2–2(T) under the Act,[90] known as the ''effect versus execute'' rule, provides exchange members with another exception from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute the transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (1) May not be affiliated with the executing member; (2) must transmit the order from off the exchange floor; (3) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [91] and (4) with respect to an account over which the member has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) will satisfy the conditions of Rule 11a2–2(T) under the Act.[92]

Rule 11a2–2(T)'s first condition is that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that the requirement is satisfied when automated exchange facilities, such as BOX, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages over non-members in handling their orders after transmitting them to the Exchange.[93] The Exchange represents that, with respect to the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast), the design of the Complex Order Book and the BOX Book ensures that broker-dealers do not have any special or unique trading advantages in handling their orders after transmission.

According to the Exchange, all orders submitted to BOX, including orders on the Complex Order Book and on the BOX Book, are transmitted from remote terminals directly to the system by electronic means and are centrally processed and executed automatically by BOX. Once an order is submitted to BOX, the order is executed against one or more other orders based on the established matching algorithms of the Exchange.[94] The execution does not depend on the Options Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the Complex Order Book and on the BOX Book, whether a PIP or COPIP is initiated, and where the order is ranked based on the priority ranking algorithm. Orders will be ranked and maintained on the Complex Order Book and on the BOX Book according to established automatic priority rules. Under the proposal, the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) will be determined automatically, according to the proposed matching, priority and allocation rules. Based on the proposed COPIP rules and on the Exchange's representations, the Commission believes that the design of the trading platform used by BOX ensures that no Options Participant has any special or unique trading advantage

[86] *See* proposed BOX Rule 7245(f)(3)(ii).

[87] *See* proposed BOX Rule 7245(g)(4).

[88] Section 11(a)(1)(A) of the Act provides an exception to the general prohibition in Section 11(a) on an exchange member effecting transactions for its own account if such member is a dealer acting in the capacity of a market maker. *See* 15 U.S.C. 78k(a)(1)(A).

[89] The Commission notes that, other than with respect to quotes and orders on the BOX Book prior to the PIP Broadcast, which the Commission has stated are consistent with Section 11(a) and Rule 11a2–2(T) thereunder, the Commission determined that transactions effected through the PIP are consistent with Section 11(a) and Rule 11a1–1(T) thereunder because Options Participants that are not market makers are required to yield priority in the PIP to non-member orders (*i.e.,* to Public Customer Orders and non-BOX Options Participant broker-dealer orders) at the same price transactions effected through the PIP. *See* Securities Exchange Act Release No. 66871 (April 27, 2012), 77 FR 26323 (May 3, 2012) (File No. 10–206) (In the Matter of the Application of BOX Options Exchange LLC for Registration as a National Securities Exchange Findings, Opinion, and Order of the Commission) (''BOX Approval Order''). *See also* Securities Exchange Act Release No. 68177 (November 7, 2012), 77 FR 67851 (November 14, 2012) (SR–BOX–2012–003) (Order Approving Proposed Rule Change to Amend the Price Improvement Period) (''November 2012 Order'').

[90] 17 CFR 240.11a2–2(T).

[91] The member may, however, participate in clearing and settling the transaction. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (regarding the Designated Order Turnaround System of the New York Stock Exchange (''1978 Release'')).

[92] The Commission notes that it has previously found that the priority and allocation rules for electronic trading on the Exchange are consistent with Section 11(a) of the Act because such rules satisfy the ''effect versus execute'' exception provided by Rule 11a2–2(T). The Commission determined that BOX Options Participants entering orders into the BOX Trading Host, excluding those transactions effected through the PIP process, would satisfy the conditions of the effect versus execute rule. *See* BOX Approval Order.

[93] In considering the operation of automated execution systems operated by an exchange, the Commission has noted that, while there is no independent executing exchange member, the execution of an order is automatic once it has been transmitted into each system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* Securities Exchange Act Release No. 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (regarding the American Stock Exchange's Post Execution Reporting System and Switching System, the Intermarket Trading System, the Multiple Dealer Trading Facility of the Cincinnati Stock Exchange, the PCX Communications and Execution System, and the Philadelphia Stock Exchange Automated Communications and Execution System (''1979 Release'')).

[94] Under the proposed COPIP rules, orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) may also trade with one or more other orders, including COPIP Orders, based on the established matching algorithms of the Exchange.

in the handling of its orders, including for the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast), after transmitting such orders to the Exchange. As such, the Commission believes that the proposal satisfies this requirement of Rule 11a2–2(T).

Second, Rule 11a2–2(T) requires orders for covered accounts be transmitted from off the exchange floor. In the context of other automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[95] The Exchange states that, like these other automated systems, orders sent to BOX, regardless of where it executes within the BOX system, including the Complex Order Book, the BOX Book, a PIP or a COPIP, will be transmitted from remote terminals directly to BOX by electronic means. OFPs and BOX Market Makers will only submit orders and quotes to BOX from electronic systems from remote locations, separate from BOX. There are no other Options Participants that are able to submit orders to BOX other than OFPs or Market Makers. Accordingly, the Commission believes that Options Participants' orders electronically received by BOX satisfy the off-floor transmission requirement for the purposes of Rule 11a2–2(T).

Third, Rule 11a2–2(T) requires that the member not participate in the execution of its order once it has been transmitted to the member performing the execution. The Exchange represents that, at no time following the submission of an order to BOX, would an Options Participant be able to acquire control or influence over the result or timing of order execution.[96] According to the Exchange, upon submission to BOX, an order will be ranked and maintained on the Complex Order Book and on the BOX Book according to established automatic priority rules. In addition, under the proposal, the execution against a COPIP Order of orders on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) will be determined automatically, according to the proposed matching, priority and allocation rules. The execution does not depend on the Options Participant but rather upon what other orders are entered into BOX at or around the same time as the subject order, what orders are on the Complex Order Book and on the BOX Book, whether a PIP or COPIP is initiated, and where the order is ranked based on the priority ranking algorithm. Accordingly, Options Participants do not control or influence the result or timing of an order submitted to BOX, even if such Options Participant's order is on the Complex Order Book prior to the COPIP Broadcast or on the BOX Book (whether prior to or after the COPIP Broadcast) and, in either case, executes against a COPIP Order.[97] Based on the Exchange's representations, the Commission believes that the proposal satisfies the non-participation requirement of Rule 11a2–2(T).

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T).[98] The Exchange represents that Options Participants trading for covered accounts over which they exercise investment discretion must comply with this condition in order to rely on the exception of Rule 11a2–2(T), and the Exchange states that it will enforce this requirement pursuant to its obligation under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.

V. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment Nos. 1 and 2 are consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BOX–2013–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BOX–2013–43. 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

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[95] *See, e.g.,* BOX Approval Order; Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 28, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (granting the registration of The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility). *See also* 1978 Release and 1979 Release.

[96] The member may only cancel or modify the order, or modify the instructions for executing the order, but only from off the Exchange floor. The Commission has stated that the non-participation requirement is satisfied under such circumstances, so long as such modifications or cancellations are also transmitted from off the floor. *See* 1978 Release (stating that the ''non-participation requirement does not prevent initiating members from canceling of modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[97] In addition, the Exchange stated in its proposal that, at no time following the submission of a COPIP Order, will a Participant manipulate, control, or influence the result or timing of order execution on the Exchange by entering Orders on the BOX Book for a component leg of the COPIP that could result in the creation of BOX Book Interest that would take priority over Complex Orders interacting with the COPIP, and thus has proposed to add rule text that provides that it would be inconsistent with just and equitable principles of trade for an Options Participant to submit an order on the BOX Book, during a COPIP initiated by the Options Participant, for the purpose of disrupting or manipulating the COPIP. *See* proposed BOX IM–7245–2(b). *See also* Amendment No. 1, *supra* note 5.

[98] 17 CFR 240.11a2–2(T)(a)(2)(iv). In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated person thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member in connection with effecting transactions for the account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release (stating ''[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests'').

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 publicly available. All submissions should refer to File Number SR–BOX–2013–43 and should be submitted on or before January 16, 2014.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment Nos. 1 and 2

The Commission finds good cause for approving the proposed rule change, as amended by Amendment Nos. 1 and 2, prior to the 30th day after the date of publication of notice in the **Federal Register.** Amendment No. 1 revises the proposal to provide greater detail with respect to: (1) The ability of Participants to respond adequately within the 100 millisecond COPIP period; (2) the effect of unrelated orders received during overlapping PIP and COPIP auctions; and (3) the Exchange's analysis regarding whether the proposed COPIP rules are consistent with Section 11(a) of the Act and the rules thereunder.[99] As to the first item, Amendment No. 1 merely provides additional support regarding the adequacy of the 100 millisecond response time interval for Options Participants. As to the second item, the Commission notes that the original filing proposed that PIP and COPIP auctions could run simultaneously and that Unrelated Orders could interact with PIP and COPIP auctions. Amendment No. 1 provides details and examples illustrating how those interactions would occur under the original proposal. Amendment No. 1 also provides details and an example explaining what happens if single option instrument that is a component of more than one different Complex Order Strategy an order on the BOX Book interacts with COPIPs on the different Complex Order Strategies. As to the third item, Amendment No. 1 adds one specific example of conduct that would be prohibited in the COPIP and otherwise provides an analysis of the original proposal's compliance with the requirements of Section 11(a) of the Act.[100] COPIPs will function in a manner substantially similar to that described in the Notice and Amendment No. 1 provides additional clarity on the proposal. Amendment No. 2 corrects one sentence to conform it to discussion elsewhere in Amendment No. 1 concerning the analysis of the original proposal's compliance with the requirements of Section 11(a) of the Act. Accordingly, the Commission finds good cause for approving the proposed rule change, as amended, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.[101]

VII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[102] that the proposed rule change (SR–BOX–2013–43), as modified by Amendment Nos. 1 and 2, is approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[103]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30769 Filed 12–24–13; 8:45 am]

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[99] In addition, Amendment No. 1 made a non-substantive change in order to update the proposal to also reflect change made to BOX Rule 7130(a) in Securities Exchange Act Release No. 70395 (September 15, 2013), 78 FR 57911 (September 20, 2013).

[100] 15 U.S.C. 78k.

[101] 15 U.S.C. 78s(b)(2).

[102] 15 U.S.C. 78s(b)(2).

[103] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71138; File No. SR–BYX–2013–041]

Self-Regulatory Organizations; BATS Y-Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Y-Exchange, Inc.

December 19, 2013.

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 9, 2013, BATS Y-Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BYX Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at *http://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 modify its fee schedule applicable to the use of the Exchange effective December 9, 2013, in order to temporarily amend the way that the Exchange calculates rebates for accessing liquidity and fees for adding liquidity to the Exchange. Specifically, the Exchange is proposing to exclude odd lot executions from the calculation of average daily TCV, as defined below, until February 1, 2014.

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

The Exchange currently offers a tiered structure for determining the fees and rebates that Members receive or pay for executions on the Exchange. Under the tiered pricing structure, the Exchange charges different fees and provides different rebates to Members based on a Member's ADV [6] as a percentage of average daily TCV,[7] as well as a reduction in fees where a Member's order sets the NBBO and that Member meets or exceeds a certain threshold of ADV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing fees or rebates or the percentage thresholds at which a Member may qualify for certain fees or rebates. Rather, as mentioned above, the Exchange is proposing to modify its fee schedule in order to temporarily exclude odd lot executions from the calculation of average daily TCV.

The Exchange is proposing to exclude odd lot executions from the calculation of average daily TCV through January 31, 2014 because recent amendments to the Consolidated Tape Association and NASDAQ UTP Plans [8] require that odd lots be reported to the consolidated tape. Beginning on December 9, 2013, exchanges and trade reporting facilities are required to report odd lot executions to the consolidated transaction reporting plan and, as currently defined, odd lots would be included in the calculation of TCV. As such, the Exchange is proposing to amend the definition of TCV in order to exclude odd lots from the calculation of TCV until January 31, 2014. When calculating ADV as a percentage of TCV, the Exchange has historically included odd lots in the Member's ADV, but excluded them from TCV since they have not been included in the trades reported to consolidated transaction reporting plans. Accordingly, the proposal intends to exclude odd lots from TCV for the first two billing cycles in which odd lots are reported to the consolidated transaction reporting plans in order to create a period during which odd lot reporting behavior can be observed without affecting the fees and rebates for which a Member will qualify. The Exchange believes that excluding such odd lots will help to eliminate uncertainty faced by Members as to their monthly ADV as a percentage of average daily TCV because of the additional reported volume and the fees and rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. Further, excluding such odd lots through January 31, 2014 will allow the Exchange to evaluate the impact that odd lot orders would have on Member fees and rebates.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act. Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

With respect to the proposed changes to the tiered pricing structure for adding and removing liquidity, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of fees and rebates for December and January. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the fees and rebates and, moreover, by continuing to exclude odd lots from the calculation of average daily TCV, Members will be more likely to meet the minimum or higher tier thresholds for December and January, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members.

Volume-based tiers such as those maintained by the Exchange have been widely adopted in the equities markets, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide fees and rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality.

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 proposed changes will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [9] and paragraph (f) of Rule 19b–4 thereunder.[10] 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

[6] As provided in the ''Equities Pricing'' section of the fee schedule, ''ADV'' average daily volume calculated as the number of shares added or removed, combined, per day on a monthly basis, excluding shares added or removed on any day that trading is not available on the Exchange for more than 60 minutes during regular trading hours but continues on other markets during such time (''Exchange Outage'') and on the last Friday in June (the ''Russell Reconstitution Day''); routed shares are not included in ADV calculation; with prior notice to the Exchange, a Member may aggregate ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).

[7] As provided in the fee schedule, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding any day that the Exchange experiences an Exchange Outage and the Russell Reconstitution Day.

[8] Securities Exchange Act Release No. 70794 (October 31, 2013), 78 FR 66789 (November 6, 2013) (SR–CTA–2013–05); Securities Exchange Act Release No. 70793 (October 31, 2013), 78 FR 66788 (November 6, 2013) (File No. S7–24–89).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f).

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–BYX–2013–041 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BYX–2013–041. 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–BYX–2013–041 and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30759 Filed 12–24–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71149; File No. SR–Topaz–2013–16]

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees

December 19, 2013.

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, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the ''Exchange'' or ''Topaz'') 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 the Substance of the Proposed Rule Change

Topaz is proposing to amend its Schedule of Fees to adopt various membership and other non-transaction fees, and to add clarifying language related to fees charged for Priority Customer orders executed during the opening rotation. The text of the proposed rule change is available on the Exchange's Internet Web site at *http://www.ise.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 the 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 self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule filing is to amend the Schedule of Fees to adopt various membership and other non-transaction fees, and to add clarifying language related to fees charged for Priority Customer orders executed during the opening rotation. The proposed non-transaction fees include membership application fees, access and CMM trading right fees, network and gateway fees, session fees, and regulatory fees. Each of the non-transaction fees is being waived until January 1, 2014. The Exchange is filing these fees now to give advance notice to its Members.

Membership Application Fees

The Exchange is proposing to assess a one-time application fee based upon the applicant's status as a Primary Market Makers (''PMM''), Competitive Market Maker (''CMM''), or Electronic Access Member (''EAM''). Applicants for Topaz membership will be assessed a one-time application fee of $3,000 per firm for PMMs, $2,000 per firm for CMMs, or $1,500 per firm for EAMs. The higher fee charged for PMMs and CMMs, compared to the fee for EAMs, reflects the additional review and processing effort needed for market maker applications, and particularly PMM applications, which require the most Exchange resources of the three types of membership applications. As this fee is being waived until January 1, 2014, applicants for Topaz membership that have already applied for membership, and those that apply for membership before January 1, 2014, will not be assessed a fee for their applications.

Access & CMM Trading Right Fees

Under the proposed fee change, Members will also be required to pay a monthly access fee starting January 2014. In particular, the Exchange is proposing to charge EAMs and PMMs a monthly access fee [sic] $200 for each membership, while CMMs will pay $100 per month for each membership.[3]

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In the case where a single member firm has multiple Topaz memberships, the monthly access fee is charged for each membership. For example, if a single member firm is both an EAM and a CMM,

Continued

Payment of the proposed monthly access fee will entitle Members to trade on the Exchange as a PMM, CMM, or EAM based on their membership type. In order to receive appointments to quote in options classes, CMMs will also be required to pay for CMM trading rights. CMM trading rights entitle a CMM to enter quotes in options symbols that comprise a certain percentage of industry volume. A CMM's first trading right entitles that CMM to quote in 20 percent of volume, and each subsequent right provides the ability to quote an additional 10 percent of volume.[4] In order to encourage CMMs to quote on the Exchange, Topaz launched without any fees associated with obtaining CMM trading rights, allowing CMMs to freely quote in all options classes. We are now proposing to adopt a monthly CMM trading right fee. Under the proposed fee structure, the first CMM trading right obtained by a CMM will cost $850 per month, and will entitle the CMM to quote in 20 percent of volume. Each additional CMM trading right obtained will cost $500 per month, and will entitle the CMM to quote an additional 10 percent of volume.

Network & Gateway Fees

The Exchange is proposing to charge Members and non-Members certain network and gateway fees as described in more detail below. The Exchange offers four different Ethernet connection options: a 1 Gigabit (''Gb'') connection, a 10 Gb connection, a 10 Gb low latency connection, and a 40 Gb low latency connection.[5] In addition, the Exchange offers both shared and dedicated gateways to facilitate Member access to the Exchange. While Topaz launched without connectivity or gateway fees in order to attract order flow to Exchange, the Exchange now proposes to charge fees for these connectivity and gateway options. In particular, the Exchange will charge a connectivity fee of $500 per month for a 1 Gb connection, $4,000 per month for a 10 Gb connection, $7,000 per month for a 10 Gb low latency connection, and $12,500 for a 40 Gb low latency connection. With respect to gateway fees, the Exchange proposes to charge a monthly fee of $250 per shared gateway, and $2,000 per dedicated gateway pair for Members that elect to use their own dedicated gateways as an alternative to using shared gateways.[6] The Exchange notes that these proposed fees are the same as fees charged by the International Securities Exchange, LLC (''ISE''),[7] as the network and gateway options provide connectivity to both Topaz and the ISE. Market participants that connect to Topaz and the ISE will be able to access both exchanges for a single fee for each of the listed connectivity options.

Session Fees

Topaz Members can connect to the Exchange via an Application Programming Interface (''API'') session. The Exchange uses an open API which Members program to in order to develop applications that send trading commands and/or queries to, and receive broadcasts and/or transactions from, the trading system. The API processes quotes, receives orders from Members, tracks activity in the underlying markets, when applicable, executes trades in the matching engine, and broadcasts trade details to the participating Members. The Exchange is proposing to charge Members a monthly API fee of $100 per session for each authorized login that a Member utilizes for quoting, order entry, or ''listening'' to system broadcasts.[8] Each login allows the user to enter quotes, orders, and perform other miscellaneous functions, such as setting risk management parameters, pulling quotes, and performing linkage functions. In addition, EAMS can connect to Topaz via a Financial Information eXchange (''FIX'') session.[9] EAMS that choose to connect to Topaz via FIX will be charged a monthly FIX session fee of $50 per session. The Exchange notes that Members may connect to both Topaz and the ISE through a single FIX session.[10] For Members that are also members of the ISE and wish to connect to both exchanges, the Exchange will charge a monthly fee of $250 per session for the first two sessions and $50 per session for the third and additional sessions. This is consistent with the tiered pricing and level of fees on the ISE.[11] The Exchange is charging a higher fee for the first two sessions for Members that connect to both exchanges as these Members will be allowed to access both markets through a single FIX session.

Regulatory Fees

The Exchange is proposing to charge an annual regulatory fee to all PMMs and CMMs in order to recover the cost of surveilling these members and performing other regulatory responsibilities. In particular, the Exchange proposes to charge $1,000 per year for a PMM membership, and, for PMMs that are also CMMs, $250 per year for each CMM membership. For CMMs that are not also PMMs the proposed regulatory fee is $500 per year for the first CMM membership, and $250 per year for each additional CMM membership. The Exchange is not proposing to charge a regulatory fee to EAMs.

Clarifying Text

On December 2, 2013 the Exchange filed an immediately effective rule change that amended the Schedule of Fees to specify that the Exchange will charge its ''taker'' fee for non-Priority Customer orders executed during the opening rotation.[12] As explained in that filing, Priority Customers [sic] orders executed during the opening rotation will continue to receive the applicable ''maker'' rebate. Since the current language for Priority Customer orders does not explicitly state that it applies to orders executed during the opening rotation, the Exchange proposes to clarify this in the Schedule of Fees. In particular, the Exchange proposes to revise the relevant language in its Schedule of Fees to state that Priority Customer orders *executed during the opening rotation* will receive the applicable maker rebate. The Exchange believes that this change will add further clarity to its Schedule of Fees.

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)(4) of the Act,[14]

or owns multiple CMM memberships, the firm is subject to the access fee for each of those memberships.

[4] *See* Topaz Rule 804(c) [sic] for a complete description of Topaz trading rights. CMMs can select the options classes to which they seek appointment, but the Exchange retains the authority to make such appointments and to remove appointments from CMMs based on their performance.

[5] The low latency connections are available to Members only, whereas the regular connections are available to both Members and non-Members.

[6] While the shared gateways provide for full redundancy and the same latency, these Members nevertheless desire their own dedicated gateways as a risk management alternative. For redundancy and load balancing purposes, Members that choose the dedicated gateway option are connected to a pair of dedicated gateways for which the Exchange proposes to charge one fee.

[7] *See* ISE Schedule of Fees, Section VIII, Access Services.

[8] Quoting functionalities are available only to Market Makers, *i.e.,* PMMs and CMMs, while order entry and listening functionalities are available to all Members.

[9] Market Makers, *i.e.,* PMMs and CMMs, must connect to the Exchange via API as the FIX connection does not supporting [sic] quoting.

[10] API session fees are separate for Topaz and the ISE.

[11] *See* ISE Schedule of Fees, Section VII, Trading Application Software, FIX Session/API Session Fees.

[12] *See* ISE–2013–14 (citation pending publication by the SEC). [sic]

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(4).

in particular, in that it provides for an equitable allocation of reasonable fees and other charges among Exchange Members and other persons using its facilities.

Membership Application Fees

The Exchange believes the proposed one-time membership application fees are reasonable and equitable as they are similar to, and generally lower than, one time application fees in place at other options exchanges. For example, MIAX Options (''MIAX'') charges a one-time application fee of $2,500 for electronic exchange members and $3,000 for market makers,[15] compared to the proposed $1,500 fee for EAMs, and proposed $2,000 and $3,000 fees for CMMs and PMMs, respectively. Furthermore, the Exchange does not believe that it is unfairly discriminatory to assess different fees for PMMs, CMMs, and EAMs. The one-time application fees are designed to recover costs associated with the processing of such applications, which are lowest for EAM applications, and greater for Market Maker applications, and PMM applications particularly. Charging a higher application fee for Market Makers is consistent with the fees charged by other options exchanges, including, for example, the MIAX application fee discussed above.[16]

Access & CMM Trading Right Fees

The Exchange believes its proposed access fees and CMM trading right fees are reasonable, equitable and not unfairly discriminatory. The proposed fees compare favorably with those of other options exchanges. For example, a market maker on NYSE Arca Options (''Arca'') has to purchase at least one trading permit for $6,000 per month, and up to four trading permits that total $18,000 per month in order to quote in all options classes.[17] By comparison, under the proposed fee structure, a CMM could quote on the Exchange for as little as $950 per month (*i.e.,* a $100 access fee and an $850 trading right), and could quote in all options classes on the Exchange by paying the access fee and purchasing nine CMM trading rights for a total of $4,950 per month. The Exchange notes that its tiered model for CMM trading rights is consistent with the pricing practices of other exchanges, such as Arca, which charges $6,000 per month for the first market maker trading permit, as mentioned above, down to $1,000 per month for the fifth and additional trading permits, with various tier in-between. Like other options exchanges, the Exchange is proposing this tiered pricing model because the first CMM trading right requires the most support from the Exchange, with each additional trading right requiring an incremental increase in the amount of support provided. The Exchange also believes that a tiered price structure for successive CMM trading rights may encourage CMM firms to purchase additional trading rights and quote more issues, thereby enhancing liquidity on the Exchange. For PMMs on Topaz the fees required to access the Exchange are substantially lower than those on competing exchanges. For example, a PMM could quote on the Exchange for only $200 (*i.e.,* the access fee), compared with the minimum $6,000 per month trading permit fee charged by Arca. The Exchange notes that it is not proposing trading right fees for PMMs as the Exchange wishes to encourage Members to act as PMMs, which will benefit the market through, for example, more robust quoting requirements. Similarly, the Exchange is proposing only to charge the $200 access fee to EAMs as the technical, regulatory, and administrative costs associated with an EAM's use of the Exchange are not as high as those associated with Market Makers.

Network & Gateway Fees

The Exchange believes that its proposed network and gateway fees are fair, reasonable, and not unfairly discriminatory. The Exchange notes that these fees are the same as applicable to trading on the ISE. Because market participants may connect to both ISE and Topaz through each of the available options, the Exchange is proposing the same fees for connectivity to Topaz as applicable to ISE. The Exchange believes that it is reasonable to charge the same fees as ISE since market participants are able to access both ISE and Topaz through their selected connectivity options. With respect to network fees, the Exchange believes that it is fair to charge higher fees for higher bandwidth allocations, and for access to the Exchange's low latency connections, which are priced to allow the Exchange to recoup the hardware, installation, testing and connection costs to maintain and manage enhanced connections. The Exchange notes that its proposed connectivity fees, which are the same as fees charged by the ISE, are also lower than those charged by other options exchanges for similar connectivity services. For example, Arca charges a monthly fee of $5,000 per connection for a 1 Gb liquidity center network connection with a $6,000 per connection initial charge, and up to $20,000 per month plus a $15,000 per connection initial charge for their 40 Gb offering,[18] compared to the proposed monthly fees for Topaz, which range from $500 per month to $12,500 per month for the 1 Gb and 40 Gb connections, respectively. With respect to gateway fees, the Exchange notes that Members may choose whichever option is appropriate for their firm as the shared gateways provide for full redundancy and the same latency as the dedicated gateways. The Exchange believes that it is fair to charge more to Members that desire their own dedicated gateways for risk management purposes, as all similarly situated Members will be charged the same amount, based on their preference for either a shared gateway or a dedicated gateway.

Session Fees

The Exchange believes that its proposed API/FIX session fees are fair and equitable as they compare favorably with, and are generally lower than, fees charged by other options exchanges. For example, Arca charges a port fee for order/quote entry ports of $200 per month for ports 6–100, and $100 per month for additional ports, with the first five ports offered at no charge.[19] Moreover, the Exchange believes that the proposed fees are not unreasonably discriminatory as each Member that connects to the Exchange will pay the same per session fee, regardless of whether that Member is a PMM, CMM, or EAM, or whether that Member uses its connection for quoting, order entry, or listening only. While the cheaper FIX option does not support quoting, and is therefore available only to EAMs, the Exchange does not believe that this is unfairly discriminatory as FIX is a free, industry-wide messaging protocol, whereas the Exchange pays a licensing fee for the use of the API, which provides additional quoting functionality for Market Makers. As with network and gateway fees described above, EAMs have the option to connect to both ISE and Topaz through a single FIX session. The Exchange believes that it is fair and equitable to charge a higher fee to Members that wish to connect to both Topaz and the ISE as such Members will benefit from access to both markets. Members that only connect to Topaz

[15] *See* MIAX Fee Schedule, Section 3, Membership Fees, Application for MIAX Membership.

[16] *Id.*

[17] *See* Arca Fees and Charges, General Options and Trading Permit (OTP) Fees.

[18] *See* Arca Fees and Charges, Floor and Equipment and Co-location Fees.

[19] *Id.*

will pay a lower fee equal to the incremental fee for the third and additional sessions for Members that connect to both exchanges.

Regulatory Fees

The Exchange believes the proposed market maker regulatory fees are reasonable and equitable as they are designed to recoup costs associated with performing surveillance and other regulatory obligations with respect to PMMs and CMMs. The Exchange does not believe that it is unfairly discriminatory to charge a higher regulatory fee to PMMs than CMMs, or to not charge any regulatory fee to EAMs, as the resources dedicated to surveilling the activities of a Member vary [sic] on the type of membership. For example, the Exchange has rules that apply to a PMM that do not apply to a CMM or an EAM, and which necessitate surveillance by the Exchange. Generally, PMMs are subject to greater obligations than CMMs are and CMMs are subject to more obligations than EAMs are. As such, the Exchange believes that a tiered fee system is the most equitable method of assessing these fees.

Clarifying Text

The Exchange believes that the proposed clarifying text to its Schedule of Fees is reasonable, equitable, and not unfairly discriminatory as it is intended to increase transparency for Members and investors. The Exchange notes that this is a non-substantive change and, as described in the original filing, non-Priority Customer orders will continue to be charged the ''taker'' fee while Priority Customer orders will receive the applicable ''maker'' rebate for trades executed during the opening rotation.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[20] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose an unnecessary burden on intermarket competition as the proposed fees are comparable to, and generally lower than, fees charged by other options exchanges. With respect to intramarket competition, the Exchange notes that the proposed fees apply equally to all similarly situated Members based on their membership type. As noted above, the Exchange believes that any differences in the treatment of PMMs, CMMs, and EAMs are reasonably based on the differences between those membership types, and are consistent with differentiation that exists on other options exchanges, including, for example, the ISE. With respect to the clarifying text being adopted, the Exchange notes that this is non-substantive and will therefore have no competitive impact. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

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)(ii) of the Act,[21] and subparagraph (f)(2) of Rule 19b–4 thereunder,[22] because it establishes a due, fee, or other charge imposed by Topaz.

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 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 No. SR–Topaz–2013–16 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Topaz–2013–16. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Topaz–2013–16, and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

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[20] 15 U.S.C. 78f(b)(8).

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 240.19b–4(f)(2).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71144; File No. SR–MSRB–2013–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Disapprove Proposed Rule Change Relating to a New MSRB Rule G–45, on Reporting of Information on Municipal Fund Securities

December 19, 2013.

On June 10, 2013, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of new MSRB Rule G–45 (reporting of information on municipal fund securities) and MSRB Form G–45; amendments to MSRB Rule G–8 (books and records); and MSRB Rule G–9 (preservation of records). The proposed rule change was published for comment in the **Federal Register** on June 28, 2013.[3] The Commission received five comment letters on the proposal.[4] On August 9, 2013, the MSRB granted an extension of time for the Commission to act on the filing until September 26, 2013. On September 26, 2013, the Commission initiated proceedings to determine whether to disapprove the proposed rule change and solicited additional comments.[5]

The Commission thereafter received four comment letters on the proposal.[6]

Section 19(b)(2) of the Act [7] provides that, after initiating disapproval proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission, however, may extend the period for issuing an order approving or disapproving the proposed rule change by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for comment in the **Federal Register** on June 28, 2013. December 25, 2013, is 180 days from that date, and February 23, 2014, is an additional 60 days from that date.

The Commission finds it appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change and the issues raised in the comment letters that have been submitted in connection with the same. Specifically, as the Commission noted in more detail in the Order Instituting Proceedings, the proposal raises issues such as (1) whether the proposed rule change is sufficiently clear as to whom the obligations of the rule apply and (2) whether the proposed rule change applies the terms ''underwriters'' and ''broker dealers'' consistent with the Act and the Securities Act of 1933 and the rules thereunder. Extending the time within which to approve or disapprove the proposed rule change will enable the Commission to more fully consider these issues, as well as the other issues raised in the comment letters and in the Order Instituting Proceedings.

Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[8] designates February 23, 2014, as the date by which the Commission should either approve or disapprove the proposed rule change.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30765 Filed 12–24–13; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 69835 (June 24, 2013), 78 FR 39048.

[4] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute, dated July 16, 2013; David L. Cohen, Managing Director, Associate General Counsel, Securities Industry and Financial Markets Association, dated July 18, 2013; Roger Michaud, Chairman, College Savings Foundation, dated July 19, 2013; Michael L. Fitzgerald, Chairman, College Savings Plans Network, dated July 19, 2013; and Michael B. Koffler, Partner, Sutherland Asbill & Brennan, dated July 19, 2013.

[5] Securities Exchange Act Release No. 70531 (September 26, 2013), 78 FR 60985 (October 2, 2013) (''Order Instituting Proceedings'').

[6] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Tamara K. Salmon, Senior Associate Counsel, Investment Company Institute, dated November 8, 2013; Roger Michaud, Chairman, College Savings Foundation, dated November 18, 2013; Michael L. Fitzgerald, Chairman, College Savings Plans Network, dated November 18, 2013; and Michael B. Koffler, Partner, Sutherland Asbill & Brennan, dated November 18, 2013.

[7] 15 U.S.C. 78s(b)(2).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71147; File No. SR–FINRA–2013–053]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of a Proposed Rule Change To Update the Rules Governing the Alternative Display Facility

December 19, 2013.

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, 2013, Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to update the rules governing the Alternative Display Facility (''ADF'') to, among other things, reflect regulatory requirements that have been put into place since the last comprehensive revision of the ADF rules, and to conform the ADF trade reporting rules, to the extent practicable, to current FINRA rules relating to trade reporting to the FINRA Trade Reporting Facilities (''TRFs'').

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The ADF is a quotation collection and trade reporting facility that provides ADF Market Participants (i.e., ADF-registered market makers or electronic communications networks (''ECNs'')) [3] the ability to post quotations, display orders and report transactions in NMS stocks for submission to the Securities Information Processors for consolidation and dissemination to vendors and other market participants. In addition, the ADF delivers real-time data to FINRA for regulatory purposes, including enforcement of requirements imposed by Regulation NMS.[4] A broker-dealer that wishes to become an ADF Trading Center and display its quotations on the ADF must satisfy certain requirements.[5]

In connection with the migration of the ADF to the Multi-Product Platform (''MPP''), FINRA has undertaken a complete review of the ADF rules and has identified a number of rules to be updated. Some of those updates reflect the changes to the ADF's functionality resulting from the migration to MPP; other changes reflect regulatory requirements that have been put into place since the last comprehensive revision of the ADF rules, or are designed to enhance ADF operational efficiency. Other changes conform the ADF trade reporting rules, to the extent practicable, to current FINRA rules relating to trade reporting to the FINRA TRFs.[6] FINRA is also proposing a variety of non-substantive changes to conform or otherwise streamline the ADF rules. These proposed changes are set forth below.

Changes to Reflect Regulatory Changes

Rule 6272 of the ADF rules addresses requirements regarding quotations posted on the ADF. FINRA proposes to revise Rule 6272(a)(2) to modify the quotation pricing obligations for Registered Reporting ADF Market Makers in response to the National Market System Plan to Address Extraordinary Market Volatility (''Limit Up-Limit Down Plan'').[7] As amended, the rule will specify that the suspension of pricing obligations for ADF Market Makers shall apply during a trading halt except as permitted under the Limit Up-Limit Down Plan.[8]

In Rule 6272(b), FINRA proposes to update the minimum quotation increment for ADF-eligible securities to account for quotations under $1.[9] As revised, the rule will provide that the minimum quotation increment for quotations below $1.00 in all ADF-eligible securities shall be $0.0001. This provision will enable ADF Participants to submit quotations for issues under $1 in an increment that is consistent with Rule 612 of Regulation NMS.[10]

Voluntary Terminations

FINRA proposes to amend the definition of ''Registered Reporting ADF ECN'' in Rule 6220(a) to provide additional detail as to how a Registered Reporting ADF ECN may voluntarily terminate its registration.[11] As proposed, the rule will state that a Registered Reporting ADF ECN may voluntarily withdraw from participation on the ADF upon providing, through electronic delivery, written notice to FINRA Market Operations of its intention to withdraw as a Registered Reporting ADF ECN, with such withdrawal to be effective upon the first trading day following the issuance of the written notice announcing the Registered Reporting ADF ECN's intent to withdraw, or such other date as specified in the written notice. This change will provide greater clarity as to how a Registered Reporting ADF ECN may voluntarily terminate its registration, and an efficient means by which this may be accomplished.

Changes to ADF Order Reporting

FINRA also proposes to modify the order reporting requirements set forth in Rule 6250 so that FINRA can more efficiently monitor quoting activity on the ADF on an automated basis. FINRA requires ADF Trading Centers to report order information so that FINRA can have detailed information regarding the origination of orders underlying an ADF Trading Center's quotation and use that information to enhance its ability to monitor quotation activity on the ADF. Currently, Rule 6250(b) provides that all ADF Trading Centers that display quotations on the ADF must record the information described in paragraphs (b)(1) and (2) for all orders they receive from another broker-dealer via direct or indirect electronic access. Rule 6250(d)(1) defines direct electronic access as the ability to deliver an order for execution directly against an individual ADF Trading Center's best bid or offer and Rule 6250(d)(2) defines indirect electronic access as the ability to route an order through a FINRA member, subscriber broker-dealer, or customer broker-dealer of an ADF Trading Center for execution against the ADF Trading Center's best bid or offer. Accordingly, current Rule 6250 is intended to only apply where the order is being sent to access a displayed quotation. FINRA proposes to amend this provision to clarify the scope of these requirements to require an ADF Trading Center to record the information pursuant to Rule 6250(b)(1) and (2) only if such order results in an execution, a cancellation, a correction or a rejection by the ADF Trading Center. As such, an incoming order that fully posts to the book of that ADF Trading Center will not trigger the reporting requirements under this provision.[12] FINRA is proposing to revise this provision to better reflect the order information necessary for its surveillance programs related to the Firm Quote Rule,[13] and reduce the

[3] *See* Rule 6220(a)(3).

[4] *See* 17 CFR 242.600.

[5] For example, Rules 6220 and 6250(a)(7) require that a broker-dealer must execute and comply with the ADF Certification Record.

[6] FINRA notes that it has submitted proposed rule change SR–FINRA–2013–050, which would, among other things, amend Rules 6282, 7130 and 7140. *See* Securities Exchange Act Release No. 70924 (November 15, 2013) (sic), 78 FR 71695 (November 29, 2013). FINRA will amend this filing and/or SR–FINRA–2013–050, as necessary, to reflect Commission approval of any of the proposed rule changes.

[7] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (SEC File No. 4–631).

[8] For example, the Limit Up-Limit Down Plan provides that ''[n]o trades in an NMS Stock shall occur during a Trading Pause, but all bids and offers may be displayed.'' *Id.* at 77 FR 33514.

[9] Rule 6220 defines an ''ADF-eligible security'' as an NMS stock as defined in Rule 600(b)(47) of SEC Regulation NMS.

[10] Rule 612 permits, among other things, quotations in NMS stocks that are less than $1.00 per share to be priced in increments of $0.0001. *See* 17 CFR 242.612(b).

[11] Rule 6220 defines a Registered Reporting ADF ECN as ''a member of FINRA that is an electronic communications network (''ECN'') that elects to display orders in the ADF. A member shall cease being a Registered Reporting ADF ECN when it has withdrawn or voluntarily terminated its quotations on the ADF or when its quotations have been suspended or terminated by action of FINRA. This term also shall include a FINRA member that is an alternative trading system (''ATS'') that displays orders in the ADF.'' As such, this provision would apply to both ECNs and ATSs that display orders in the ADF.

[12] Similarly, if an incoming order is posted to the book of that ADF Trading Center, and is subsequently cancelled, corrected, etc., the order reporting requirements of Rule 6250(b) would not be triggered.

[13] The Firm Quote Rule provides that ''each responsible broker or dealer shall be obligated to execute any order to buy or sell a subject security, other than an odd-lot order, presented to it by another broker or dealer, or any other person belonging to a category of persons with whom such responsible broker or dealer customarily deals, at a price at least as favorable to such buyer or seller as the responsible broker's or dealer's published bid or published offer (exclusive of any commission, commission equivalent or differential customarily charged by such responsible broker or dealer in

reporting of excess information that may over-burden its systems and lead to false alerts.

FINRA also proposes to make a grammatical change to Rule 6250(a) to better reflect the fact that Registered Reporting ADF ECNs are not obligated to submit two-sided quotes (e.g., the bid and the offer). FINRA also proposes to amend the order information required to be provided to FINRA pursuant to Rule 6250(b) to update the terminology used in the Order Reporting Specifications.[14] As part of these changes, FINRA proposes to update the reporting requirements for Order Time and Order Response Time, which are currently required to be reported in hours, minutes and seconds, so that ADF Trading Centers will report this information in hours, minutes, seconds and milliseconds, if the ADF Trading Center's system captures such information in milliseconds. This change will make these order reporting provisions consistent with the reporting standards being proposed for both the Order Audit Trail System and the Trade Reporting Facilities.[15]

FINRA also proposes to add new order reporting requirements in Rule 6250 for orders that are part of an ADF Trading Center's quotation (bid or offer) that is displayed on the ADF. Specifically, FINRA proposes that, for each order that is part of a bid or offer displayed by an ADF Trading Center on the ADF, that ADF Trading Center must record and report to FINRA (1) symbol; (2) side; (3) price; (4) quantity (including displayed quantity); (5) order date and time of receipt; (6) order instructions (including order type); (7) internal order identifiers; (8) firm identifiers (including broker order identifier) and capacity information; (9) quote identifier; (10) quote price; (11) quote time; (12) short sale exemption reason, as applicable; and (13) clearing member. In addition, all ADF Trading Centers must also record and report the execution details, if any, of each order that is part of a displayed bid or offer, including (1) date and time of receipt; (2) side; (3) price; (4) quantity (including executed quantity); (5) execution price; (6) order instructions (including order type); (7) internal order identifiers; (8) firm identifiers (including broker order identifier); (9) execution identifier; (10) quote price; (11) quote identifier; and (12) quote time. For purposes of information related to time, an ADF Trading Center must report such information in the finest increment (e.g., milliseconds) that is captured in the ADF Trading Center's system.

This information shall be reported to FINRA in ''next day'' file submission, with such information reported to FINRA no later than 8:00 a.m. Eastern Time on the day following receipt of the order; provided, however, that an ADF Trading Center must report any of this information to FINRA immediately upon request. These requirements will enable FINRA to ascertain the market participant that is responsible for the order generating a quotation that is displayed on the ADF, which will enhance FINRA's ability to conduct quotation-based surveillance.

Finally, FINRA proposes a technical change to amend the provision in Rule 6250 governing the procedures for reviewing system outages. Currently, the rule requires that a member initiate a review of a system outage by submitting a written request via facsimile or otherwise; as revised, the rule will specify that an ADF Trading Center that seeks review of a system outage shall submit a written request via facsimile, email, personal delivery, courier or overnight mail to FINRA Product Management. This change will make the ADF rules more internally consistent by conforming the procedures for requesting a review under Rule 6250 to the procedures set forth in Rule 6260(a), which governs the filing of direct or indirect access complaints.

Proposed Conforming Amendments to ADF Trade Reporting Rules

FINRA is proposing to amend Rules 6281 and 6282 and the Rule 7100 Series relating to trade reporting to the ADF to conform those rules, to the extent practicable, to current FINRA rules relating to trade reporting to the TRFs.

First, FINRA is proposing to amend Rule 6281 to (1) expressly provide that members must also comply with the Rule 7100 Series when reporting to the ADF and (2) delete the requirements relating to execution of a Participant Application Agreement and maintenance of the physical security of the equipment as conditions for participation in the ADF, as they are redundant with requirements contained in Rule 7120.

Second, FINRA is proposing to amend Rule 6282(a)(4) to expressly provide that in the event that the rules require multiple modifiers on any given trade report, members are to report in accordance with guidance published by FINRA regarding priorities among modifiers. Members that report in accordance with such guidance will not be in violation of the trade reporting rules for failing to use a particular modifier. This provision conforms to paragraphs (a)(5) of Rules 6380A and 6380B relating to the TRFs. FINRA also is proposing new paragraphs (a)(5) and (6) of Rule 6282 to clarify that the ADF will append or convert, as applicable, the modifiers identified in the rules (i.e., to indicate that a trade was executed outside normal market hours or that a trade was reported late). The proposed paragraphs are identical to paragraphs (a)(6) and (7) of Rules 6380A and 6380B relating to the TRFs.

Third, the ADF will no longer support three party trade reports[16] and therefore, FINRA is proposing to delete paragraphs (c) and (d) of Rule 6282 relating to that function. FINRA is proposing to adopt new paragraph (c), which is identical to paragraph (c) of Rules 6380A and 6380B relating to the TRFs and sets forth the information that must be included in trade reports submitted to the ADF. Proposed paragraph (d) of Rule 7130 sets forth additional information that must be included in trade and clearing reports submitted to the ADF and is identical to paragraph (d) of Rules 7230A and 7230B relating to the TRFs. Proposed Rules 6282(c) and 7130(d) require the same trade information that is currently required under Rule 6282(c) and (d), and do not impose any additional reporting requirements on members. FINRA notes that as part of this proposed change, subparagraph (3) of Rules 6282(c) and (d), which requires that members submit a trade report addendum within 15 minutes of submission of the original trade report to correct or provide some or all of the identified information (e.g., the capacity or short sale indicator), would be deleted. This provision is not included in Rules 6380A and 6380B relating to the TRFs. Consistent with the TRF rules, members will be required to provide all

connection with execution of any such order) in any amount up to its published quotation size.'' 17 CFR 242.602(b)(2). *See also* FINRA Rule 5220.

[14] Specifically, FINRA proposes to delete the parentheticals corresponding to the Order Entry Firm and Order Side data elements. FINRA also proposes to replace the reference to Issue Identifier with Symbol, delete the requirement to provide the Order Negotiable Flag and the Trade-or-Move Flag, and delete the reference to ANY. FINRA also proposes to replace the reference to the identifier for the Market Making Firm to the ADF Trading Center; change the reference to ''any other modifier'' language in Rule 6250(b)(1)(N) (renumbered herein as Rule 6250(b)(1)(L)) to ''any other information,'' and to use Customer Order Handling Instructions as one example of such information; and amend the Order Response requirement of Rule 6250(b)(2)(B) to consist of execute, cancel, correct, or reject.

[15] *See* FINRA–2013–050, *supra* note 6.

[16] A three party trade report is a single trade report that denotes one Reporting Member (i.e., the member with the obligation to report the trade under FINRA's rules) and two contra parties. This functionality had never been used by previous ADF Market Participants.

information at the time of submission of the original trade report to the ADF and they will not have additional time to provide information such as the capacity or short sale indicator. Additionally, members already have a continuing obligation to provide full and accurate trade information to FINRA and to correct trade reports, as necessary.[17]

Fourth, FINRA is proposing to delete the following from Rule 6282: (1) Paragraph (e)(1)(E) (the requirements relating to prior reference price transactions are already included in Rule 6282(a)(4)(G)); and (2) paragraph (g) (there is no designated symbol in the ADF for reversals and ''as/of'' trades, and FINRA is proposing to relocate the requirement relating to use of the special trade and step-out indicators to Rule 7130(d)(13)). FINRA is also proposing to relocate paragraph (h) to Rule 7130(d)(16), which is a more appropriate location for the requirements relating to the clearing functionality of the ADF, and to amend that provision to clarify that members must indicate whether a trade is submitted for comparison or is locked-in via an Automatic Give Up Agreement (''AGU'') or Qualified Special Representative agreement (''QSR''). FINRA notes that these provisions do not appear in Rules 6380A and 6380B relating to the TRFs.

Fifth, FINRA is proposing to adopt new paragraph (h) of Rule 6282 to expressly provide that participants may enter into ''give up'' arrangements whereby one member reports to the ADF on behalf of another member, provided that participants submit to the ADF the appropriate documentation reflecting the arrangement. Proposed paragraph (h) is identical to Rules 6380A(h) and 6380B(g) relating to the TRFs, and provides that the member with the reporting obligation remains responsible for the transaction submitted on its behalf. Further, both the member with the reporting obligation and the member submitting the trade to the ADF are responsible for ensuring that the information submitted is in compliance with all applicable rules and regulations.

The provisions of Rule 6282 will be renumbered and cross-references will be updated, as necessary.

FINRA is also proposing amendments to the Rule 7100 Series, which addresses trade reporting and clearing through the ADF. First, FINRA is proposing to delete the definition of ''Browse'' in Rule 7110 and the references to this term in the Rule 7100 Series, as there is not a specific ''Browse'' functionality offered for the ADF.

In addition, FINRA believes that it is no longer necessary to distinguish among types of ADF participants for purposes of the trade reporting rules and therefore is proposing to delete the definitions of ''TRACS ECN,'' ''TRACS Market Maker'' and ''TRACS Order Entry Firm'' in Rule 7110. FINRA is proposing to use the more general term ''Participant'' and apply the trade reporting and clearing requirements uniformly to all ADF participants. FINRA notes that this approach conforms to the Rule 7200A and 7200B Series relating to the TRFs. Proposed amendments throughout the Rule 7100 Series (for example, Rule 7120(a) and (b)) would delete the references to these terms and incorporate the more general term ''Participant.'' FINRA notes that the requirements for a ''TRACS ECN,'' ''TRACS Market Maker'' and ''TRACS Order Entry Firm'' in Rule 7120 are largely duplicative, with the exception of the provision in Rule 7120(b)(2)(D) that states that if FINRA finds that a TRACS Market Maker's failure to maintain a clearing arrangement is voluntary, the withdrawal of quotations will be considered voluntary and unexcused pursuant to Rule 6275. FINRA is proposing to relocate this provision to new Rule 6275.01.[18]

Second, FINRA is proposing to amend Rule 7120 to conform, to the extent practicable, the participation requirements for members that report and clear transactions through the ADF to the participation requirements for the TRFs under Rules 7220A and 7220B, including amending paragraph (a)(1) and adding proposed new paragraph (b)(3)(B). The proposed amendments are not substantive and impose neither more nor less stringent requirements on FINRA members that participate in the ADF than the current provisions of Rule 7120. FINRA is also proposing to amend Rule 7120(b)(2)(D) to clarify that the rule (which provides that if a Participant fails to maintain a clearing relationship, it will be removed from the ADF) applies to Participants that are the reporting party or the contra party.[19]

Third, FINRA is proposing to amend paragraph (b) and adopt new paragraph (c) of Rule 7130 regarding when and how trade reports are submitted and which party reports, to conform to paragraphs (b) and (c) of Rules 7230A and 7230B relating to the TRFs. The proposed amendments are non-substantive and will not change the reporting requirements for members reporting and clearing trades through the ADF.

Fourth, FINRA is proposing new paragraph (e) of Rule 7130 to cross-reference the requirements for reporting cancelled trades in Rule 6282. This provision is identical to Rules 7230A(f) and 7230B(e) relating to the TRFs. The provisions of Rule 7130 will be renumbered and cross-references will be updated, as necessary.

Fifth, new paragraph (h) of Rule 7130 would provide members the option of including a transaction fee as part of a clearing report submitted to the ADF and is substantively identical to Rule 7230A(h) relating to the FINRA/Nasdaq TRF and Rule 7230B(i) relating to the FINRA/NYSE TRF.[20] Pursuant to the proposed rule, members would be required to provide in reports submitted to the ADF, in addition to all other information required to be submitted by any other rule, pricing information to indicate a total per share or contract price amount, inclusive of the transaction fee. As a result, members would submit as part of their report to the ADF: pricing information to indicate a total price inclusive of the transaction fee, which would be submitted by the ADF to NSCC for clearance and settlement; and the price exclusive of the transaction fee, which would be publicly disseminated. The parties to the trade would know both prices—the price reported for public dissemination and the clearance/settlement price.

Sixth, the ADF will offer match functionality, whereby both parties to the trade submit transaction data and the System performs an on-line match. Proposed Rule 7140(a) addresses such functionality and is identical to Rule 7240A(a) relating to the FINRA/Nasdaq TRF. FINRA proposes to renumber the remaining provisions of Rule 7140 accordingly.

Finally, proposed Rule 7170 provides that failure to comply with any of the trade reporting rules may be considered conduct inconsistent with high standards of commercial honor and just and equitable principles of trade, in

[17] *See, e.g.,* Rule 7160.

[18] FINRA also is proposing non-substantive amendments to the definitions in Rule 7110 to conform to the definitions in Rules 7210A and 7210B relating to the TRFs. The provisions of Rule 7110 will be renumbered as necessary.

[19] This incorporates Rule 7120(b)(3)(D) (which refers to TRACS Order Entry Firms), which will be deleted pursuant to the proposed rule change.

[20] FINRA notes that Rule 7230B(i) was adopted pursuant to a proposed rule change that was filed for immediate effectiveness on October 9, 2013. The operative date of the proposed rule change will be announced in a notice and will be at least 30 days following the date of filing. *See* Securities Exchange Act Release No. 70702 (October 17, 2013), 78 FR 63268 (October 23, 2013) (Notice of Filing and Immediate Effectiveness; File No. SR–FINRA–2013–044).

violation of Rule 2010. The proposed rule is identical to Rules 7270A and 7270B relating to the TRFs. FINRA proposes to re-number current Rule 7170 as Rule 7180.

In addition to the amendments outlined above, FINRA is proposing to make other non-substantive technical amendments to a number of ADF rules to conform, to the extent practicable, to the text of the TRF rules. The chart below identifies the ADF rules for which conforming changes to the rule text are being proposed and the corresponding TRF rules:

ADF Rule	TRF Rule
Rule 6282(a)(5) (re-numbered herein as 6282(a)(7)).	Rules 6380A(a)(8) and 6380b(a)(8).
Rule 6282(e) (renumbered herein as 6282(d)).	Rules 6380A(d) and 6380B(d).
Rule 7130(a)	Rules 7230A(a) and 7230B(a).
Rule 7160	Rules 7260A and 7260B.
Rule 7170 (renumbered herein as Rule 7180).	Rules 7280A and 7280B.

By conforming the trade reporting requirements for the ADF and TRFs, to the extent practicable, the proposed rule change will promote more consistent trade reporting by members and a more complete and accurate audit trail. FINRA notes that most of the proposed conforming changes to Rules 6281 and 6282 and the Rule 7100 Series are technical and non-substantive in nature, and FINRA does not believe that any of the proposed changes would require members to make systems changes in order to comply. Furthermore, FINRA members that currently report to one of the TRFs would already be familiar with the rule amendments that are proposed herein.

Changes to ADF and TRAQS Fees

FINRA proposes to amend Rule 7510(a) to assess a new fee for certain corrective transaction charges. Currently, each party to a trade will be assessed a $0.25 charge for transactions to break, decline, or reverse a trade. To this category of corrective transaction fees, FINRA proposes to add a $0.25 charge that will be assessed upon each party that cancels or corrects a trade. The purpose of adding this new change is to defray the administrative costs incurred by FINRA in processing corrective transaction charges, including cancel and correct requests.[21]

FINRA also proposes to delete Rule 7530, which assesses a minimum charge of $5,000 for installation costs associated with connecting to the ADF. This rule also provides that, upon installation, removal, relocation or maintenance of terminal and related equipment, the subscriber shall pay charges incurred by FINRA or its subsidiaries above the $5,000 minimum. FINRA proposes to delete this provision because it is no longer applicable, since the ADF is software-based and there is no hardware to install, remove or relocate. FINRA also proposes to re-number the remaining provisions in the Rule 7500 Series accordingly.

Technical Changes To Conform or Otherwise Streamline ADF Rules

FINRA is proposing a number of technical changes throughout the ADF rules. For example, FINRA is replacing references to ''TRACS,'' the ''TRACS Trade Comparison Service,'' and the ''TRACS trade comparison feature'' with ''ADF'' or ''the System'' [22] and in several provisions, deleting such references altogether.[23] Similarly, FINRA is replacing references to the ''TRACS trade comparison Participant Application Agreement'' with ''Participant Application Agreement.'' [24] FINRA also proposes to update the definition of a ''CQS security'' in Rule 6220(a)(6) to include the current national securities exchanges on which the relevant securities are listed or trade pursuant to unlisted trading privileges, and to make a grammatical change. FINRA proposes to change the definition of the ADF in Rule 6210 to remove unnecessary language from that provision, and to make a grammatical change. FINRA proposes to change certain references throughout the rules from ''ADF Operations,'' ''FINRA ADF Operations,'' or ''TRACS Operations Center'' to ''FINRA Market Operations'' or ''FINRA Product Management.'' [25]

In Rule 6220(a)(10), FINRA proposes to revise the definition of ''Normal unit of trading'' to delete the reference to a ''special identifier'' appended to the issuer's symbol if a normal unit of trading is other than 100 shares. This identifier will not be used following migration of the ADF to MPP. FINRA also proposes to delete, in Rule 6272(a)(3), the provision that the National Best Bid and Offer (''NBBO'') is established ''by FINRA in accordance with its procedures for determining protected quotations under Rule 600'' of Regulation NMS. The ADF will not generate an NBBO upon migration to the MPP; rather, FINRA will use the NBBO as defined in Regulation NMS and as calculated by the Securities Information Processors. Finally, FINRA proposes to modify the time cut-off set forth in Rule 6250(b)(1) and (b)(2) so that the order information that is required to be provided pursuant to this rule shall be provided ''no later'' than 6:30 p.m. Eastern Time.[26]

The proposed rule change shall be effective upon Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[27] which requires, among other things, that FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and Section 15A(b)(5) of the Act,[28] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls, and Section 15A(b)(9) of the Act,[29] which requires that FINRA rules not impose any burden on competition that is not necessary or appropriate.

FINRA believes that the proposed rule change is consistent with the Act where

[21] FINRA notes that, because the submission of a corrective request imposes an administrative cost on FINRA, a party will still be assessed a cancel or correct charge, even if the trade ultimately stands. For example, assume that ABCD submits a trade with counter-party WXYZ, and that the trade is accepted by WXYZ. ABCD then cancels the trade, incurring a $0.25 cancellation fee. WXYZ takes no further action, such as submitting its own cancellation, so the trade is matched, and the trade goes to the tape and to clearing. Since WXYZ did not submit its own cancellation request, the trade was ultimately not broken; however, FINRA incurred a cost in processing the cancellation request from ABCD regardless of the ultimate outcome of the trade. FINRA thus believes it is appropriate to assess the cancel fee on ADF Market Participants in this scenario.

[22] FINRA is proposing to use the term ''the System'' to apply to the ADF, including the trade comparison feature specifically referred to in the current Rule 7100 Series. The proposed change and the proposed definition of ''System'' in Rule 7110 conforms to the Rule 7200A and 7200B Series relating to the TRFs.

[23] TRACS (now re-named TRAQS) was a component of the ADF, and this change simplifies the rule text without substantively changing the process by which trades are reported or the ADF otherwise operates.

[24] This change simply reflects the global deletion of references to TRACS; the actual agreement remains the same.

[25] These changes will reflect the official title of the FINRA group that is responsible for the issues that are addressed in these provisions.

[26] FINRA is making this change to clarify that, to the extent that such information is available prior to 6:30 p.m. Eastern Time, the ADF Trading Center need not wait until 6:30 p.m. to report that information to FINRA.

[27] 15 U.S.C. 78*o*-3(b)(6).

[28] 15 U.S.C. 78*o*-3(b)(5).

[29] 15 U.S.C. 78*o*-3(b)(9).

it makes non-substantive changes that simply update the rules to reflect changes in FINRA departments or systems, or to correct other outdated references. Examples of such changes include (1) changing the reference from TRACS (Trade Comparison Service) to ''ADF'' or ''the System''; (2) replacing the reference from the TRACS trade reporting Participant Application Agreement to the Participant Application Agreement; (3) updating the reference of a ''CQS Security''; and (4) changing the references from ''FINRA ADF Operations'' to ''FINRA Market Operations'' or ''FINRA Product Management,'' as applicable. These changes update the relevant rule without affecting the substance of that rule.

FINRA believes that the changes to the rules governing the ADF to reflect recent regulatory changes are also consistent with the Act. These changes, which consist of updating the rules to reference the Limit Up-Limit Down Plan and allowing a minimum quoting increment of less than $0.01 for quotations below $1, modify the ADF rules to reflect regulatory initiatives that were previously approved or promulgated by the Commission.[30]

FINRA believes that the changes to the rules to delete functionalities that will no longer be available following the migration of the ADF to MPP are also consistent with the Act; specifically, the deletion of the use of a special identifier if the normal unit of trading is other than 100 shares, and the deletion of the provision for calculating the NBBO. Since the functionalities to be deleted are not being currently utilized, and will not be offered on the ADF upon its migration to MPP, FINRA believes that these changes will help ensure that the rules accurately reflect the operation of the ADF upon its migration to the new platform.

FINRA believes that the provision allowing a Registered Reporting ADF ECN to voluntarily terminate its status as an ADF Market Participant is consistent with the Act because it provides a Registered Reporting ADF ECN with the ability to terminate its status, and for FINRA to make any corresponding changes to the operation of the ADF, on an expedited basis, thus providing for the more efficient operation of the ADF. FINRA also notes that this provision is comparable to what is already provided to Registered Reporting ADF Market Makers under the rules.

FINRA believes that the change in Rule 6250 to require order information for only those incoming orders that result in an execution, cancellation, correction or rejection is consistent with the Act because it will result in greater operational and regulatory efficiency. Specifically, this change will allow FINRA to continue to obtain the information necessary to perform the relevant surveillance, while reducing the receipt of excess order information, which over-burdens FINRA systems, imposes unnecessary reporting obligations on ADF participants, and contributes to false surveillance alerts. FINRA believes that conforming the order reporting requirements in Rule 6250 to the Order Reporting Specifications, and requiring that certain of this information be reported in milliseconds if the ADF Trading Center's system captures such information in milliseconds, updates the Rule to reflect the actual information that is required to be reported, and further aligns the reporting requirements for the ADF with the reporting requirements for OATS and the TRFs. FINRA also believes that the change in Rule 6250 to require order information for orders that form part of displayed bids or offers is also consistent with the Act. Specifically, this provision will enable FINRA to ascertain the market participant that is responsible for the order generating a quotation displayed on the ADF, which will enhance FINRA's ability to conduct certain quotation-based surveillance.

FINRA believes that the changes to the ADF trade reporting requirements to better align to the TRF trade reporting requirements are also consistent with the Act. The proposed rule will promote more consistent trade reporting by members and a more complete and accurate audit trail. Given that most of these changes are technical and non-substantive in nature, FINRA does not believe that any of the proposed changes would require members to make systems changes in order to comply. FINRA also notes that members that currently report to one of the TRFs would already be familiar with the rule amendments that are proposed herein.

FINRA believes that the proposed changes to the ADF fees are consistent with the Act, as they provide for the equitable allocation of reasonable fees. FINRA notes that these fees will only apply to ADF Market Participants, and that the methodology for assessing these fees will apply equally to all ADF Market Participants. FINRA believes that the proposed $0.25 charge to be assessed upon a party that cancels or corrects a trade is reasonable because this charge will defray the administrative costs incurred by FINRA in processing corrective transaction charges, including cancel and correct requests, which are incurred by FINRA regardless of whether the trade is ultimately broken. FINRA believes this charge is equitable because the methodology for assessing this fee will apply equally to all ADF Market Participants.

FINRA also believes that the deletion of the fees associated with connecting to the ADF is reasonable and equitably allocated because these fees are no longer applicable to any market participant.

FINRA does not believe that any of these changes will impose a significant or unnecessary burden on its members. FINRA notes that the proposed changes are either (1) non-substantive; (2) delete functionalities that will not be available following the migration to the MPP; (3) reflect regulatory changes; (4) conform the ADF rules to other FINRA rules; or (5) otherwise increase the operational and regulatory efficiency of the ADF. To the extent that a number of the changes are non-substantive or, in the case of conforming the ADF trade reporting requirements to the TRF trade reporting requirements, mirror requirements currently applicable to FINRA members, FINRA does not believe that members will be significantly or adversely affected by these changes. To the extent that FINRA is proposing certain changes to reflect regulatory developments, FINRA believes that these changes are narrowly tailored to comply with the applicable regulation or rule. FINRA also believes that certain of the proposed changes, such as the provision to allow for the voluntary termination of registration by a Registered Reporting ADF ECN, may increase operational and regulatory efficiency for FINRA and ADF Market Participants alike.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Participation in the ADF is voluntary, and the proposed changes will apply equally to all ADF Market Participants. As discussed above, FINRA does not believe that such changes will significantly impact either ADF Market Participants or other market participants. FINRA also notes that the proposed rule change is designed to assist FINRA in meeting its regulatory

[30] *See* Securities Exchange Act Release No. 67091 (May 31, 2012), 77 FR 33498 (June 6, 2012) (SEC File No. 4–631) (Limit up-Limit Down adopting release); 17 CFR 242.612(b) (permitting quotations in NMS stocks that are less than $1.00 per share to be priced in increments of $0.0001).

obligations by enhancing its ability to efficiently operate the quotation collection and trade reporting aspects of the ADF and to conduct the relevant surveillance.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date 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 such 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–FINRA–2013–053 on the subject line.

Paper Comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2013–053. 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 FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2013–053, and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Kevin O. Neill,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71141; File No. SR–TOPAZ–2013–21]

Self-Regulatory Organizations; Topaz Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Extend the Penny Pilot Program

December 19, 2013.

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 18, 2013, the Topaz Exchange, LLC (d/b/a ISE Gemini) (the ''Exchange'' or ''Topaz'') filed with the Securities and Exchange 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

Topaz proposes to amend its rules relating to a pilot program to quote and to trade certain options in pennies (''Penny Pilot Program''). The text of the proposed rule change is available on the Exchange's Web site at *www.ise.com*, at the Exchange's principal office and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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 these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Under the Penny Pilot Program, the minimum price variation for all participating options classes, except for the Nasdaq-100 Index Tracking Stock (''QQQQ''), the SPDR S&P 500 Exchange Traded Fund (''SPY'') and the iShares Russell 2000 Index Fund (''IWM''), is $0.01 for all quotations in options series that are quoted at less than $3 per contract and $0.05 for all quotations in options series that are quoted at $3 per contract or greater. QQQQ, SPY and IWM are quoted in $0.01 increments for all options series. The Penny Pilot Program is currently scheduled to expire on December 31.[3] The Exchange proposes to extend the time period of the Penny Pilot Program through June 30, 2014, and to provide revised dates for adding replacement issues to the Penny Pilot Program. The Exchange proposes that any Penny Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2014. The replacement issues will be selected based on trading activity for the six month period beginning June 1, 2013, and ending November 30, 2013. This

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Exchange Act Release No. 70636 (October 9, 2013), 78 FR 62838 (October 22, 2013) (SR–TOPAZ–2013–05).

filing does not propose any substantive changes to the Penny Pilot Program: all classes currently participating will remain the same and all minimum increments will remain unchanged. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The basis under the Securities Exchange Act of 1934 (the ''Exchange Act'') for this proposed rule change is found in Section 6(b)(5), in that the proposed rule change is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. In particular, the proposed rule change, which extends the Penny Pilot Program for an additional six months, will enable public customers and other market participants to express their true prices to buy and sell options for the benefit of all market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition. Specifically, the Exchange believes that, by extending the expiration of the Penny Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Penny Pilot Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[4] and Rule 19b–4(f)(6) thereunder.[5] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6)(iii) thereunder.[7]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[8] However, pursuant to Rule 19b–4(f)(6)(iii),[9] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[10] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is 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–TOPAZ–2013–21 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–TOPAZ–2013–21. 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–TOPAZ–2013–21 and should be submitted on or before January 16, 2014.

[4] 15 U.S.C. 78s(b)(3)(A)(iii).

[5] 17 CFR 240.19b–4(f)(6).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and 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 pre-filing requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

[10] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 3.

[11] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30762 Filed 12–24–13; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71145; File No. SR–OC–2013–03]

Self-Regulatory Organizations; OneChicago, LLC; Notice of Filing of Proposed Rule Change To Amend Rules 143 and 417 Relating to Block Trade Reporting

December 19, 2013.

Pursuant to Section 19(b)(7) of the Securities Exchange Act of 1934 (the ''Act''),[1] notice is hereby given that on December 18, 2013, OneChicago, LLC (''OneChicago,'' ''OCX,'' or the ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change 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. OneChicago has also filed this proposed rule change with the Commodity Futures Trading Commission (''CFTC''). OneChicago filed a written certification with the CFTC under Section 5c(c) of the Commodity Exchange Act (''CEA'') on September 10, 2012.

I. Self-Regulatory Organization's Description of the Proposed Rule Change

On September 10, 2012, OneChicago filed with the CFTC to launch a pilot program to decrease its minimum block size to twenty-five contracts, update its Rule 143, and consolidate its block trade reporting requirements in Rule 417. OneChicago is currently filing identical changes with the SEC as they relate to reporting and recordkeeping; the reporting and recordkeeping changes herein are filed separately from the minimum block size pilot program that OneChicago filed with the CFTC on September 10, 2012.

Rule 143 is being amended to clarify that ''OCX.BETS'' is a trade reporting and trade matching central order book for block trades and EFP (Exchange of Future for Physical) trades.

The filing will also amend various sections of Rule 417. Subparagraph (a) of Rule 417 will be amended to remove the phrase ''outside the OneChicago System,'' making it clear that market participants may enter block transactions directly on OCX.BETS as well as by privately negotiating the transactions and then reporting them to OCX.BETS. The filing will also amend subparagraph (a)(i) of Rule 417 by codifying in that subparagraph the minimum block size, which had previously been stated in a Notice to Members.

Rule 417(d) will be amended to clarify that the reporting and recordkeeping requirements in that rule apply to bilateral block trades. Additional text is being added to subparagraph (d) to establish the reporting and recordkeeping requirements that apply to block trades transacted on OCX.BETS, rather than those block trades bilaterally transacted and merely reported to OCX.BETS. The proposed additions to Rule 417(d) further distinguish between reporting and recordkeeping requirements of trades transacted on OCX.BETS; specifically, Rule 417 will distinguish between the requirements for block orders capable of being immediately entered into OCX.BETS and the requirements for block orders that cannot be immediately entered into OCX.BETS.

Finally, subparagraph (h) will be added to Rule 417. Subparagraph (h) will state that block trades can be competitively executed on the OCX.BETS system by placing anonymous bids or offers, or can be privately negotiated and reported as bilateral transactions using the OCX.BETS system.

The text of the proposed rule change is attached as *Exhibit 4* to the filing submitted by the Exchange but is not attached to the published notice of the filing.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OneChicago 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 self-regulatory organization 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 purpose of OneChicago's filing is to consolidate and clarify its block trading reporting and recordkeeping rules, which had previously been listed in a Notice to Members. OneChicago believes that codifying these requirements in the OCX Rulebook, as opposed to a Notice to Members, will help apprise market participants of their reporting and recordkeeping obligations.

Rule 143 will be amended to expand the definition of OCX.BETS. Previously OCX.BETS was merely defined as ''the OneChicago Block & EFP Trading System.'' The filing will expand that definition to explain that OCX.BETS is a trade reporting and trade matching central order book for block trades and EFP trades.

Rule 417(a) will be amended to delete the phrase ''outside the OneChicago System'' because the term ''OneChicago System'' had been amended in the OCX Rulebook to include OCX.BETS. That amendment was made in Notice to Members 2007–03, which was issued on July 20, 2007, and filed with the CFTC and the SEC. Since OCX.BETS has both block reporting and trading functionality, Rule 417(a) needs to be amended to clarify that block trades will no longer be limited to bilateral transactions that take place outside the OneChicago System, but rather can take place on or off the OneChicago System.

Subparagraph (d) of Rule 417 will be amended to specify that the reporting and recordkeeping requirements in that subparagraph apply to bilateral block trades. The purpose of this specification is to allow for the insertions of the second and third paragraph in subparagraph (d), which together identify the reporting and recordkeeping requirements for trades entered directly into OCX.BETS, and not just those trades reported to OCX.BETS. The reporting requirements had previously been described in Notice to Members 2010–13, which was reissued as Notice to Members 2012–25. Those insertions are further divided to clarify the requirements for block orders that are capable of being immediately entered into OCX.BETs, as opposed to block orders which cannot be immediately entered into OCX.BETS.

Specifically, for block orders capable of being immediately entered into OCX.BETS, each authorized trade reporter entering the order must input for each block order the price, quantity, product, expiration month, account

[1] 15 U.S.C. 78s(b)(7).

origin code, and account designation. On the other hand, an authorized trade reporter handling a block order which cannot be immediately entered into OCX.BETS must prepare a written order ticket that includes the account designation, date, time of receipt, buy or sell, the contract and expiration month, the quantity of contracts, and the requested price. Such orders must be entered into OCX.BETS when it becomes executable or when it has been privately negotiated.

Finally, Rule 417(h) will be added to clarify the two methods by which block trades can be traded. First, block trades can be competitively executed on OCX.BETS by placing anonymous bids or offers (utilizing the central limit order book functionality of OCX.BETS). Block trades can also be privately negotiated and reported to the OCX.BETS system as bilateral trades.

2. Statutory Basis

OneChicago believes that the proposed rule change is consistent with Section 6(b) of the Act,[2] in general, and furthers the objectives of Section 6(b)(5) of the Act,[3] in particular, in that it is designed to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and remove impediments to and perfect the mechanism of a free and open market and national market system. OneChicago believes that clarifying and consolidating its reporting and recordkeeping requirements for parties to block trades will foster cooperation and coordination with persons engaged in block trades because block participants will more easily locate and identify their reporting and recordkeeping requirements.

B. Self-Regulatory Organization's Statement on Burden on Competition

OneChicago does not believe that the rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposed rule change is equitable and not unfairly discriminatory because it merely consolidates and clarifies the obligations of parties to block trades, and does not impose any new, material requirements on market participants. OneChicago believes the rule change enhances competition on our marketplace, as market participants can choose whether to execute blocks directly on OCX.BETS or to privately negotiate blocks and then report them to OCX.BETS. Additionally, market participants may also choose to execute block size transactions in our CBOEdirect based Central Order Book.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments on the OneChicago proposed rule change have not been solicited and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

OneChicago filed the proposed rule change with the CFTC on September 10, 2012, and the proposed rule change became effective with the CFTC on September 25, 2012. OneChicago did not file the proposed rule changes concurrently with the SEC. Instead, OneChicago filed the proposed rule change on December 18, 2013.[4]

At any time within 60 days of the date of effectiveness [5] of the proposed rule change, the Commission, after consultation with the CFTC, may summarily abrogate the proposed rule change and require that the proposed rule change be refiled in accordance with the provisions of Section 19(b)(1) 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–OC–2013–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–OC–2013–03. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–OC–2013–03, and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30766 Filed 12–24–13; 8:45 am]

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[2] 15 U.S.C. 78f(b).

[3] 15 U.S.C. 78(f)(b)(5).

[4] Section 19(b)(7)(B) of the Act provides that a proposed rule change filed with the SEC pursuant to section 19(b)(7)(A) of the Act shall be filed concurrently with the CFTC.

[5] Section 19(b)(7)(C) of the Act provides, *inter alia,* that ''[a]ny proposed rule change of a self-regulatory organization that has taken effect pursuant to [Section 19(b)(7)(B) of the Act] may be enforced by such self-regulatory organization to the extent such rule is not inconsistent with the provisions of this title, the rules and regulations thereunder, and applicable Federal law.''

[6] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–71140; File No. SR–BATS–2013–063]

Self-Regulatory Organizations; BATS Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to Fees for Use of BATS Exchange, Inc.

December 19, 2013.

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 9, 2013, BATS Exchange, Inc. (the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'' or ''BATS'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The 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 the 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 BATS Rules 15.1(a) and (c). Changes to the fee schedule pursuant to this proposal are effective upon filing.

The text of the proposed rule change is available at the Exchange's Web site at http://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 purpose of the proposed rule change is to modify the ''Equities Pricing'' section of its fee schedule effective December 9, 2013, in order to temporarily amend the way that the Exchange calculates rebates for adding liquidity to the Exchange. Specifically, the Exchange is proposing to exclude odd lot executions from the calculation of average daily TCV, as defined below, as it relates to ''Equities Pricing'' until February 1, 2014.

The Exchange currently offers a tiered structure for determining the rebates that Members receive for executions that add liquidity to the Exchange. Under the tiered pricing structure, the Exchange provides different rebates to Members based on a Member's ADAV or ADV [6] as a percentage of average daily TCV,[7] as well as a possible additional rebate where a Member's order sets or joins the NBBO and that Member meets or exceeds a certain threshold of ADAV or ADV as a percentage of average daily TCV. The Exchange notes that it is not proposing to modify any of the existing rebates or the percentage thresholds at which a Member may qualify for certain rebates. Rather, as mentioned above, the Exchange is proposing to modify the ''Equities Pricing'' section of its fee schedule in order to temporarily exclude odd lot executions from the calculation of average daily TCV.

The Exchange is proposing to exclude odd lot executions from the calculation of average daily TCV through January 31, 2014 because recent amendments to the Consolidated Tape Association and NASDAQ UTP Plans [8] require that odd lots be reported to the consolidated tape. Beginning on December 9, 2013, exchanges and trade reporting facilities are required to report odd lot executions to the consolidated transaction reporting plan and, as currently defined, odd lots would be included in the calculation of TCV. As such, the Exchange is proposing to amend the definition of TCV in order to exclude odd lots from the calculation of TCV until January 31, 2014. When calculating ADAV or ADV as a percentage of TCV, the Exchange has historically included odd lots in the Member's ADV and ADAV, but excluded them from TCV since they have not been included in the trades reported to consolidated transaction reporting plans. Accordingly, the proposal intends to exclude odd lots from TCV for the first two billing cycles in which odd lots are reported to the consolidated transaction reporting plans in order to create a period during which odd lot reporting behavior can be observed without affecting the rebates for which a Member will qualify. The Exchange believes that excluding such odd lots will help to eliminate uncertainty faced by Members as to their monthly ADAV or ADV as a percentage of average daily TCV because of the additional reported volume and the rebates that this percentage will qualify for, providing Members with an increased certainty as to their monthly cost for trades executed on the Exchange. Further, excluding such odd lots through January 31, 2014 will allow the Exchange to evaluate the impact that odd lot orders would have on Member rebates.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[9] Specifically, the Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act,[10] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. The Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures at a particular venue to be unreasonable and/or excessive.

With respect to the proposed changes to the tiered pricing structure for adding liquidity to the Exchange, the Exchange believes that its proposal is reasonable because, as explained above, it will help provide Members with a greater level of certainty as to their level of rebates for

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] A Member is any registered broker or dealer that has been admitted to membership in the Exchange.

[6] As provided in the ''Equities Pricing'' section of the fee schedule, ''ADAV'' means average daily added volume calculated as the number of shares added and ''ADV'' means average daily volume calculated as the number of shares added or removed, combined, per day. ADAV and ADV are calculated on a monthly basis, excluding shares added or removed on any day that trading is not available on the Exchange for more than 60 minutes during regular trading hours but continues on other markets during such time (''Exchange Outage'') and on the last Friday in June (the ''Russell Reconstitution Day''). Routed shares are not included in ADAV or ADV calculation. With prior notice to the Exchange, a Member may aggregate ADAV or ADV with other Members that control, are controlled by, or are under common control with such Member (as evidenced on such Member's Form BD).

[7] As provided in the ''Equities Pricing'' section of the fee schedule, ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges and trade reporting facilities to a consolidated transaction reporting plan for the month for which the fees apply, excluding any day that the Exchange experiences an Exchange Outage and the Russell Reconstitution Day.

[8] Securities Exchange Act Release No. 70794 (October 31, 2013), 78 FR 66789 (November 6, 2013) (SR–CTA–2013–05); Securities Exchange Act Release No. 70793 (October 31, 2013), 78 FR 66788 (November 6, 2013) (File No. S7–24–89).

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(4).

December and January. The Exchange also believes that its proposal is reasonable because it is not changing the thresholds to become eligible or the dollar value associated with the rebates and, moreover, by continuing to exclude odd lots from the calculation of average daily TCV, Members will be more likely to meet the minimum or higher tier thresholds for December and January, which will provide additional incentive to Members to increase their participation on the Exchange in order to meet the next tier. In addition, the Exchange believes that the proposed changes to fees are equitably allocated among Exchange constituents as the methodology for calculating ADV and TCV will apply equally to all Members.

Volume-based tiers such as the liquidity adding tiers maintained by the Exchange have been widely adopted in the equities markets, and are equitable and not unfairly discriminatory because they are open to all members on an equal basis and provide rebates that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and introduction of higher volumes of orders into the price and volume discovery process. Accordingly, the Exchange believes that the proposal is equitably allocated and not unfairly discriminatory because it is consistent with the overall goals of enhancing market quality.

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 proposed changes will help the Exchange to continue to incentivize higher levels of liquidity at a tighter spread while providing more stable and predictable costs to its Members. As stated above, the Exchange notes that it operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee structures to be unreasonable or excessive.

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 [11] and paragraph (f) of Rule 19b–4 thereunder.[12] 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–BATS–2013–063 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BATS–2013–063. 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–BATS–2013–063 and should be submitted on or before January 16, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2013–30761 Filed 12–24–13; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f).

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA–2013–0054]

Open Government: Use of Genetic Information in Documenting and Evaluating Disability; Extension of Comment Period

AGENCY: Social Security Administration.

ACTION: Notice of extension of comment period.

SUMMARY: On November 26, 2013, we announced in the **Federal Register** that we were soliciting ideas and comments about the use of genetic information in the disability determination process via an online forum. We stated that the forum would be open until December 26, 2013. We are extending that deadline until January 16, 2014.

DATES: The forum will be open for your ideas and comments until January 16, 2014.

FOR FURTHER INFORMATION CONTACT: Cheryl A. Williams, Office of Medical Listings Improvement, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235–6401, (410) 965–1020. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213, or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

On November 26, 2013, we announced in the **Federal Register** that we were soliciting ideas and comments about the use of genetic information in the disability determination process via an online forum that would be open until December 26, 2013.[1] We have

[1] 78 FR 70617.

decided to extend that deadline until January 16, 2014.

We would like the public's ideas and comments regarding how we should use genetic information within the disability decision process. Under our current, long-standing policy, we do not purchase genetic testing to evaluate disability. However, we do consider all evidence in the record, including genetic testing and other genetic medical evidence, when we make a determination or decision of whether you are disabled.[2]

We solicited the public's ideas and comments on the use of genetic information in order to obtain innovative ideas that we could use to improve the disability determination process. Your comments are important to us and we encourage you to share your ideas on any and all related issues. Some of the specific issues we would like information on include:

- What role should genetic specialists have in providing medical evidence?;
- Should we use direct-to-consumer genetic test results, and if so, how should we use those results?;
- How useful is genetic information in determining prognosis and progression of an impairment?;
- What role should genetic information have in the continuing disability review process?;
- Can we make determinations regarding known genetic conditions in the absence of genetic test results, and if so, how should we do so?;
- What privacy safeguards should we apply when we obtain and use genetic information?; and
- Are there any related issues that may inform our future policies?

How To Participate

The forum is open to all members of the public. To submit your ideas and comments, please go to *http://www.ssa-disabilityideas.ideascale.com* and go to the Campaign entitled ''Genetic Information.'' You must register at the site before you are able to submit your ideas and comments. Although we will consider all of the ideas and comments we receive, we will not respond to them. Since we will moderate the ideas and comments we receive during regular business hours, your ideas and comments may not be viewable immediately. In most cases, your ideas and comments should be viewable within two business days.

Include only information that you wish to make publicly available. Please do not include any personal information, such as Social Security numbers or medical information.

Arthur R. Spencer,

Associate Commissioner, Office of Disability Programs.

[FR Doc. 2013–30805 Filed 12–24–13; 8:45 am]

BILLING CODE 4191–02–P

[2] 20 CFR 404.1512–404.1513, 404.1520, 416.912–416.913, and 416.920.

DEPARTMENT OF STATE

[Public Notice 8574]

Summary of the Certification Related to the Khmer Rouge Tribunal

On June 26, 2013, Deputy Secretary William Burns signed a required certification for the Khmer Rouge Tribunal, per section 7044(c) of the Department of State, Foreign Operations, and Related Programs Act, 2012 (Division I, Pub. L. 112–74) as carried forward by the Full-Year Continuing Appropriation Act, 2013 (Div. F, Pub. L. 113–6), that the United Nations and the Royal Government of Cambodia are taking credible steps to address allegations of corruption and mismanagement within the Extraordinary Chambers in the Courts of Cambodia (also known as the ''Khmer Rouge Tribunal'').

The Certification and related Memorandum of Justification are to be provided to the appropriate committees of the Congress and published in the **Federal Register**.

I am signing the below to verify and affirm Deputy Secretary Burns signature and meet the requirements for publication of these documents in the **Federal Register**.

Dated: December 10, 2013.

Ed Shin,

Special Assistant for Deputy Secretary Burns.

Certification Related to the Khmer Rouge Tribunal

Pursuant to the authority vested in me under Section 7044 (c) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2012 (Division I, P.L. 112-74), as carried forward by the Full-Year Continuing Appropriations Act, 2013 (Div. F, P.L. 113-6) and Delegation of Authority 245-1, I hereby certify that that the United Nations and the Royal Government of Cambodia are taking credible steps to address allegations of corruption and mismanagement within the Extraordinary Chambers in the Courts of Cambodia (also known as the "Khmer Rouge Tribunal").

This Certification and related Memorandum of Justification shall be provided to the appropriate committees of the Congress and published in the Federal Register.

JUN 26 2013

Date

William J. Burns
Deputy Secretary

Section 7044(c) of the Department of State, Foreign Operations Appropriations Act, 2012 (Div. I, P.L. 112–74), as carried forward by the Full-Year Continuing Appropriations Act, 2013 (Div. F, P.L. 113–6)

Funding for the Extraordinary Chambers in the Courts of Cambodia

Sec. 7044(c) Cambodia.—Funds made available in this Act for a United States contribution to a Khmer Rouge tribunal may only be made available if the Secretary of State certifies to the Committees on Appropriations that the United Nations and the Government of Cambodia are taking credible steps to address allegations of corruption and mismanagement within the tribunal.

MEMORANDUM OF JUSTIFICATION FOR CERTIFICATION RELATED TO THE KHMER ROUGE TRIBUNAL UNDER SECTION 7044(c) OF THE DEPARTMENT OF STATE, FOREIGN OPERATIONS AND RELATED PROGRAMS APPROPRIATIONS ACT, 2012, AS CARRIED FORWARD BY THE FULL-YEAR CONTINUING APPROPRIATIONS ACT, 2013

Section 7044(c) of the Department of State, Foreign Operations, and Related Program Appropriations Act, 2012 (Div. I P.L. 112–74), as carried forward by the Full-Year Continuing Appropriations Act, 2013 (Div. F, P.L. 113–6), provides that funds appropriated by that act for a United States contribution to the Extraordinary Chambers in the Courts of Cambodia (ECCC, also known as the Khmer Rouge Tribunal) may only be made available if the Secretary of State certifies to the Committees on Appropriations that the United Nations and Royal Government of Cambodia are taking credible steps to address allegations of corruption and mismanagement within the ECCC. Deputy Secretary Burns has signed the certification pursuant to State Department Delegation of Authority 245–1.

Background

The ECCC, which began operations in 2006, was established as a national court with UN assistance to bring to justice senior leaders and those most responsible for the deaths of as many as two million Cambodians under the Khmer Rouge regime, which was in power from April 17, 1975, until January 6, 1979. In 2010, the ECCC completed its first case (Case 001), convicting Kaing Guek Eav (aka ''Duch''), former chief of the Tuol Sleng torture center, of crimes against humanity and war crimes, and sentenced him to 35 years in prison. Duch's trial was the first attempt in three decades to hold a Khmer Rouge official accountable for that era's atrocities and was a milestone in the history of Cambodian justice. In February 2012, the ECCC's Supreme Chamber upheld that conviction, and extended Duch's sentence to life in prison. The United States, other foreign governments, and non-governmental organizations (NGOs) monitoring the ECCC agreed that proceedings throughout Case 001 met international standards of justice.

In September 2010, the four surviving senior leaders of the Khmer Rouge, including Nuon Chea (''Brother Number 2''), were indicted on a variety of charges (''Case 002''), including crimes against humanity, grave breaches of the Geneva Convention, and genocide. The trial commenced in November 2011, with court officials seeking to reach a verdict in 2014. In response to pre-trial motions, the Court found Ms. Ieng Thirith, the Khmer Rouge's Minister of Social Affairs, mentally incompetent to stand trial. She was released from custody in September 2012 after several appeals. Co-accused Ieng Sary, Foreign Minister during the Khmer Rouge regime, died on March 14, 2013, before a judgment could be rendered against him. Investigations by the ECCC's Office of the Co-Investigating Judges commenced in September 2009 against three suspects (''Case 003'') and no final decision has been made regarding the legal question of whether the suspects and their alleged crimes fall within the jurisdiction of the ECCC. Two additional suspects (''Case 004'') are also being investigated.

Factors Justifying Determination and Certification

From the time the ECCC commenced operations in 2006, there have been allegations of corruption on the administrative side of the court, primarily in the form of salary kickback schemes affecting Cambodian staff members. These allegations received widespread attention from U.S. and international media, and concerns about corruption led many to question the ECCC's ability to deliver justice. In late 2008, at the request of the United States and other donors, the RGC removed the Cambodian head of administration, the person most associated with the corruption scheme. His replacement, Tony Kranh, who remains the Acting Director today, has been competent and has cooperated well with the donor community, ECCC officials, and the UN Office of Legal Affairs.

The ECCC, in cooperation with the UN, has taken additional steps to protect the integrity of its proceedings against corruption. In August 2009, the UN and RGC reached an agreement to establish an Independent Counselor (IC), who is semi-autonomous from the Tribunal's administration, the UN, the RGC, and donor states, to hear and address allegations of corruption at the ECCC. The guidelines established for the Independent Counselor confirm his obligations to protect the confidentiality of complainants, ensure that there are no reprisals for whistle-blowing, and provide a report of his activities to both the UN and RGC. Addressing the ECCC in October 2010, the Secretary General commended the work of the Independent Counselor and the effect that office has on the public perception of the ECCC—that the Tribunal's administration will not tolerate any form of corruption.

These steps have led to increased confidence in the ECCC within Cambodia. The Human Rights Center of the University of California, Berkeley, conducted a survey across 125 Communes nationwide. The Center's final report, released in 2011, revealed that an increasing number of Cambodians have confidence in the court.

Donor States, NGOs, and other monitors of the ECCC have expressed increased confidence in the proceedings as well. The Secretary General stated in the fall of 2010, ''Beyond all doubt, the court has shown that it is capable of prosecuting complex international crimes in accordance with international standards.'' In a resolution adopted at its 18th session (September 2011), the Human Rights Council reaffirmed the importance of the ECCC as an independent and impartial body and welcomed the assistance of member states and the efforts of the Cambodian government to work with the UN to ensure the highest standards of administration are met.

In July 2010, the UN established the office of the Special Expert on the ECCC to provide advice and assistance to successfully conduct a high-profile war crimes tribunal. In furtherance of this mandate, the UN tasked the Special Expert with monitoring, reporting, and addressing any and all administrative issues related to the ECCC's functioning. The position was held from July 2010 to October 2011 by J. Clint Williamson, former U.S. Ambassador-at-Large for War Crimes Issues (2006–2009). Williamson was succeeded in January 2012 by David Scheffer, also a former U.S. Ambassador-at-Large for War Crimes Issues (1997–2001).

The ECCC provides a monthly report to the UN Controller and the UN Department of Economic and Social Affairs, which closely monitor the Tribunal's activities, including its expenditures. In addition, all hiring on the international side of the ECCC is vetted by the UN Department of

Economic and Social Affairs. The UN Office of Legal Affairs actively engages on judicial management issues. For example, that office recommended that the Pre-Trial Chamber sit on a full-time basis in order to improve the ECCC's efficiency and to expedite its decision-making, and the ECCC accepted the recommendation.

Embassy Phnom Penh was notified of allegations of financial misconduct at the ECCC in September 2012, but a full UN investigation, including an independent audit, later proved the allegations false. In September, an outside observer approached an Embassy officer alleging that ECCC staff paid kickbacks on salaries and that large-scale financial misconduct occurred with donor money. The source did not offer any evidence and quoted only anonymous sources, but the Embassy assessed that the allegations were serious enough to warrant notification of ECCC officials. Within days of receiving the Embassy's information, UN Special Expert on the ECCC David Scheffer traveled to Phnom Penh to investigate the allegations. The result of his initial investigation, which he shared with the UN in September 2012, showed small-scale misuse of resources, such as the use of a common television in a private office and the use of a vehicle for a single employee when it should have been designated to the motorpool. These misuses of resources were immediately corrected.

The ECCC subsequently retained the independent accounting firm Ernst & Young to conduct a spot audit of the Victim Support Section, where the anonymous sources had alleged that major misconduct had taken place. The spot audit examined financial assets and expenditures during the April–June 2012 time period and the inventory of physical assets. The results of the audit, made available to the U.S. government in December 2012, revealed that no major irregularities occurred. The spot audit found that ''no exceptions were noted'' when comparing receipts of funds and disbursements of funds. Some computer equipment did not display correct serial numbers, but there was no evidence that any equipment was misused. While the spot audit was limited, it was sufficient to examine the allegations presented.

The ECCC took additional precautionary steps to help prevent (or reveal) corruption. As of October 2012, the tribunal reinstituted weekly office hours for the Independent Counselor at the ECCC itself (rather than at the Independent Counselor's office) to receive allegations of corruption. The Independent Counselor could also receive allegations outside scheduled office hours. Embassy Phnom Penh is not aware of any reported allegations since that time. In addition, ECCC administrative leadership conducted an all-staff meeting in October to announce the availability of the Independent Counselor and highlight procedures to report corruption confidentially. ECCC section heads were also brought together to examine allegations of staff kickbacks. These efforts have not produced any evidence of corruption. Based on the efforts of the ECCC officials and the independent auditors, no credible evidence of corruption or major mismanagement was discovered.

With the appointment of Mark Harmon as the new international Co-Investigating Judge in 2012, there has been renewed progress in Case 003 and 004 investigations. Since his arrival in October 2012, Judge Harmon has nearly fully staffed an office that had been affected by departures and established a constructive working relationship with his counterpart You Bunleng. While Judge Bunleng has not publicly agreed that the Case 003 and 004 investigations should go forward, he is also not obstructing Judge Harmon's investigative efforts. The Case 003 and 004 investigations under Judge Harmon are proceeding expeditiously, and ECCC officials expect that they will be completed in the first half of 2014 absent unexpected delays.

The ECCC's jurisdiction over suspects in the Cases 003/004 has yet to be resolved; therefore the co-investigating judges have not made a final determination on whether these individuals should be indicted. Should the national and international co-investigating judges disagree on an indictment at the conclusion of the investigation, there is a formal process under the governing documents of the ECCC for resolving this disagreement in the Pre-Trial Chamber.

Certification and United States Policy Objectives

This certification recognizes the efforts of the UN and the RGC to address allegations of corruption and mismanagement within the ECCC. It is not an indication, however, that their responsibilities have concluded. Both parties must continue to exercise oversight of the ECCC's operations, and the donor community and NGOs must continue their vigilant engagement with the UN and the RGC to ensure that the ECCC remains judicially independent, corruption-free and well-managed.

[FR Doc. 2013–30819 Filed 12–24–13; 8:45 am]

BILLING CODE 4710–30–P

TENNESSEE VALLEY AUTHORITY

Meeting of the Regional Energy Resource Council

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of Meeting.

SUMMARY: The TVA Regional Energy Resource Council (RERC) will hold an orientation meeting on Wednesday and Thursday, January 22 and 23, 2014, regarding regional energy related issues in the Tennessee Valley.

The RERC was established to advise TVA on its energy resource activities and the priorities among competing objectives and values. Notice of this meeting is given under the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2.

The meeting agenda includes the following:

1. Welcome and Introductions
2. TVA updates regarding recent Board of Directors decisions
3. Presentations and discussion concerning TVA's Integrated Resource Planning process, focusing on TVA's business objectives including rates, reliability, resiliency and environmental responsibility.
4. Public Comments
5. Council Discussion on the balancing of TVA's business objectives during Integrated Resource Planning.

The RERC will hear opinions and views of citizens by providing a public comment session. The public comment session will be held at 10:00 a.m. EST, on January 23. Persons wishing to speak are requested to register at the door by 9:00 a.m. on Thursday, January 23 and will be called on during the public comment period. Handout materials should be limited to one printed page. Written comments are also invited and may be mailed to the Regional Energy Resource Council, Tennessee Valley Authority, 400 West Summit Hill Drive, WT–11 B, Knoxville, Tennessee 37902.

DATES: The meeting will be held on Wednesday, January 22, from 12:45 to 4:45 p.m. and Thursday, January 23 from 8:00 a.m. to noon EST.

ADDRESSES: The meeting will be held at the Tennessee Valley Authority, 400 West Summit Hill Drive, Knoxville, TN 37902 and will be open to the public. Anyone needing special access or accommodations should let the contact below know at least a week in advance.

FOR FURTHER INFORMATION CONTACT: Beth Keel, 400 West Summit Hill Drive, WT–11 B, Knoxville, Tennessee 37902, (865) 632–6113.

Dated: December 19, 2013.

Joseph J. Hoagland,

Vice President, Stakeholder Relations, Tennessee Valley Authority.

[FR Doc. 2013–30855 Filed 12–24–13; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Connected Vehicle Research Program Public Meeting; Notice of Public Meeting

AGENCY: ITS Joint Program Office, Research and Innovative Technology Administration, U.S. Department of Transportation.

ACTION: Notice.

The U.S. Department of Transportation (USDOT) Intelligent Transportation System Joint Program Office (ITS JPO) will host a public meeting seeking stakeholder input and public sector guidance to the Federal Highway Administration (FHWA) and Research and Innovative Technology Administration (RITA) Connected Vehicle Systems. The meeting will take place Thursday, January 16, 2014, from 1:00 p.m. (EST) to 4:00 p.m. (EST) in the Hampton Room at the Omni Shoreham Hotel, 2500 Calvert Street, NW in Washington, DC. Remote participation will be available via webinar. Persons planning to attend the meeting or participate in the webinar should register online at *www.itsa.org/policy2014.*

The USDOT would like input from transportation infrastructure owner/operators on their needs for guidelines, tools, resources, and policies that will support the successful implementation and operations of connected vehicle technologies. The primary target audience for the meeting is State and local Departments of Transportation, transit operators, other operating agencies, and infrastructure owners who are starting to plan for the deployment and use of connected vehicle technologies in their area. While the meeting is specifically focused for an audience that has followed connected vehicle research and is formulating plans for implementation, it is open to other stakeholders in the connected vehicle community, including national associations and the general public.

Attendees will be asked to discuss their needs for guidelines, tools, and resources to best support their decisions and deployments. Attendees will also be asked to identify anticipated institutional challenges. The results of the meeting will be used as input for FHWA's development of Connected Vehicle guidance that is expected in 2015 and will also inform the Federal Transit Administration.

For more information, please contact Robert Arnold, FHWA, Director, Office of Transportation Management at robert.arnold@dot.gov or by telephone at 202–366–1285. Agenda items for the meeting are subject to change. Meeting information will be posted to the Web site *http://www.its.dot.gov/.*

Issued in Washington, DC, on the 19th day of December 2013.

John Augustine,

Managing Director, ITS Joint Program Office.

[FR Doc. 2013–30733 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–HY–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Commercial Space Transportation; Notice of Intent to Prepare an Environmental Impact Statement (EIS), Open a Public Scoping Period, and Conduct a Public Scoping Meeting.

AGENCY: The Federal Aviation Administration (FAA) is the lead Federal agency. The U.S. Army Corps of Engineers, National Aeronautics and Space Administration, U.S. Fish and Wildlife Service, and National Park Service are cooperating agencies.

ACTION: Notice of Intent to Prepare an EIS, Open a Public Scoping Period, and Conduct a Public Scoping Meeting

SUMMARY: This Notice provides information to Federal, State, and local agencies, Native American tribes, and other interested persons regarding the FAA's intent to prepare an EIS that will evaluate the potential environmental impacts associated with the issuance of a Launch Site Operator License to Space Florida. Space Florida, an independent special district and a subdivision of the State of Florida, proposes to construct and operate a commercial space launch site (the ''Shiloh Launch Complex'') and two off-site operations support areas. The Shiloh Launch Complex would include two vertical launch facilities that would accommodate up to 24 launches per year (12 launches per vertical launch facility), as well as up to 24 static fire engine tests or wet dress rehearsals per year (12 static fire engine tests or wet dress rehearsals per vertical launch facility). The launch vehicles would include liquid fueled, medium- to heavy-lift class orbital and suborbital vehicles. In addition to the 24 launches per year, the first stage of the launch vehicle could return to and land at the Shiloh Launch Complex. The proposed commercial space launch site is located on the west side of Kennedy Parkway North (State Road [SR] 3), which straddles Brevard and Volusia counties, Florida. Space Florida would be required to apply for a Launch Site Operator License to be issued by the FAA. The FAA will prepare the EIS in accordance with the National Environmental Policy Act of 1969 (NEPA; 42 United States Code [U.S.C.] 4321 et seq.), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 Code of Federal Regulations [CFR] parts 1500–1508), and FAA Order 1050.1E, Change 1, *Environmental Impacts: Policies and Procedures,* as part of its licensing process. Concurrent with the NEPA process, the FAA is initiating National Historic Preservation Act Section 106 Consultation to determine the potential effects of the Proposed Action on historic properties. The FAA will also consult with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act regarding potential impacts to federally-listed threatened and endangered species. Pursuant to the U.S. Department of Transportation Act of 1966, this EIS will comply with the requirements of Section 4(f).

DATES: The FAA invites interested agencies, organizations, Native American tribes, and members of the public to submit comments or suggestions to assist in identifying significant environmental issues and in determining the appropriate scope of the EIS. The public scoping period starts with the publication of this notice in the **Federal Register**. To ensure sufficient time to consider issues identified during the public scoping period, comments should be submitted to Ms. Stacey M. Zee, FAA Environmental Specialist, by one of the methods listed below no later than February 21, 2014. All comments will receive the same attention and consideration in the preparation of the EIS.

ADDRESSES: Comments, statements, or questions concerning scoping issues or the EIS process should be mailed to: Ms. Stacey M. Zee, FAA Environmental Specialist, Shiloh EIS c/o Cardno TEC Inc., 2496 Old Ivy Road, Suite 300, Charlottesville, VA 22903.

Comments can also be sent by email to *faashiloheis@cardnotec.com* or by fax to (434) 295–5535.

SUPPLEMENTARY INFORMATION:

Background

The FAA is preparing an EIS to analyze the potential environmental impacts of the issuance of a Launch Site Operator License to Space Florida. Space Florida proposes to construct and operate a commercial space launch site, called the ''Shiloh Launch Complex,'' that would allow Space Florida to offer the commercial space launch site to commercial launch providers to conduct launch operations of liquid fueled, medium- to heavy-lift class orbital and suborbital vertical launch vehicles. The EIS will consider the potential environmental impacts of the Proposed Action and reasonable alternatives, including the No Action Alternative. The successful completion of the environmental review process does not guarantee that the FAA would issue a Launch Site Operator License to Space Florida. The project must also meet all FAA safety, risk, and indemnification requirements.

Proposed Action

The Proposed Action is for the FAA to issue a Launch Site Operator License to Space Florida that would allow Space Florida to offer the commercial space launch site (the ''Shiloh Launch Complex'') to commercial launch providers to conduct launch operations of liquid fueled, medium- to heavy-lift class orbital and suborbital vertical launch vehicles. Under the Proposed Action, Space Florida would construct and operate two vertical launch facilities and two off-site operations support areas. The Shiloh Launch Complex would accommodate up to 24 launches per year (12 launches per vertical launch facility), as well as up to 24 static fire engine tests or wet dress rehearsals per year (12 static fire engine tests or wet dress rehearsals per vertical launch facility).

The proposed Shiloh Launch Complex is located on the west side of Kennedy Parkway North (SR 3), which straddles Brevard and Volusia counties in Florida. The proposed site is part of the National Aeronautics and Space Administration's (NASA) Kennedy Space Center (KSC) in an area of the Merritt Island National Wildlife Refuge that is managed by the USFWS. The proposed Shiloh Launch Complex would be constructed on approximately 200 acres of undeveloped land in the vicinity of a former citrus community known as Shiloh. Of the 200 acres, each vertical launch facility would require approximately 30 acres of fenced land. Each vertical launch facility would include a launch pad and stand with its associated flame duct, propellant storage and handling areas, vehicle and payload integration facility, storage tanks, lightning protection systems, deluge water systems, and other launch-related facilities and systems.

In addition, as part of the Proposed Action, commercial launch operators using the Shiloh Launch Complex would construct and operate two off-site operations support areas in separate locations from the Shiloh Launch Complex. Each off-site operations support area would include a launch vehicle pre-integration processing facility, a payload processing facility, and a control center building. There are two proposed off-site operations support areas that are close to the Shiloh Launch Complex: the Oak Hill site and the South Volusia County site, both in Volusia County. The Oak Hill site is approximately 22 acres and the South Volusia County site is approximately 51 acres. The development of access and supporting utility infrastructure for the vertical launch facility and the off-site operations support areas may occur on lands outside the Shiloh Launch Complex.

Operations would consist of up to 24 launches per year (12 launches occurring per vertical launch facility. In addition to launches, other operations could occur including up to 24 static fire engine tests or wet dress rehearsals per year (12 static fire engine tests or wet dress rehearsals per vertical launch facility). All vehicles would launch to the east over the Atlantic Ocean. Under the Proposed Action, the first stage of the launch vehicle could return to and land at the Shiloh Launch Complex or it would land in the Atlantic Ocean.

The potential environmental impacts of all proposed construction activities will be analyzed in the EIS, in addition to the impacts from operating the facilities and launching orbital vertical launch vehicles. The EIS will evaluate the potential environmental effects associated with: Air quality; noise and compatible land use; land use, including Section 4(f) properties and farmlands; coastal resources; biological resources, including threatened and endangered species; water resources, including surface waters and wetlands, groundwater, floodplains, and water quality; historical, architectural, archaeological, and cultural resources; light emissions and visual resources; hazardous materials, pollution prevention, and solid waste; infrastructure and utilities; and socioeconomics, environmental justice, and children's environmental health and safety. This includes addressing the potential environmental impacts associated with reasonably foreseeable changes to land administration, jurisdiction, and management with regards to the lands at the proposed Shiloh Launch Complex site currently administered by NASA and USFWS. The analysis will include an evaluation of the potential direct and indirect impacts, and will account for cumulative impacts from other relevant activities in the area of Brevard and Volusia Counties, Florida.

Alternatives

Based on comments received during the scoping period, the FAA may analyze additional alternatives. However, at this time, the alternatives under consideration include the Proposed Action and the No Action Alternative. Under the No Action Alternative, the FAA would not issue a Launch Site Operator License to Space Florida.

Scoping Meetings

Two public scoping meetings will be held to solicit input from the public on potential issues that may need to be evaluated in the EIS. The first scoping meeting will be held on February 11, 2014 from 5:00 p.m. to 8:00 p.m., at the New Smyrna Beach High School Gymnasium, 1015 10th Street, New Smyrna Beach, Florida 32168. The second scoping meeting will be held on February 12, 2014 from 5:00 p.m. to 8:00 p.m., at the Eastern Florida State College, Titusville Campus, John Henry Jones Gymnatorium, 1311 North U.S. 1, Titusville, Florida 32796. The meeting format will include an open-house workshop from 5:00 p.m. to 6:00 p.m. The FAA will provide an overview of the environmental process from 6:00 p.m. to 6:15 p.m. followed by a public comment period from 6:15 p.m. to 8:00 p.m. The open-house workshop will consist of poster stations describing the proposed project and the NEPA process. The FAA and cooperating agency staff will be present during the open-house workshop portion of the meetings to answer general questions on the proposed project and the NEPA process. During each scoping meeting, one designated area of the room will focus on the Section 106 process and solicit public input on the identification of historic properties and potential effects of the Proposed Action on historic properties.

Information on the proposed project and the NEPA process is available on the following Web site: *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/documents_progress/shiloh_launch_statement/.*

Issued in Washington, DC on December 18, 2013.

Daniel Murray,

Manager, Space Transportation Development Division.

[FR Doc. 2013–30823 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Receipt of Noise Compatibility Program and Request for Review; Martin County Airport/Witham Field, Stuart, FL

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces that it is reviewing a proposed Noise Compatibility Program that was submitted for Martin County Airport/ Witham Field under the provisions of 49 U.S.C. 47504 et. seq (the Aviation Safety and Noise Abatement Act hereinafter referred to as ''the Act'') and 14 CFR Part 150 by Martin County. This program was submitted subsequent to a determination by FAA that the associated Noise Exposure Maps submitted under 14 CFR Part 150 for Martin County Airport/Witham Field were in compliance with applicable requirements effective December 6, 2011, and was published in the **Federal Register** on December 16, 2011. The proposed Noise Compatibility Program will be approved or disapproved on or before June 16, 2014.

DATES: *Effective Date:* The effective date of the start of FAA's review of the associated noise compatibility program is December 18, 2013. The public comment period ends February 16, 2014.

FOR FURTHER INFORMATION CONTACT: Allan Nagy, Federal Aviation Administration, Orlando Airports District Office, 5950 Hazelton National Drive, Suite 400, Orlando, Florida 32822, (407) 812–6331. Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA is reviewing a proposed Noise Compatibility Program for Martin County Airport/Witham Field which will be approved or disapproved on or before June 16, 2014. This notice also announces the availability of this program for public review and comment.

An airport operator who has submitted Noise Exposure Maps that are found by FAA to be in compliance with the requirements of Title 14 Code of Federal Regulations (CFR) Part 150, may submit a Noise Compatibility Program for FAA approval which sets forth the measures the operator has taken or proposes to reduce existing non-compatible uses and prevent the introduction of additional non-compatible uses.

The FAA has formally received the Noise Compatibility Program for Martin County Airport/Witham Field, effective on December 18, 2013. The airport operator has requested that the FAA review this material and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a Noise Compatibility Program under Section 47504 of the Act. Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of Noise Compatibility Programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before June 16, 2014.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR Part 150, Section 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety or create an undue burden on interstate or foreign commerce, and whether they are reasonably consistent with obtaining the goal of reducing existing non-compatible land uses and preventing the introduction of additional non-compatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments relating to these factors, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the Noise Exposure Maps, the FAA's evaluation of the maps, and the proposed Noise Compatibility Program are available for examination at the following locations: Federal Aviation Administration, Orlando Airports District Office, 5950 Hazelton National Drive, Suite 400, Orlando, Florida 32822.

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT**.

Issued in Orlando, Florida, on December 18, 2013.

Bart Vernace,

Manager, Orlando Airports District Office.

[FR Doc. 2013–30822 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–13–P Revision Date 12/4/00

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA –2013–0415]

Agency Information Collection Activities; Revision of a Currently-Approved Information Collection: Request for Revocation of Authority Granted

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (PRA), FMCSA announces its plan to submit to the Office of Management and Budget (OMB) its request to revise a currently-approved information collection request (ICR) entitled, ''Request for Revocation of Authority Granted,'' covered by OMB Control Number 2126–0018. This ICR covers a voluntary request by a motor carrier, freight forwarder, or property broker to amend or revoke its FMCSA registration of authority granted. It is being revised due to an anticipated decrease in the estimated annual number of filings and costs to the respondents. FMCSA will seek OMB's review and approval of this revised ICR and invites public comment on this request.

DATES: We must receive your comments on or before February 24, 2014.

ADDRESSES: You may submit comments bearing the Department of Transportation (DOT) Docket Management System (DMS) Docket Number FMCSA–2013–0415 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington DC, 20590–0001 between 9:00 a.m. and 5:00 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this Notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want acknowledgement that we received your comments, please include a self-addressed, stamped envelope or post card or print the acknowledgement page that appears after submitting them on-line.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo..gov/2008/pdf/E8-785.pdf.*

FOR FURTHER INFORMATION CONTACT: Ms. Tura Gatling, Office of Registration and Safety Information, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, West Building 6th Floor, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone: 202–385–2405/2412; *email tura.gatling@dot.gov. mailto:* Office hours are from 8:00 a.m. to 5:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Request for Revocation of Authority Granted.

OMB Approval Number: 2126–0018.

Type of Request: To revise a currently-approved information collection.

Form Number: OCE–46.

Respondents: Motor carriers, freight forwarders and property brokers.

Estimated Number of Respondents: 3,000.

Estimated Time per Response: 15 minutes.

Expiration Date: May 31, 2014.

Frequency of Response: On occasion.

Estimated Total Annual Burden: 750 hours [3,000 annual Form OCE–46 filers × 15 minutes/60 minutes per filing = 750].

Background: Title 49 of the United States Code (U.S.C.) authorizes the Secretary of Transportation (Secretary) to promulgate regulations governing the registration of for-hire motor carriers of regulated commodities (49 U.S.C. 13902), surface transportation freight forwarders (49 U.S.C. 13903), and property brokers (49 U.S.C. 13904). The FMCSA carries out this registration program under authority delegated by the Secretary (49 CFR 1.87). Under 49 U.S.C. 13905, each registration is effective from the date specified and remains in effect for such period as the Secretary determines appropriate by regulation. Section 13905(c) of title 49, U.S.C., grants the Secretary the authority to amend or revoke a registration at the registrant's request. On complaint, or on the Secretary's own initiative, the Secretary may also suspend, amend, or revoke any part of the registration of a motor carrier, broker, or freight forwarder for willful failure to comply with the regulations, an order of the Secretary, or a condition of its registration.

Form OCE–46 is used by transportation entities to voluntarily apply for revocation of their registration authority in whole or in part. FMCSA uses the form to seek information concerning the registrant's docket number, name and address, and the reasons for the revocation request.

Public Comments Invited: You are asked to comment on any aspect of this revised information collection request, including: (1) The necessity and usefulness of the information collection for FMCSA to meet its goal in reducing truck crashes; (2) the accuracy of the estimated burdens; (3) ways to enhance the quality, usefulness, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued under the authority of 49 CFR 1.87 on: December 6, 2013

G. Kelly Leone,

Associate Administrator for Office of Research and Information Technology and Chief Information Officer.

[FR Doc. 2013–30913 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA–2013–0514]

Registration and Financial Security Requirements for Freight Forwarders; International Association of Movers Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of application for exemption; request for public comments.

SUMMARY: FMCSA announces that it has received an application from the International Association of Movers (IAM) for an exemption for all domestic freight forwarders which operate solely in the Department of Defense's (DOD) household goods (HHG) program from the $75,000 bond requirement at 49 CFR 387.403(c). FMCSA promulgated this requirement pursuant to Section 32918 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), now codified at 49 U.S.C. 13906. On September 5, 2013, FMCSA published guidance in the **Federal Register** concerning section 32918, and on October 1, 2013, the Agency published a final rule amending 49 CFR part 387 to set a minimum $75,000 surety bond/trust fund requirement for brokers of property and freight forwarders. FMCSA requests comments from all interested parties on IAM's exemption request.

DATES: Comments must be received on or before January 27, 2014.

ADDRESSES: You may submit comments, identified by docket number FMCSA–2013–0514, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief of Driver and Carrier Operations, (202) 366–4001 or *thomas.yager@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Ave. SE., Washington, DC 20590.

Public Participation and Request for Comments

FMCSA encourages you to participate in this proceeding by submitting comments, data, and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal and/or copyrighted information you provide.

Submitting Comments

If you submit a comment, please include the docket number for this proceeding (FMCSA–2013–0514), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. However, see the Privacy Act section below regarding availability of this information to the public.

To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu, select ''Rules,'' insert ''FMCSA–2013–0514'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

All public comments are available in the public docket. To view comments filed in this docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right hand side of the screen. Then, in the ''Keyword'' box, insert ''FMCSA–2013–0514'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Privacy Act

Anyone is able to search the electronic docket for all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act system of records notice for the Federal Docket Management System (FDMS) that DOT published in the **Federal Register** on January 17, 2008 (73 FR 3316).

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 13541 of title 49 of the United States Code (49 U.S.C. 13541) requires the Secretary of Transportation (Secretary) to exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of 49 U.S.C. Part B (Chapters 131–149), or to use the exemption authority to modify the application of a provision of 49 U.S.C. Part B (Chapters 131–149) as it applies to such person, class, transaction, or service when the Secretary finds that the application of the provision:

- Is not necessary to carry out the transportation policy of 49 U.S.C. 13101
- Is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and
- Is in the public interest.

Further, the exemption authority provided by section 13541 ''may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage [or] insurance . . ..'' 49 U.S.C. 13541(e)(1).

IAM seeks an exemption, on behalf of all domestic freight forwarders operating solely in the DOD's HHG program, from the $75,000 financial security requirements at 49 CFR 387.403(c). Section 387.403(c)'s $75,000 surety bond/trust fund requirement is promulgated pursuant to Section 32918 of MAP–21 (codified at 49 U.S.C. 13906). Section 13906 is located in 49 U.S.C. Title 49 Part B (chapter 139) and therefore may be considered within the general scope of the exemption authority of section 13541. The Secretary may begin a section 13541 exemption proceeding on the Secretary's own initiative or on the application of an interested party. 49 U.S.C. 13541(b). *See, e.g., Motor Carrier Financial Information Reporting Requirements-Request for Public Comments,* 68 FR 48987 (Aug. 15, 2003). The Secretary may ''specify the period of time during which an exemption'' is effective and may revoke the exemption ''to the extent specified, on finding that application of a provision of [49 U.S.C. Chapters 131–149] to the person, class, or transportation is necessary to carry out the transportation policy of [49 U.S.C.] section 13101.'' 49 U.S.C. 13541(c), (d).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. 13541.

Background

On July 6, 2012, the President signed MAP–21 into law, which included a number of mandatory, non-discretionary changes to FMCSA programs. Some of these changes amended the financial security requirements applicable to property brokers and freight forwarders operating under FMCSA's jurisdiction. Public Law 112–141, § 32918, 126 Stat. 405 (codified at 49 U.S.C. 13906(b) & (c)).

On September 5, 2013, FMCSA published guidance (78 FR 54720) ''concerning the implementation of certain provisions of . . . (MAP–21) concerning persons acting as a broker or a freight forwarder.'' On October 1, 2013, FMCSA issued regulations requiring brokers and freight forwarders to have a $75,000 surety bond or trust fund in effect. 49 CFR 387.307(a), 387.403(c). 78 FR 60226, 60233.

IAM Exemption Application

In a November 25, 2013 email to FMCSA's Office of Chief Counsel, IAM requested, on behalf of domestic freight forwarders operating solely under the DOD's HHG program, an exemption from the requirement that freight forwarders obtain a $75,000 bond. IAM's exemption request is included in this docket.

IAM indicated that transportation service providers in the DOD's HHG program must maintain motor carrier or freight forwarder authority from FMCSA. And, because freight forwarders must obtain the $75,000 bond as a result of FMCSA's requirements, the DOD requires freight forwarders in their HHG program to obtain the requisite $75,000 bond or face losing their approval to continue operating in the DOD program.

IAM argues that the new bond requirement is ''geared toward commercial consumer protection'' and therefore it is unnecessary to require freight forwarders in the DOD HHG program to obtain a $75,000 bond. It believes that the bond is an additional cost of doing business that is being mandated by FMCSA and that this cost is being passed on to DOD with no benefit to the DOD. IAM explains that DOD freight forwarders will be forced to add this cost to the rates they provide DOD.

IAM argues there is a precedent for providing an exemption for transportation service providers for the DOD. It cites the Federal Maritime Commission (FMC) regulation at 46 CFR 515.4(e), exempting entities exclusively involved in the movement of Federal military and civilian household goods from certain FMC licensing requirements.

Institution of Proceeding and Request for Comments

Pursuant to 49 U.S.C. 13541(b), FMCSA is instituting a proceeding to consider whether domestic freight forwarders operating solely within the DOD HHG program should be exempt from the new $75,000 financial security requirements at 49 U.S.C. 13906(c) and 49 CFR 387.403(c). FMCSA requests public comment, and comment from DOD and FMC, on the IAM exemption application. Specifically, FMCSA requests comments on whether the Agency should grant or deny the application, in whole or in part. The Agency also requests comments on how it should apply 49 U.S.C. 13541(a)(1–3) to IAM's request. Additionally, FMCSA seeks comment on whether section 13541(e)(1)'s reference to ''cargo loss and damage'' and/or ''insurance'' bars FMCSA from granting the requested exemption as a matter of law and without application of the 3-part statutory test under section 13541(a). Commenters are encouraged to provide data or information concerning the impact of the new bond requirements and/or the impact of granting this exemption request on carriers, brokers, freight forwarders and shippers.

Issued on: December 18, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30898 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA–2013–0513]

Registration and Financial Security Requirements for Brokers of Property and Freight Forwarders; Association of Independent Property Brokers and Agents' Exemption Application

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of application for exemption; request for public comments.

SUMMARY: FMCSA announces that it has received an application from the Association of Independent Property Brokers and Agents (AIPBA) for an exemption for all property brokers and freight forwarders from the $75,000 bond provision included in section 32918 of the Moving Ahead for Progress in the 21st Century Act (MAP–21), now codified in 49 U.S.C. 13906. AIPBA filed its request pursuant to 49 U.S.C. 13541. On September 5, 2013, FMCSA published guidance in the **Federal Register** concerning section 32918 and on October 1, 2013, the Agency published a final rule amending 49 CFR part 387 to set a minimum $75,000 surety bond/trust fund requirement for brokers of property and freight forwarders. FMCSA requests comments from all interested parties on AIPBA's exemption request.

DATES: Comments must be received on or before January 27, 2014.

ADDRESSES: You may submit comments, identified by docket number FMCSA–2013–0513, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief of Driver and Carrier Operations, (202) 366–4001 or *thomas.yager@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Ave., SE., Washington, DC 20590.

Public Participation and Request for Comments

FMCSA encourages you to participate in this proceeding by submitting comments, data, and related materials. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal and/or copyrighted information you provide.

Submitting Comments

If you submit a comment, please include the docket number for this proceeding (FMCSA–2013–0513), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission. However, see the Privacy Act section below regarding availability of this information to the public.

To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu, select ''Rules,'' insert ''FMCSA–2013–0513'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period.

Viewing Comments and Documents

AIPBA's exemption application and all public comments are available in the public docket. To view comments filed in this docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right hand side of the screen. Then, in the ''Keyword'' box, insert ''FMCSA–2013–0513'' and click ''Search.'' Next, click the ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not

have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

Privacy Act

Anyone is able to search the electronic docket for all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the DOT Privacy Act system of records notice for the Federal Docket Management System (FDMS) that DOT published in the **Federal Register** on January 17, 2008 (73 FR 3316).

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 13541 of title 49 of the United States Code (49 U.S.C. 13541) requires the Secretary of Transportation (Secretary) to exempt a person, class of persons, or a transaction or service from the application, in whole or in part, of a provision of 49 U.S.C. Part B (Chapters 131–149), or to use the exemption authority to modify the application of a provision of 49 U.S.C. Part B (Chapters 131–149) as it applies to such person, class, transaction, or service when the Secretary finds that the application of the provision:

- Is not necessary to carry out the transportation policy of 49 U.S.C. 13101
- Is not needed to protect shippers from the abuse of market power or that the transaction or service is of limited scope; and
- Is in the public interest.

Further, the exemption authority provided by section 13541 ''may not be used to relieve a person from the application of, and compliance with, any law, rule, regulation, standard, or order pertaining to cargo loss and damage [or] insurance . . .'' 49 U.S.C. 13541(e)(1).

AIPBA seeks an exemption from the $75,000 financial security requirements for brokers and freight forwarders at 49 U.S.C. 13906 (b) & (c). Section 13906 is located in 49 U.S.C. Part B (chapter 139) and therefore may be considered within the general scope of the exemption authority provided by section 13541. The Secretary may begin a section 13541 exemption proceeding on the application of an interested party. 49 U.S.C. 13541(b). *See, e.g., Motor Carrier Financial Information Reporting Requirements-Request for Public Comments,* 68 FR 48987 (Aug. 15, 2003). The Secretary may ''specify the period of time during which an exemption'' is effective and may revoke the exemption ''to the extent specified, on finding that application of a provision of [49 U.S.C. Chapters 131–149] to the person, class, or transportation is necessary to carry out the transportation policy of [49 U.S.C.] section 13101.'' 49 U.S.C. 13541(c), (d).

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87 to carry out the functions vested in the Secretary by 49 U.S.C. 13541.

Background

On July 6, 2012, the President signed MAP–21 into law, which included a number of mandatory, non-discretionary changes to FMCSA programs. Some of these changes amended the financial security requirements applicable to property brokers and freight forwarders operating under FMCSA's jurisdiction. P.L. 112–141, § 32918, 126 Stat. 405 (codified at 49 U.S.C. § 13906(b) & (c)). More specifically, 49 U.S.C. § 13906(b) and (c) requires brokers and freight forwarders to provide evidence of minimum financial security in the amount of $75,000.

On September 5, 2013, FMCSA published guidance (78 FR 54720) ''concerning the implementation of certain provisions of . . . (MAP–21) concerning persons acting as a broker or a freight forwarder.'' On October 1, 2013, FMCSA issued regulations requiring brokers and freight forwarders to have a $75,000 surety bond or trust fund in effect. 49 CFR §§ 387.307(a), 387.403(c). 78 FR 60226, 60233.

On November 14, 2013, after initially filing and dismissing in district court, AIPBA filed a petition for review in the U.S. Court of Appeals for the 11th Circuit. *Association of Independent Property Brokers and Agents, Inc.* v. *Foxx,* No. 13–15238–D (11th Cir.). The petition alleges the Agency's October 1 final rule was improperly issued without notice and comment.

AIPBA Exemption Application

In an August 14, 2013 letter to the Secretary, AIPBA, through its counsel, requests that the Department ''permanently exempt all property brokers and freight forwarders from the $75,000 broker bond provision of MAP–21. . . .'' AIPBA argues that the ''$75,000 broker surety bond amount is not necessary to carry out the transportation policy of section 13101, [or] . . . to protect shippers from the abuse of market power . . . and . . . is not in the public interest.'' AIPBA seeks a categorical exemption ''so that property brokers and forwarders can continue to do business under the existing bond regulations.'' A copy of the exemption application is included in the docket referenced at the beginning of this notice.

First, AIPBA believes that the $75,000 bond requirement is contrary to the transportation policy of 49 U.S.C. 13101 because it violates the federal government's policy of ''encourage[ing] fair competition, and reasonable rates for transportation by motor carriers of property'' and ''allow[ing] a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public. . . .'' 49 U.S.C. 13101(a)(2)(A),(D).

AIPBA also argues that the $75,000 broker bond requirement ''is not necessary to protect shippers from the abuse of market power.'' According to AIPBA, ''[t]he unnecessarily high $75,000 broker bond requirement will cause the majority of property brokers to leave the marketplace, which will expose shippers to abuses of market power by the few large property brokers able to stay in business.''

With regard to the public interest, AIPBA believes the new bond requirement will ''cause a significant increase in consumer prices once the supply of property brokers is drastically reduced.'' AIPBA indicated that a lack of competition will require shippers to pay more for transportation services. In addition to predicting that small and mid-sized brokers will be forced out of the market place due to the new higher bond requirement, AIPBA believes the new requirement will serve as a barrier to entry into the market place for other property brokers.

Finally, while AIPBA acknowledges that ''there are certain regulations from which [the Secretary] cannot issue exemptions,'' it believes that ''the broker bond does not fall into one of the listed categories. Specifically, AIPBA argues that the bond is a financial security rather than a type of required insurance, a distinction emphasized in 49 U.S.C. 13906 by the choice of a bond or insurance as well as MAP–21's amendment to 49 U.S.C. 13906, which still requires the broker bond but deletes all reference to insurance.''

Request for Comments

FMCSA requests public comment on the AIPBA exemption application. Specifically, FMCSA requests comments on whether the Agency should grant or deny the application, in whole or in part. The Agency also requests comments on how it should apply 49 U.S.C. 13541(a)(1–3) to AIPBA's request.

Additionally, FMCSA seeks comment on whether the reference to ''cargo loss and damage'' and/or ''insurance'' in section 13541(e)(1) bars FMCSA from granting the requested exemption as a matter of law and without application of the three-part statutory test under section 13541(a). Commenters are encouraged to provide data or information concerning the impact of the new bond requirements and/or the impact of granting this exemption request on carriers, brokers, freight forwarders and shippers.

Issued on: December 18, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30896 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0518]

Knowledge Testing of New Entrant Motor Carriers, Freight Forwarders and Brokers

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of public listening session.

SUMMARY: FMCSA announces that it will hold a public listening session on January 13, 2014, to solicit ideas and information concerning sections 32101 and 32916 of the Moving Ahead for Progress in the 21st Century Act (Pub. L. 112–141) (MAP–21). These provisions require the assessment of applicants' knowledge of regulations and industry practices for persons seeking registration authority as motor carriers (property, passenger, and household goods (HHG)), freight forwarders and brokers. This listening session is the first in a series through which the Agency will request information from interested parties concerning potential test topics, the relationship between the knowledge testing requirement and the Agency's Unified Registration System (URS) program, and test development and delivery. The January 13, 2014, session will be held at the American Bus Association's (ABA) Marketplace conference in Nashville, Tennessee. All comments will be transcribed and placed in the docket referenced above for FMCSA's consideration. And the entire day's proceedings will be webcast.

DATES: The listening session will be held on Monday, January 13, 2014, from 9:30 a.m. to 11:30 a.m. and 2:30 p.m. to 4:30 p.m. If all interested participants have had an opportunity to comment, the session may conclude early.

ADDRESSES: The listening session will be held at the Music City Center, 201 Fifth Ave. South, Nashville, TN 37203 in Room 202 C. In addition to attending the session in person, the Agency offers several ways to provide comments, as enumerated below.

Internet Address for Live Webcast. FMCSA will post specific information on how to participate via the Internet on the FMCSA Web site at *www.fmcsa.dot.gov* in advance of the listening session.

You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2001–11061 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received, without change, to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The online Federal document management system is available 24 hours each day, 365 days each year. If you would like acknowledgment that the Agency received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on December 29, 2010 (75 FR 82132) .

FOR FURTHER INFORMATION CONTACT: For information concerning the listening session or the live webcast, please contact Ms. Shannon L. Watson, Senior Policy Advisor, FMCSA, (202) 385–2395.

If you need sign language assistance to participate in this New Entrant Testing listening session, contact Ms. Watson by Monday, January 6, 2014, to allow us to arrange for such services. FMCSA cannot guarantee that interpreter services requested on short notice will be provided.

SUPPLEMENTARY INFORMATION:

I. Background

On July 6, 2012, the President signed MAP–21 into law. The new law included certain requirements concerning the registration of motor carriers (property, passenger, and household goods (HHG)), freight forwarders and brokers. Section 32101 of MAP–21 includes requirements for a written proficiency examination to assess motor carrier registration applicants' knowledge of applicable safety regulations, standards, and orders of the Federal government. Section 32916 includes requirements that applicants for freight forwarder and broker registration authority employ, as an officer, an individual with 3 years of relevant experience who ''provides the Secretary with satisfactory evidence of the individuals' knowledge of related rules, regulations, and industry practices.''

In consideration of the MAP–21 requirements, the Agency believes it would be helpful to conduct a series of public listening sessions to provide all interested parties the opportunity to share their views on the subject prior to the initiation of a rulemaking. The Agency will publish a notice or notices in the **Federal Register** to announce the dates and locations of future listening sessions on this topic.

The Agency requests information concerning: Potential test topics (e.g., regulations and industry best practices); the relationship between the knowledge testing requirement and the Agency's August 23, 2013, Unified Registration System (URS) final rule (78 FR 52608); [1]

[1] The final rule amends FMCSA's regulations to require interstate motor carriers, freight forwarders, brokers, intermodal equipment providers, hazardous materials safety permit applicants, and

and test development and delivery. FMCSA asks listening session participants to consider the following questions in preparing to make comments at the listening session:

- Should the exam be limited to the applicable FMCSA regulations or include both the regulations and industry best practices?
- If the exam covers industry best practices, what specific best practices should be included on the exam?
- What industry best practices manuals/publications are available for new entrants to study prior to taking a proficiency exam?
- Are private-sector training courses available to teach new entrants industry best practices?
- Should FMCSA limit the exam to company officers or employees responsible for safety and compliance, or should the Agency allow safety consultants to complete the exam on behalf of the new entrant?
- Should the test results be linked to specific individuals identified on the registration application with a requirement that the new entrant entity have a ''certified'' individual who passed the exam in a position responsible for safety and compliance? And should the new entrant be required to update their registration information whenever these individuals are replaced/reassigned during the new entrant monitoring/oversight period?
- MAP–21 requires freight forwarders and brokers to renew their registration authority every 5 years. Should the new entrant testing rule require a new test (i.e., recertification test) to accompany the freight forwarder or broker renewal application?
- Should the FMCSA develop and deliver the test directly to the new entrant applicants, or should the Agency rely on a private sector entity to handle the testing, with the results being transmitted directly to FMCSA?
- Do private sector companies or organizations currently conduct testing concerning industry best practices?
- Should the testing be conducted at testing centers, or should FMCSA allow on-line testing?

cargo tank facilities under the Agency's jurisdiction to submit required registration and biennial update information to the Agency via a new electronic on-line URS. The final rule also establishes fees for the registration system, discloses the cumulative information to be collected in the URS, and provides a centralized cross-reference to existing safety and commercial regulations necessary for compliance with the registration requirements.

II. Meeting Participation and Information FMCSA Seeks From the Public

The listening session is open to the public. Speakers should try to limit their remarks to 5 minutes. No pre-registration is required. Attendees may submit material to the FMCSA staff at the session for inclusion in the public docket referenced at the beginning of this notice.

III. Webcasting of the Listening Session

FMCSA will webcast the listening session on the Internet. Information on how to participate via the Internet will be posted on the FMCSA Web site at *www.fmcsa.dot.gov* in advance of the listening session.

FMCSA will docket the transcripts of the webcast, and a separate transcription of the listening session will be prepared by an official court reporter.

Issued on: December 19, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30875 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2000–7918; FMCSA–2001–10578; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 16 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 27, 2014. Comments must be received on or before January 27, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–2000–7918; FMCSA–2001–10578; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the Federal Register on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA,

Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 16 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 16 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Donald J. Bierwirth, Jr. (CT)
Arthur L. Bousema (CA)
Norman E. Braden (CO)
Matthew W. Daggs (MO)
Donald R. Date, Jr. (MD)
Gordon R. Fritz (WI)
Ronald K. Fultz (KY)
John E. Kimmet, Jr. (WA)
Robert C. Leathers (MO)
Jason L. Light (ID)
Kenneth R. Murphy (WA)
Michael J. Richard (LA)
Robert E. Sanders (PA)
Robert A Sherry (PA)
Stephen G. Sniffin (CT)
John R. Snyder (WA)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) the person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 16 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (65 FR 66286; 66 FR 13825; 66 FR 53826; 66 FR 66966; 68 FR 10300; 68 FR 37197; 68 FR 52811; 68 FR 61860; 68 FR 69434; 70 FR 41811; 70 FR 48797; 70 FR 48798; 70 FR 48799; 70 FR 48800; 70 FR 48801; 70 FR 57353; 70 FR 61165; 70 FR 71884; 70 FR 72689; 70 FR 74102; 71 FR 646; 71 FR 4632; 72 FR 52422; 72 FR 58359; 72 FR 62897; 72 FR 71995; 73 FR 1395; 73 FR 5259; 74 FR 60021; 74 FR 64124; 74 FR 65845; 75 FR 1451; 77 FR 545). Each of these 16 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements.

These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 27, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 16 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–2000–7918; FMCSA–2001–10578; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you

submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2000–7918; FMCSA–2001–10578; FMCSA–2003–15268; FMCSA–2003–15892; FMCSA–2005–21711; FMCSA–2005–22194; FMCSA–2005–22727 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 17, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30914 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–8398; FMCSA–2001–9561; FMCSA–2001–20578; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2007–2663; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0303; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0141]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 92 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemption renewals will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective January 30, 2014. Comments must be received on or before January 27, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) numbers: Docket No. [Docket No. FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–8398; FMCSA–2001–9561; FMCSA–2001–20578; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2007–2663; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0303; FMCSA–2011–0124; FMCSA–2011–0140; FMCSA–2011–0141], using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *http://www.regulations.gov,* including any personal information included in a comment. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue, SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381.

Exemption Decision

This notice addresses 92 individuals who have requested renewal of their exemptions in accordance with FMCSA procedures. FMCSA has evaluated these 92 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Carl W. Adams (MN)
Michael K. Adams (OH)
Mark R. Anderson (MI)
Eleazar R. Balli (TX)
Darrell W. Bayless (TX)
Linda L. Billings (NV)
Keith A. Bliss (NY)
John A. Bridges (GA)
Dean N. Brown (ME)
Eddie M. Brown (SC)
Richard A. Brown, Jr. (CT)
Joey E. Buice (GA)
Edwin L. Bupp (PA)

Lloyd D. Burgess (OH)
Gary R. Butler (OK)
Clifford D. Carpenter (MO)
Charles E. Carter (MI)
David J. Comeaux (LA)
Duane C. Conway (NV)
Ronald L. Cote (NV)
Brian W. Curtis (IL)
Albion C. Doe, Sr. (NH)
Robin C. Duckett (SC)
James A. Ellis (NY)
Marco A. Esquivel (CA)
Tomie L. Estes (MO)
Weldon R. Evans (OH)
Cecil A. Evey (ID)
Joe M. Flores (NM)
Matthew R. Floyd (NC)
Kamal A. Gaddah (OH)
Orasio Garcia (TX)
Michael R. Gartin (OH)
Dale L. Giardine (PA)
Leslie W. Good (OR)
Chester L. Gray (TX)
Christian L. Gremillion (LA)
James P. Guth (PA)
Britt D. Hazelwood (IL)
Raymond L. Herman (NY)
Jesse R. Hillhouse, Jr. (OK)
Billy R. Holdman (IL)
Terry L. Hudgens (OH)
Ray C. Johnson (AR)
Terry R. Jones (MO)
Frank D. Konwinski, Jr. (NE)
Eric M. Kousgaard (NE)
Gregory K. Lilly (WV)
William R. Mayfield (UT)
Richard A. McGuire (KY)
James F. McMahon (NH)
Samuel A. Milliner (IN)
James J. Mitchell (NC)
Michael A. Mitchell (MS)
Dennis L. Morgan (WA)
Andrew M. Nurnberg (GA)
Kenneth R. Pedersen (MT)
Joshua R. Perkins (ID)
Kenneth D. Perkins (NC)
Terry W. Pope (TN)
Timmy J. Pottebaum (IA)
Kenneth A. Reddick (PA)
Daniel T. Rhodes (IL)
Leonard Rice, Jr. (GA)
Angelo D. Rogers (AL)
Larry T. Rogers (IL)
Juan M. Rosas (AL)
Craig R. Saari (MN)
Ricky J. Sanderson (UT)
Jerry L. Schroder (IL)
Gerald J. Shamla (MN)
Stephen E. Shields (KY)
Peter M. Shirk (PA)
William C. Smith (FL)
Marcial Soto-Rivas (OR)
Boyd D. Stamey (NC)
Larry D. Steiner (MN)
Thomas C. Stromwall (MN)
James T. Sullivan (KY)
David C. Sybesma (ID)
Robert N. Taylor (OR)
Scott A. Taylor (WV)
Temesgn H. Teklezig (WA)
Matthew K. Tucker (MN)
Victor H. Vera (TX)
Stephen D. Vice (KY)
Larry J. Waldner (SD)
Karl A. Weinert (NY)
Joseph A. Wells (IL)
Don S. Williams (VA)
Robert L. Williams, Jr. (MS)
Kevin W. Wunderlin (OH)

The exemptions are extended subject to the following conditions: (1) That each individual has a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirements in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provides a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retains a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 92 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (63 FR 66226; 64 FR 16517; 64 FR 27027; 64 FR 51568; 65 FR 78256; 66 FR 16311; 66 FR 30502; 66 FR 41654; 66 FR 41656; 66 FR 48504; 66 FR 53826; 66 FR 66966; 67 FR 68719; 68 FR 2629; 68 FR 10301; 68 FR 13360; 68 FR 19596; 68 FR 19598; 68 FR 33570; 68 FR 37197; 68 FR 44837; 68 FR 48989; 68 FR 54775; 69 FR 17267; 69 FR 71100; 70 FR 2701; 70 FR 12265; 70 FR 16887; 70 FR 17504; 70 FR 25878; 70 FR 30997; 70 FR 30999; 70 FR 41811; 70 FR 42615; 70 FR 46567; 70 FR 53412; 71 FR 43556; 71 FR 63379; 72 FR 180; 72 FR 1050; 72 FR 1053; 72 FR 8417; 72 FR 9397; 72 FR 11426; 72 FR 12666; 72 FR 25831; 72 FR 27624; 72 FR 28093; 72 FR 32705; 72 FR 36099; 72 FR 39879; 72 FR 40362; 72 FR 46261; 72 FR 52419; 72 FR 54972; 72 FR 62896; 73 FR 75806; 74 FR 6211; 74 FR 8302; 74 FR 11988; 74 FR 11991; 74 FR 19270; 74 FR 20523; 74 FR 21427; 74 FR 26461; 74 FR 26464; 74 FR 26466; 74 FR 34394; 74 FR 34630; 74 FR 34632; 74 FR 37295; 74 FR 41971; 74 FR 43221; 74 FR 43223; 74 FR 48343; 74 FR 60022; 75 FR 4623; 76 FR 8809; 76 FR 17483; 76 FR 25762; 76 FR 34135; 76 FR 34136; 76 FR 37168; 76 FR 37169; 76 FR 37173; 76 FR 40445; 76 FR 44652; 76 FR 49531; 76 FR 50318; 76 FR 53708; 76 FR 53710; 76 FR 54530; 76 FR 55463; 76 FR 55469; 79 FR 53708). Each of these 92 applicants has requested renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the requirement specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption requirements. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by January 27, 2014.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequent comments submitted by interested parties. As indicated above, the Agency previously published notices of final disposition announcing its decision to exempt these 92 individuals from the vision requirement in 49 CFR 391.41(b)(10). The final decision to grant an exemption to each of these individuals was made on the merits of each case and made only after

careful consideration of the comments received to its notices of applications. The notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket numbers FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2001–20578; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2007–2663; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0303; FMCSA–2011–0140; FMCSA–2011–0141 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble, To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–1998–4334; FMCSA–1999–5578; FMCSA–2000–8398; FMCSA–2001–9258; FMCSA–2001–9561; FMCSA–2001–20578; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2003–14504; FMCSA–2003–15268; FMCSA–2005–20027; FMCSA–2005–20560; FMCSA–2005–21254; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2007–2663; FMCSA–2007–27333; FMCSA–2007–27897; FMCSA–2007–28695; FMCSA–2009–0054; FMCSA–2009–0121; FMCSA–2009–0154; FMCSA–2009–0303; FMCSA–2011–0140; FMCSA–2011–0141 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

Issued on: December 17, 2013

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30852 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2013–0192]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice of applications for exemptions.

SUMMARY: FMCSA announces receipt of applications from 46 individuals for exemptions from the prohibition against persons with insulin-treated diabetes mellitus (ITDM) operating commercial motor vehicles (CMVs) in interstate commerce. If granted, the exemptions would enable these individuals with ITDM to operate CMVs in interstate commerce.

DATES: Comments must be received on or before January 27, 2014.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2013–0192 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket numbers for this notice. Note that all comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Federal Docket Management System (FDMS) is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5

p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the Federal Motor Carrier Safety Regulations for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. The 46 individuals listed in this notice have recently requested such an exemption from the diabetes prohibition in 49 CFR 391.41(b)(3), which applies to drivers of CMVs in interstate commerce. Accordingly, the Agency will evaluate the qualifications of each applicant to determine whether granting the exemption will achieve the required level of safety mandated by statute.

Qualifications of Applicants

William B. Andrus

Mr. Andrus, 49, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Andrus understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Andrus meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Alabama.

Chad E. Anger

Mr. Anger, 38, has had ITDM since 1998. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Anger understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Anger meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Wisconsin.

Thomas C. Aston

Mr. Aston, 78, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Aston understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Aston meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Maryland.

Jared F. Beard

Mr. Beard, 24, has had ITDM since 2000. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Beard understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Beard meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from North Dakota.

Edward Blake

Mr. Blake, 67, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Blake understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Blake meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Georgia.

Jerrel F. Bower

Mr. Bower, 59, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Bower understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Bower meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds a Class A CDL from Missouri.

Jerry A. Campbell

Mr. Campbell, 51, has had ITDM since 2010. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Campbell understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Campbell meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Ohio.

Brian M. Chase

Mr. Chase, 22, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Chase understands

diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Chase meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he diabetic retinopathy. He holds a Class A CDL from Virginia.

Charles R. Clayton

Mr. Clayton, 53, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Clayton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Clayton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New Jersey.

Phillip Covel

Mr. Covel, 46, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Covel understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Covel meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Nebraska.

Ariel Cuevas

Mr. Cuevas, 43, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Cuevas understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Cuevas meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Glen C. Davis

Mr. Davis, 42, has had ITDM since 1995. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Davis understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Davis meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from Tennessee.

Nicholas P. Dube

Mr. Dube, 25, has had ITDM since 1997. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Dube understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Dube meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he has stable nonproliferative diabetic retinopathy. He holds an operator's license from Rhode Island.

Arthur W. Ehrenzeller

Mr. Ehrenzeller, 73, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ehrenzeller understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ehrenzeller meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Manuel Elizondo

Mr. Elizondo, 43, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Elizondo understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Elizondo meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Texas.

Michael K. Farris

Mr. Farris, 45, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Farris understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Farris meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Indiana.

Merino Fernandes

Mr. Fernandes, 57, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance

of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Fernandes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Fernandes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Illinois.

Craig J. Gadley, Sr.

Mr. Gadley, 54, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Gadley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Gadley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Daniel Grove, Jr.

Mr. Grove, 38, has had ITDM since 2006. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Grove understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Grove meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Pennsylvania.

Mary F. Guilfoy

Ms. Guilfoy, 58, has had ITDM since 2013. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Guilfoy understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Guilfoy meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds a Class B CDL from Indiana.

James M. Hatcher

Mr. Hatcher, 60, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Hatcher understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Hatcher meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Mississippi.

Edward S. Ionescu

Mr. Ionescu, 43, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Ionescu understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Ionescu meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Illinois.

Jeffrey James

Mr. James, 51, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. James understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. James meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Alaska.

Hayward S. Mason

Mr. Mason, 59, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mason understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mason meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New York.

Guy B. Mayes

Mr. Mayes, 62, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Mayes understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Mayes meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that

he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Ashun R. Merritt

Mr. Merritt, 25, has had ITDM since 1997. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Merritt understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Merritt meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class C operator's license from Georgia.

Herbert A. Morton

Mr. Morton, 38, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Morton understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Morton meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from California.

Colby A. Nutter

Mr. Nutter, 21, has had ITDM since 1992. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Nutter understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Nutter meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Virginia.

Jayrome D. Rimolde

Mr. Rimolde, 49, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Rimolde understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Rimolde meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Gale Roland

Mr. Roland, 59, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Roland understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Roland meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Larry J. Sanders

Mr. Sanders, 59, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sanders understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sanders meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Maryland.

Kelly T. Scholl

Mr. Scholl, 45, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Scholl understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Scholl meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Minnesota.

Antonio A. Sena

Mr. Sena, 64, has had ITDM since 1991. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sena understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sena meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from California.

Gregory G. Sisco

Mr. Sisco, 44, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Sisco understands diabetes management and monitoring,

has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Sisco meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Iowa.

Travers L. Stephens

Mr. Stephens, 49, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Stephens understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Stephens meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Georgia.

Brittany K. Tomasko

Ms. Tomasko, 28, has had ITDM since 1993. Her endocrinologist examined her in 2013 and certified that she has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. Her endocrinologist certifies that Ms. Tomasko understands diabetes management and monitoring has stable control of her diabetes using insulin, and is able to drive a CMV safely. Ms. Tomasko meets the requirements of the vision standard at 49 CFR 391.41(b)(10). Her optometrist examined her in 2013 and certified that she does not have diabetic retinopathy. She holds an operator's license from California.

Johnny G. Wallace

Mr. Wallace, 58, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wallace understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wallace meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Arkansas.

Daren Warren

Mr. Warren, 41, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Warren understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Warren meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from New York.

Aaron E. Webb

Mr. Webb, 40, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Webb understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Webb meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Washington.

Billy J. Webb, Jr.

Mr. Webb, 59, has had ITDM since 2005. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Webb understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Webb meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Mississippi.

Alan T. Whalen

Mr. Whalen, 51, has had ITDM since 2009. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whalen understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whalen meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class D operator's license from New York.

Thomas L. Whitley

Mr. Whitley, 59, has had ITDM since 2013. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Whitley understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Whitley meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds an operator's license from Indiana.

Randall S. Williams

Mr. Williams, 58, has had ITDM since 2011. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or

resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Williams understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Williams meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Pennsylvania.

Tomme J. Wirth

Mr. Wirth, 75, has had ITDM since 2008. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wirth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wirth meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from Iowa.

Charles J. Wirth

Mr. Wirth, 54, has had ITDM since 2012. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wirth understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wirth meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His optometrist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class A CDL from Wisconsin.

Thomas A. Wysocki

Mr. Wysocki, 51, has had ITDM since 1998. His endocrinologist examined him in 2013 and certified that he has had no severe hypoglycemic reactions resulting in loss of consciousness, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the last 5 years. His endocrinologist certifies that Mr. Wysocki understands diabetes management and monitoring, has stable control of his diabetes using insulin, and is able to drive a CMV safely. Mr. Wysocki meets the requirements of the vision standard at 49 CFR 391.41(b)(10). His ophthalmologist examined him in 2013 and certified that he does not have diabetic retinopathy. He holds a Class B CDL from New Jersey.

Request for Comments

In accordance with 49 U.S.C. 31136(e) and 31315, FMCSA requests public comment from all interested persons on the exemption petitions described in this notice. We will consider all comments received before the close of business on the closing date indicated in the date section of the notice.

FMCSA notes that section 4129 of the Safe, Accountable, Flexible and Efficient Transportation Equity Act: A Legacy for Users requires the Secretary to revise its diabetes exemption program established on September 3, 2003 (68 FR 52441).[1] The revision must provide for individual assessment of drivers with diabetes mellitus, and be consistent with the criteria described in section 4018 of the Transportation Equity Act for the 21st Century (49 U.S.C. 31305).

Section 4129 requires: (1) Elimination of the requirement for 3 years of experience operating CMVs while being treated with insulin; and (2) establishment of a specified minimum period of insulin use to demonstrate stable control of diabetes before being allowed to operate a CMV.

In response to section 4129, FMCSA made immediate revisions to the diabetes exemption program established by the September 3, 2003 notice. FMCSA discontinued use of the 3-year driving experience and fulfilled the requirements of section 4129 while continuing to ensure that operation of CMVs by drivers with ITDM will achieve the requisite level of safety required of all exemptions granted under 49 U.S.C. 31136 (e).

Section 4129(d) also directed FMCSA to ensure that drivers of CMVs with ITDM are not held to a higher standard than other drivers, with the exception of limited operating, monitoring and medical requirements that are deemed medically necessary.

The FMCSA concluded that all of the operating, monitoring and medical requirements set out in the September 3, 2003 notice, except as modified, were in compliance with section 4129(d). Therefore, all of the requirements set out in the September 3, 2003 notice, except as modified by the notice in the **Federal Register** on November 8, 2005 (70 FR 67777), remain in effect.

Submitting Comments

You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0192 and click the search button. When the new screen appears, click on the blue ''Comment Now!'' button on the right hand side of the page. On the new page, enter information required including the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

We will consider all comments and material received during the comment period and may change this proposed rule based on your comments. FMCSA may issue a final rule at any time after the close of the comment period.

Viewing Comments and Documents

To view comments, as well as any documents mentioned in this preamble. To submit your comment online, go to *http://www.regulations.gov* and in the search box insert the docket number FMCSA–2013–0192 and click ''Search.'' Next, click ''Open Docket Folder'' and you will find all documents and comments related to the proposed rulemaking.

[1] Section 4129(a) refers to the 2003 notice as a ''final rule.'' However, the 2003 notice did not issue a ''final rule'' but did establish the procedures and standards for issuing exemptions for drivers with ITDM.

Issued on: December 16th, 2013.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2013–30711 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Notice of Funding Availability for Resilience Projects in Response to Hurricane Sandy

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice of funding availability (NOFA).

SUMMARY: The Federal Transit Administration (FTA) announces the availability of approximately $3 billion in funds under the Public Transportation Emergency Relief Program and the Disaster Relief Appropriations Act of 2013 for States, local governmental authorities, tribal governments and other FTA recipients impacted by Hurricane Sandy, which affected mid-Atlantic and northeastern states in October 2012. This announcement solicits proposals for resilience projects, defined as those projects designed and built to address current and future vulnerabilities to a public transportation facility or system due to future occurrence or recurrence of emergencies or major disasters that are likely to occur in the geographic area in which the public transportation system is located; or projected changes in development patterns, demographics, or climate change and extreme weather patterns. For the purposes of this notice, ''public transportation'' may include consideration of intercity passenger rail service. This resilience funding is intended to protect public transportation infrastructure that has been repaired or rebuilt after Hurricane Sandy or that is at risk of being damaged or destroyed by a future natural disaster. These investments reduce the likelihood that U.S. taxpayers are asked to repair the same infrastructure after a future major storm or natural disaster. Furthermore, the activities funded under this notice will help strengthen and build more resilient communities to better withstand future disasters.

The Disaster Relief Appropriations Act of 2013 was enacted on January 29, 2013, and provided $10.9 billion for FTA's Emergency Relief Program for recovery, relief and resilience efforts in areas affected by Hurricane Sandy with approximately $10.4 billion still available after implementation of the Balanced Budget and Emergency Deficit Control Act of 2011. FTA has previously allocated $5.7 billion for recovery and resilience projects to public transportation agencies impacted by Hurricane Sandy. Additionally, the Disaster Relief Appropriations Act of 2013 permits the Secretary to transfer up to $5.383 billion to other agencies to fund programs authorized under titles 23 and 49, United States Code, in order to carry out resilience projects in areas impacted by Hurricane Sandy. Under this authority, DOT transferred $185 million to the Federal Railroad Administration (FRA).

The Moving Ahead for Progress in the 21st Century Act (MAP–21) authorized the Emergency Relief Program at 49 U.S.C. 5324. With the authorization of this program, Congress provided FTA with primary responsibility for Federal reimbursements for emergency response and recovery costs after an emergency or major disaster that affects public transportation systems. The Emergency Relief Program allows FTA to make grants for eligible public transportation capital and operating costs in the event of a natural disaster, such as a hurricane, that affects a wide area, including projects to protect public transportation assets from damage. Beginning in late October 2012, President Obama issued major disaster declarations for specified counties in the following States: Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, and West Virginia, as well as the District of Columbia as a result of the impacts Hurricane Sandy and its remnants. Providers of public transportation in the affected areas as defined by these Presidential declarations are eligible to apply for funding for public transportation resilience projects.

This notice includes a description of eligible projects, the criteria FTA will use to identify projects for funding, and a description of how to apply for funding. This announcement is available on the FTA Web site at: *http://www.fta.dot.gov.* A synopsis of the funding opportunity will be posted in the FIND module of the government-wide electronic grants Web site at *http://www.GRANTS.GOV.* FTA will announce final allocations in a **Federal Register** notice and on the FTA Web site.

DATES: In January 2014, FTA will host a webinar to answer questions about the NOFA and will conduct training, specifically for the Hazard Mitigation Cost Effectiveness methodology. Prospective applicants must participate in the training. Dates and times of these offerings will be posted to FTA's Web site.

Complete proposals must be submitted no later than Friday, March 28, 2014 by 11:59 p.m. EST. All proposals must be submitted electronically through the *GRANTS.GOV* ''APPLY'' function. Any prospective applicant intending to submit a proposal should initiate the process of registering on the *GRANTS.GOV* site immediately to ensure completion of registration before the submission deadline. Instructions for submitting a proposal can be found on FTA's Web site at *http://www.fta.dot.gov* and in the ''FIND'' module of *GRANTS.GOV.*

FOR FURTHER INFORMATION CONTACT: the appropriate FTA Regional Office found at *http://www.fta.dot.gov* for application-specific information and other assistance needed in preparing a complete proposal. For program-specific questions about applying for the funds as outlined in this notice, please contact Adam Schildge, Office of Program Management, 1200 New Jersey Ave. SE., Washington, DC 20590, phone: (202) 366–0778, or email, *FTASandyResilience@dot.gov.* For legal questions, Bonnie Graves, Office of Chief Counsel, same address, phone: (202) 366–4011, or email, *Bonnie.Graves@dot.gov.* For questions about direct transfers (outside of the competitive process and this Notice) to other modes within the Department of Transportation, please contact Peter Gould, Office of Policy, Office of the Secretary, same address, phone: (202) 366–6321, or email, *Peter.Gould@dot.gov*; or Sahar Shirazi, Office of Policy, Office of the Secretary, same address, phone: (202) 366–4114, or email, *sahar.shirazi@dot.gov.*

SUPPLEMENTARY INFORMATION:

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I. Overview of FTA Public Transportation Emergency Relief Program

A. Authority

MAP–21 authorized FTA's Emergency Relief Program under Section 5324 of title 49, United States Code as follows:

General authority.—The Secretary may make grants and enter into contracts and other agreements (including agreements with departments, agencies, and instrumentalities of the Government) for—

(1) capital projects to protect, repair, reconstruct, or replace equipment and facilities of a public transportation system operating in the United States or on an Indian reservation that the Secretary determines is in danger of suffering serious damage, or has suffered serious damage, as a result of an emergency; and

(2) eligible operating costs of public transportation equipment and facilities in an area directly affected by an emergency during—

(A) the 1-year period beginning on the date of a declaration described in subsection (a)(2); or

(B) if the Secretary determines there is a compelling need, the 2-year period beginning on the date of a declaration described in subsection (a)(2).

In addition, Section 5324(a)(2) defines an ''emergency'' as follows:

The term 'emergency' means a natural disaster affecting a wide area (such as a flood, hurricane, tidal wave, earthquake, severe storm, or landslide) or a catastrophic failure from any external cause, as a result of which—

(A) the Governor of a State has declared an emergency and the Secretary has concurred; or

(B) the President has declared a major disaster under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

In addition, Section 5324(d) provides that a grant awarded under section 5324 shall be subject to the terms and conditions the Secretary determines are necessary.

B. Disaster Relief Funding

As a result of Hurricane Sandy, and in accordance with the Stafford Act, President Obama declared a major disaster in late 2012 for twelve states and the District of Columbia affected by Hurricane Sandy, making public transportation agencies in specified counties in those States eligible for financial assistance under FTA's Public Transportation Emergency Relief Program.

The Disaster Relief Appropriations Act (Pub. L. 113–2) provides $10.9 billion for FTA's Emergency Relief Program for recovery, relief and resilience efforts in areas affected by Hurricane Sandy, with approximately $10.4 billion still available after implementation of the Balanced Budget and Emergency Deficit Control Act of 2011 (Pub. L. 112–25). FTA is allocating the remaining $10.4 billion in multiple tiers for response, recovery and rebuilding, for locally-prioritized resilience projects, and for competitively selected resilience projects.

On March 29, 2013 and May 29, 2013 FTA announced the allocation of $2 billion for response and recovery expenses and $3.7 billion for response, recovery, and local priority resilience funding respectively, with $5.7 billion total allocated to date. FTA allocated funding for locally-prioritized resilience projects to the public transportation agencies most affected by Hurricane Sandy. Funds were allocated based on a formula reflecting the distribution of damage costs among public transportation agencies most impacted by the storm, as outlined in the **Federal Register** Notice of Allocation dated May 29, 2013. Locally prioritized resilience projects require FTA review prior to incurring costs, and are primarily intended for resilience improvements in tandem with recovery and rebuilding projects where joint implementation will prove cost effective, and for lower cost stand-alone resilience improvements that can be implemented relatively quickly.

The following chart [1] illustrates the overall allocation of funding under the FTA Emergency Relief Program and the Disaster Relief Appropriations Act:

Award type	Applicants	Available funding	Eligibility criteria
Response, Recovery & Rebuilding.	Affected FTA Recipients	$4.4 billion	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies.
Locally-Prioritized Resilience.	MTA, NJT, PANYNJ, NYCDOT	$1.3 billion	Resilience Projects and Project Components.
Competitive Resilience	(1) States, (2) public transportation agencies that receive funding through FTA formula programs, (3) other entities responsible for an eligible public transportation capital project that enter into a subrecipient arrangement with an existing FTA grantee, and (4) entities that provide intercity passenger rail service.	$3 billion	Described in this Notice.
Response, Recovery & Rebuilding.	Affected FTA Recipients	$1.1 billion (to be announced in a subsequent notice).	Damage assessments submitted by affected agencies and reviewed by FTA, and costs incurred by affected agencies.
Direct Transfer Resilience.	Eligible DOT grantees/funding recipients implementing programs authorized under titles 23 and 49 U.S.C.	TBD	Any statutorily eligible project not readily fundable through the formula distribution or competitive application process. For further information on the Direct Transfer process, interested parties may contact the Office of the Secretary. Please note that DOT's intent is to allocate resilience funds primarily though formula and competition.

[1] The Secretary is authorized by the Disaster Relief Appropriations Act to transfer emergency relief resilience funding to other DOT operating administrations for eligible projects.

C. Policy Priorities

Both scientific evidence and recent history indicate that weather and climate-related disasters are a continuing threat. According to the ''Hurricane Sandy Rebuilding Strategy'' report,[2] in the last year alone there were 11 different weather and climate disaster events with estimated losses exceeding $1 billion each across the United States. Taken together, these 11 events resulted in more than $110 billion in estimated damages.

Federal investment in the improved resilience of public transportation systems to future disasters is necessary to reduce, better manage, and better prepare for the economic and social consequences of future disasters, regardless of their cause, including both the potential cost of rebuilding after the next storm and the social and economic consequences of suspended or inoperable public transportation services.

A more resilient public transportation system will be the product of many efforts, including some that are outside the scope of this notice; including disaster preparation, risk assessments, enhanced response capabilities, redundant infrastructure, a more complete state of good repair in systems essential to transit operations, evacuation readiness, emergency social support systems, and other efforts. While these and other factors contribute to the resilience of a region and of a public transportation system, this Notice of Funding Availability (NOFA) is intended to provide funding specifically for the resilience activities that strengthen and protect vulnerable infrastructure that is essential for providing and supporting public transportation in the region impacted by Hurricane Sandy. In addition to projects funded under this notice, agencies are also responsible for disaster response planning and evacuation readiness.

In accordance with FTA's definition of resilience and resilience project, and for the purpose of this competition, a future disaster is considered to be any significant event with a likelihood of occurring in the areas affected by Hurricane Sandy, and which presents a risk of damage from hazards similar to those associated with Hurricane Sandy, such as severe storm surge, flooding—including levels projected due to sea level rise—, heavy rain, high winds, and associated power outages. Further, for purposes of this competition, FTA will prioritize resilience projects that strengthen, protect, or otherwise increase the protection or resilience of existing infrastructure that was damaged or destroyed by Hurricane Sandy, to minimize the potential of repeated reinvestments to the same infrastructure due to damage from future similar storms. These priority investments and related outcomes will take precedent over new ''redundant'' investments whose primary objective is to increase system capacity.

FTA is undertaking this competition in accordance with the recommendations issued by the Hurricane Sandy Rebuilding Task Force, convened by President Obama and composed of the leaders of Federal agencies responsible for various aspects of the recovery. The Task Force issued the ''Hurricane Sandy Rebuilding Strategy'' report in August 2013, laying out key principles for recovery, as well as related recommendations to guide the implementation of federally supported recovery efforts.

The Task Force recommends that Sandy-rebuilding infrastructure projects be designed to increase the resilience of the region and that they be regionally coordinated. Reflecting the Task Force's recommended infrastructure resilience guidelines, FTA has considered the following principles in the development of this competitive resilience solicitation:

- Comprehensive Analysis
- Transparent and Inclusive Decision Processes
- Regional Resilience
- Long-Term Efficacy and Fiscal Sustainability
- Environmentally Sustainable and Innovative Solutions
- Targeted Financial Incentives
- Adherence to Resilience Performance Standards

All projects submitted under this competitive public transportation resilience notice, including any intercity passenger rail projects, will be evaluated based on the process and criteria described later in this notice. Subsequent to project selection, the Secretary may transfer funds and the responsibility for administering intercity passenger rail projects to the Federal Railroad Administration (FRA).

II. Public Transportation Resilience Grants for Areas Affected by Sandy

A. Description and Purpose

This notice solicits proposals for capital projects that will protect or otherwise increase the resilience of public transportation equipment and facilities from the future recurrence of hurricanes and similar storms in the areas affected by Hurricane Sandy. FTA's Emergency Relief rule at 49 CFR 602.5 defines ''resilience'' as the capability to anticipate, prepare for, respond to, and recover from significant multi-hazard threats with minimum damage to social well-being, the economy, and the environment. The rule defines ''resilience project'' as a project designed and built to address future vulnerabilities to a public transportation facility or system due to future recurrence of emergencies or major disasters that are likely to occur again in the geographic area in which the public transportation system is located; or projected changes in development patterns, demographics, or extreme weather or other climate patterns.

B. Eligibility Information

1. Eligible Applicants

Eligible applicants must be located in or provide public transportation service in one of the areas affected by Hurricane Sandy, which are defined as areas for which President Obama declared a major disaster under the Stafford Act in response to Hurricane Sandy. Eligible applicants include (1) States and Indian tribes, (2) local governmental authorities and public transportation agencies that receive funding through FTA formula programs, (3) other entities responsible for an eligible public transportation capital project that enter into a sub-recipient arrangement with an existing FTA grantee, and (4) entities that provide intercity passenger rail service. Projects that involve joint public transit and intercity passenger rail service will be administered under the provisions of (2) or (3) above. Note: Entities that provide public transportation service and are not current recipients of FTA funding are only eligible to receive Emergency Relief funding as a subrecipient of an FTA recipient. These entities should contact the appropriate FTA Regional Office, the contact information for which is available at *www.fta.dot.gov,* to find a direct FTA recipient in their area to apply on their behalf. Successful intercity rail projects may be transferred to the FRA for administration and oversight.

For the purpose of this notice, areas affected by Hurricane Sandy include any of the counties designated for FEMA's Public Assistance program under any of the major disaster declarations issued by President Obama in response to Hurricane Sandy. This includes areas within the following States: Connecticut, Delaware, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island,

[2] *See http://portal.hud.gov/hudportal/documents/huddoc?id=HSRebuildingStrategy.pdf.*

Virginia, and West Virginia, as well as the District of Columbia. Areas affected by Hurricane Sandy are defined by the presidential declaration of major disaster for that State. See *http://www.fema.gov/disasters/.*

2. Eligible Projects

Eligible projects are capital projects that reduce the risk of damage to public transportation assets as a result of future natural disasters. FTA expects the project sponsor to demonstrate, as part of an overall system plan, how steps are being taken to first ensure protection and increased resilience of *existing* assets before redundant (new) infrastructure is contemplated. This must be demonstrated in the applicant's response to the evaluation criteria for ''Protection of Most Essential and Vulnerable Infrastructure,'' as described in section C.2 of this notice. If such a case is made, then projects that involve the construction or installation of *new* equipment or facilities for the purpose of providing redundancy to reduce the vulnerability of the existing public transportation system may be considered. All project proposals will be evaluated based on the criteria identified in the next section.

Sample resilience projects may include elevating or relocating assets that are located in a special flood hazard area (SFHA), protecting assets vulnerable to high winds, installing mitigation measures that prevent the intrusion of floodwaters into underground segments of a public transportation system, strengthening systems that remove rainwater from public transportation facilities, and other projects that address identified vulnerabilities.

FTA encourages innovative proposals; however, all projects must consist of technologies that can be demonstrated to be effective. The functionality of innovative proposals must be adequately documented and justified. Innovative proposals may include remotely controlled or other below-grade subway vent closures, modular flood prevention barriers, use of green infrastructure to control storm water, or other new technologies or applications.

Recognizing that risk continuously changes and is expected to increase in many areas, resilience projects must be designed to be resilient to at least 1 foot above the best available base flood elevations released by FEMA to ensure long term resilience of communities. State and local governments are encouraged to review their local conditions and needs and, where appropriate, build to an even higher standard where they are planning key infrastructure projects and/or where future conditions indicate higher risk. Resilience projects under this competition may be designed to withstand a higher base flood elevation if required by local or State building codes or standards. Projects designed to meet the above standard may include the relocation of infrastructure from the floodplain, physical elevation of the infrastructure, or other appropriate mitigation measures depending on the circumstances of the proposed project. This requirement is addressed further under section C.1.a. of this notice, ''Special Note Regarding FEMA's Best Available Flood Hazard Information.''

FTA recognizes that, in the course of making an asset more resilient, a resilience project may also involve activities or elements that concurrently serve to bring an asset up to a state of good repair. For example, a resilience project may involve the replacement of older features with new features, the incorporation of current design standards, the replacement of a vulnerable facility at a new location when a cost-effective mitigation is not practical or feasible at the existing location, or other required mitigation measures resulting from the NEPA process or required for compliance with applicable Federal environmental requirements.

3. Cost Sharing and Matching

Section 5324 of title 49, United States Code, provides that the Government share for FTA emergency relief projects shall be not more than 80 percent of the net project cost. Consistent with FEMA's Hazard Mitigation Grant Program, resilience projects solicited by this notice are eligible for a Federal cost share of no more than 75 percent of the total project cost. Project sponsors will be required to identify a source of eligible non-Federal match representing no less than 25 percent of the total project cost. The local share may be provided from an undistributed cash surplus, a replacement or depreciation cash fund or reserve, or new capital. In addition to local and state funds, non-Federal match may include the use of Community Development Block Grant (CDBG) funds, including CDBG Disaster Recovery (CDBG–DR) funds that are available for transportation purposes.[3] Project sponsors may propose the use of non-Federal funds in excess of 25 percent of the project cost. FTA may consider the planned commitment of additional non-Federal match as a part of project selection.

C. Evaluation Criteria, Review and Selection

All projects must meet minimum application requirements in order to qualify for further consideration. Qualified projects will then be evaluated based on the factors outlined below.

1. Minimum Application Requirements

Minimum requirements include the following:

- Applicant is a current FTA recipient, or, if not a current FTA recipient, has provided a support letter from a current FTA recipient stating that it is willing to partner on the project, or is an entity that provides intercity passenger rail service.
- Applicant has identified the source for the required non-Federal cost share, which may include CDBG funding.
- Applicant certifies that the project will be designed and built to be resilient to the best available FEMA flood hazard information as of February 1, 2014, plus one foot, as defined in this notice.
- Applicant has participated in an FTA training session (one of two offerings) on Hazard Mitigation Cost Effectiveness (HMCE). FTA will schedule two training sessions in January 2014. Applicants may participate either in person or through the web. Instructions and requirements regarding the HMCE process will be provided at these training sessions.

a. Special Note Regarding FEMA's Best Available Flood Hazard Information

In certain situations, notably where a project or activity is located within a SFHA, use of FTA funds will require that a project and activity be designed and constructed in accordance with elevated minimums for project elevations (i.e. the best available FEMA flood hazard information plus one foot), in order to adequately enhance long-term structural resilience, and mitigate against the recurrence of flood-related damages.

Accordingly, resilience projects intended to protect against flooding and that are located within the SFHA must be designed and elevated or otherwise flood-proofed to the best available Base Flood Elevation (BFE) elevation released by FEMA plus one foot. The best available SFHA and BFE can be determined by comparing the SFHA and BFE on the current effective Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report with alternative flood hazard information released by FEMA, if available. FEMA's

[3] See the Department of Housing and Urban Development (HUD) **Federal Register** dated November 18, 2013 (*http://www.gpo.gov/fdsys/pkg/FR-2013-11-18/pdf/2013-27506.pdf*) for more information on CDBG–DR funds.

alternative flood hazard information may include Advisory Base Flood Elevations (ABFEs) and ABFE Maps; Preliminary Work Maps; [4] and Preliminary FIRMs and the FIS report. The best available SFHA is the widest geographic area indicated by FEMA's FIRM, FIS, or alternative flood hazard information. The best available BFE is the highest base flood elevation indicated by FEMA's FIRM, FIS, or alternative flood hazard information for the project's location. For purposes of this notice, FTA will consider best available information to be information released by FEMA as of February 1, 2014.

Following Hurricane Sandy, FEMA produced ABFE maps for coastal counties in New Jersey and New York. These advisory maps can be found at *http://184.72.33.183/best.* If FEMA's alternative flood hazard information is not available, such as in many areas outside of New York and New Jersey, resilience projects must be designed and elevated or otherwise flood-proofed to the elevation identified on the effective FIRM and in the FIS report plus one foot. The Preliminary and effective FIRMs and FIS reports can be found on FEMA's Web site at: *http://msc.fema.gov.*

Elevations *required* by either State or locally adopted building codes or standards that are higher than the best available FEMA flood hazard information plus one foot will apply.

This standard does not necessarily mean that public transportation agencies will be required to move existing facilities or build new facilities at a higher elevation; however, in order to minimize potential harm within the floodplain in accordance with Executive Order 11988, when relocation or elevation is not possible, resilience projects funded under this notice must include updated design features or added protective features in order to reduce the risk of damage from future flooding.

A base flood elevation from an ABFE map, preliminary work map, or preliminary FIRM and FIS report or non-FEMA source cannot be used if it is lower than the effective FIRM and FIS report plus one foot. Recipients may also consider the best available data on sea-level rise, storm surge, scouring and erosion before rebuilding. In all instances, FTA retains the authority to award funds in direct alignment with recipient acceptance of and continued compliance with Federal determinations regarding increased standards for floodplain management.

b. Project Scalability

Projects are considered scalable if they incorporate multiple activities or elements that have separate and independent benefits and which can be undertaken independently of one another. FTA may at times choose to fund less than the full requested amount of a proposal, consistent with the project's scalability.

To facilitate this approach, and to allow for partial funding when full funding of a project is not possible, all project proposals must identify whether a project is scalable and, if so, must identify potential scopes and funding amounts for the scalable project components, including a separate cost-effectiveness evaluation for potential scaled projects, if appropriate. If the project is not scalable, the project sponsor must indicate the minimum amount of Section 5324 funds necessary to implement the full scope of the project, including a discussion of alternative funding sources for the unfunded portion.

2. Project Evaluation Factors

Projects that meet the minimum requirements will be evaluated based on the factors listed below:

Hazard Mitigation Cost Effectiveness

For each project, applicants are required to submit information, both quantitative and qualitative, that FTA will use to evaluate the cost-effectiveness of the proposed project in reducing an asset's and the public transportation system's vulnerabilities to future disasters. Consistent with OMB Circular A–94 and Executive Order 12893, selection of projects for funding will be based in part on a systematic analysis of benefits and costs. This analysis will incorporate methodologies developed by FEMA for its Hazard Mitigation Grant Program. When determining the cost and benefit, FTA will evaluate both quantitative measures such as the probability of occurrence of future disasters, the potential cost to repair, the historic or projected cost of emergency response and temporary service, the number of transit passengers affected if the asset were damaged, potential or observed travel time delays, and other quantitative factors required by the Hazard Mitigation Cost Effectiveness (HMCE) process or identified by the applicant; as well as qualitative information, for example the regional importance of a subway line to overall system performance. Recipients are encouraged to submit narrative explanations and supporting documentation accompanying the quantitative and qualitative information provided.

Consistent with FEMA's Hazard Mitigation Benefit Cost Analysis approach, analyses of benefits and costs (or cost-effectiveness) must distinguish clearly between a baseline case—what is likely to occur if the proposed project is not built—and the ''project'' or ''build'' case—what is likely to occur if the project is built. The analysis should assess the likelihood of future disasters of various severities, the likely costs (in both the baseline and build cases) of loss of public transportation service and other costs while the damage is being repaired, and the costs (in both the baseline and build cases) of repairing the damage. This information is especially important in order to explain the basis of the estimates of losses in the two cases and in order to compare clearly the estimated losses from potential future events both with and without the proposed resilience project.

Quantitative information that applicants must submit in order to conduct the analysis described above include the estimated damage and losses from specifically identified hazards (e.g. the cost to repair), the probabilities of these hazards occurring at certain magnitudes (e.g. 100-year recurrence) both now and throughout the effective lifetime of the project, and the reduction in the anticipated losses after such an event as a result of the proposed project. FTA will review and evaluate the explanations and justifications provided by the applicants, as well as the source of the information.

For all projects, applicants must provide the following information including relevant source documents:

- The public transportation asset(s) to be protected by the proposed resilience project;
- The useful life of the investment; and the current remaining or projected useful life of the asset(s) to be protected;
- A list of hazards likely to impact the asset(s), including the frequency or probability of the primary identified hazard to be addressed by the project and any secondary hazards occurring at various levels of severity, both now and throughout the expected project life;
- The estimated cost to repair the asset if any of these primary identified hazard events occur. Estimated repair costs for historic damage events must be supported by damage assessments, itemized statements of force account

[4] FEMA's preliminary work maps are an interim product created by FEMA in the development of preliminary Flood Insurance Rate Maps (FIRMs) for certain communities in New York and New Jersey. This information will replace the Advisory Base Flood Elevation (ABFE) maps as the most recent data available from FEMA.

labor and materials, contractor invoices, insurance claims, and/or similar documentation. Estimated repair costs for expected damage events must be supported by engineering reports, transit studies supported by engineering analysis, and/or similar documentation;

- If a loss of an asset is likely to occur as a result of a primary identified hazard, the anticipated societal impacts of loss of the asset (e.g. a narrative description of the significance of the asset to the operations of the system and the impacts of lost service to riders and the community);
- The anticipated reduction in expected losses from a primary identified hazard as a result of the proposed resilience project;
- The total cost of the resilience project, including the additional annualized marginal operating and maintenance costs over the life of the proposed project.

Resilience projects that protect the system as a whole, such as a project to provide a back-up power supply, do not need to include information for a specific asset to be protected, and will be evaluated instead based on the proposed benefits of the project to the system as a whole. FTA will provide technical assistance for determining the probability of those hazards occurring for which resilience funding is being sought, and will provide guidance on the calculation of project benefits.

Data required for the Hazard Mitigation Cost Effectiveness evaluation can be derived from various sources, which may include the comprehensive risk data collected as part of the Rebuild by Design (RBD) Initiative. Project sponsors are encouraged to consider that initiative as appropriate to their project.

Applicants may also submit additional supporting information or analyses. While FTA will evaluate the cost-effectiveness of each project based on the information described above, including both quantitative and qualitative factors, additional information may be considered on a case-by-case basis, such as if an applicant believes that the information requested above does not adequately measure the proposed benefits of a project.

FTA will provide training to applicants in January 2014 (specific dates, times, and locations will be posted to FTA's Web site) on how to compile and submit the information required to complete a benefit cost analysis. This training must be completed in order to submit a complete application. Applicants will have no less than 60 days from the required training to submit an application. All applications must be submitted no later than Friday, March 28, 2014.

Project Implementation Strategy

For each project, applicants must provide a proposed timeline for project implementation. This timeline must include proposed dates for key milestones, including but not limited to NEPA compliance, project engineering and design, construction, and project completion. The project implementation strategy must identify any critical dependencies that may affect the timeline or strategy for accomplishing the project (e.g. availability of matching funds, site construction approvals, or any major unresolved design or engineering considerations). The project implementation strategy must also identify any potential for variability in project costs, propose an appropriate contingency as part of the funding request, and identify the availability of funds for these contingencies. Projects will be evaluated based on the completeness of this timeline, and on the readiness of the project to proceed consistent with the proposed timeline if funds are allocated for the project.

Protection of Most Essential and Vulnerable Infrastructure

FTA will prioritize resilience projects that strengthen the protection of a public transportation system's assets that are most immediately vulnerable to future damage from hazards associated with severe storms. Applicants should identify those projects that are key to ensuring continued public transportation service. For example, applicants may demonstrate the importance of a transit asset by documenting the ridership that would be affected by projected damage to or loss of the asset or by quantifying the projected loss of fare revenue as a result of damage to or loss of the asset.

This evaluation factor includes both the likelihood that an asset will be damaged as well as the importance of the asset to the operations of the system. Particular attention will be paid to data and information that illustrates how the protection of an existing asset—either individually or working synergistically with other proposed asset improvements—serves to protect functionality of the public transportation system as a whole from damage of future storm events, compared to discrete localized impacts. Projects will be evaluated based on the vulnerability of the asset to be protected, the criticality of the asset to existing public transportation service, and on the process or methodology used to prioritize assets for resilience improvements.

Local and Regional Planning Collaboration and Coordination

Applicants must provide documentation to show that proposed projects are the result of local or regional planning efforts. To demonstrate regional collaboration, applicants should coordinate, as appropriate, with one or more of the following: Hurricane Sandy recovery plans, including those developed for the use of CDBG–DR funds, local governments, other transportation operators, relevant metropolitan planning organizations, the general public, including representatives of vulnerable communities, and other affected stakeholders. Ideally, such plans should reinforce and support a project sponsor's consideration of, and priority assigned to, the protection of the existing infrastructure—for example, the incorporation of resilience improvements with transit asset management strategies addressing rehabilitation and replacement of assets. FTA recognizes that many of the resilience projects are being planned in *direct* response to actual damage sustained from Hurricane Sandy, so they may not be in an area's long range transportation plans, or an agency's current capital improvement program. However, FTA expects proposals to describe the local and regional collaboration and coordination efforts that have been undertaken to plan for the resilience project by the time of project application. For those applicants whose proposed projects are located in states where the Rebuild by Design competition initiative has been conducted, consideration of data analyses conducted as part of that competition is encouraged, particularly any assessments that address regional infrastructure interdependencies. Such information may be site specific and therefore targeted to particular portions of the region affected by Hurricane Sandy; further information can be found at *http://www.rebuildbydesign.org.*

FTA is also interested in projects that have a potentially significant impact on the region's public transportation ridership; for instance those projects whose physical or functional boundaries cross jurisdictional lines, and are critical to the connected travel of public transportation customers in the region. Scope and connectivity must be demonstrated as the number of daily riders affected by the proposed improvements, or by the extent of the affected service area, including connecting service to or within other

jurisdictions or public transportation systems.

In addition to local and regional plans that recognize the need for investments in such projects, resilience proposals that geographically span multiple jurisdictions or that require implementation actions, including financial contributions, from multiple parties should provide appropriate documentation from all affected parties demonstrating support for the project, its priority relative to other needs, and concurrence to provide supporting actions necessary to implement the proposed project.

Projects will be evaluated both on (i) the extent of local and regional planning, collaboration and coordination with local, state, and other Federal agencies that has influenced the identification and prioritization of the project, and (ii) on the connectivity of the project with other public transportation systems in the region, as evidenced by both planning efforts and the potential impact of the project on public transportation ridership in the region.

Interdependency of the Public Transportation Resilience Project

Applications should discuss the interdependencies of the proposed public transportation project's resilience with other supporting infrastructure elements (e.g. flood management projects, power station improvements, etc.). This should include analysis on how a project will not shift risk to other infrastructure elements. FTA will take into account any coordinated efforts with other local or regional infrastructure resilience plans or infrastructure investment priorities.

Local Financial Commitment

FTA will evaluate applications in part on the viability and completeness of the project's financing proposal (assuming the availability of the requested resilience discretionary grant funds), including evidence of stable and reliable capital and (as appropriate) operating fund commitments and specific sources of funds sufficient to cover estimated costs; the availability of contingency reserves should planned capital or operating revenue sources not materialize; evidence of the financial condition of the project sponsor; and evidence of the grant recipient's ability to manage grants. Applicants must include a detailed project budget in their application, including a detailed breakdown of how the funds will be spent on each activity. If the project will be completed in individual segments or phases, a budget for each individual segment or phase must be included. Budget spending categories must be broken down between FTA discretionary resilience funding and other federal and non-federal sources, and applicants must identify how each funding source will be applied to the project. Additionally, applicants must identify any other sources of Federal funding included in the proposed project.

Technical Capacity

FTA will evaluate applications in part on the applicant's demonstrated technical capacity to undertake the proposed project, which may include the applicant's experience undertaking projects of a similar scale or scope in the past.

Other Factors

FTA may consider geographic diversity in the selection of projects. FTA may also consider diversity among project types, including the type of public transportation service protected by the resilience project (e.g. bus, rail, ferry). Applications must clearly identify the location of the project and the types of public transportation services affected by the project.

III. Application and Submission Information for this Notice

A. Proposal Content

FTA will evaluate applications based on the information requested above. FTA encourages applicants to demonstrate the responsiveness of their application with the most relevant information the applicant can provide, regardless of whether FTA has specifically requested such information in this notice.

Applicants may submit one application which can include multiple projects. For each project, the applicant must submit all of the information necessary to evaluate the project, as described in Section II of this notice. FTA will provide training to potential applicants within 30 days of the publication of this notice on how to compile and submit this information. Each project proposal must include all required attachments.

Information such as the applicant name, Federal amount requested, non-Federal match amount, description of areas served, etc. may be requested in varying degrees of detail on both the SF 424 form and supplemental form. All fields are required unless stated otherwise on the forms. Use both the ''Check Package for Errors'' and the ''Validate Form'' validation buttons on both forms to check all required fields on the forms. Ensure that the Federal and non-Federal amounts specified are consistent.

B. Application Submission Instructions

Applications must be submitted electronically through *http://www.GRANTS.GOV* by Friday, March 28, 2014, by 11:59 p.m. EST. Mail and fax submissions will not be accepted.

A complete proposal submission will consist of at least two files: (1) The SF 424 Mandatory form (downloaded from *GRANTS.GOV*) and (2) the Hurricane Sandy-specific supplemental form found on the FTA Web site: *http://www.fta.dot.gov/emergencyrelief.* The supplemental form provides guidance and a consistent format for applicants to respond to the information required as outlined in this notice. Once completed, the supplemental form must be placed in the attachments section of the SF 424 Mandatory form.

Applicants must attach the Hurricane Sandy-specific supplemental form to their submission in *GRANTS.GOV* to successfully complete the application process. A proposal submission may contain additional supporting documentation as attachments. Within 24–48 hours after submitting an electronic application, the applicant should receive three email messages from *GRANTS.GOV:* (1) Confirmation of successful transmission to *GRANTS.GOV,* (2) confirmation of successful validation by *GRANTS.GOV* and (3) confirmation of successful validation by FTA. If an applicant does not receive confirmations of successful validation and receives a notice of failed validation or incomplete materials, the applicant must address the reason for the failed validation, as described in the notice, and resubmit before the submission deadline. If making a resubmission for any reason, include all original attachments regardless of which attachments were updated. Complete instructions on the application process can be found on FTA's Web site at *http://www.fta.dot.gov/emergencyrelief.* FTA urges applicants to submit their applications at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. *GRANTS.GOV* scheduled maintenance and outage times are announced on the *GRANTS.GOV* Web site *http://www.GRANTS.GOV.* Deadlines will not be extended due to scheduled maintenance or outages.

IV. Award Administration

Once FTA allocates Emergency Relief funds to a recipient, the recipient will

be required to submit a grant application electronically via FTA's Transportation Electronic Award Management system (TEAM). Recipients should work with their FTA Regional Office to develop and submit their application in TEAM so that funds can be obligated expeditiously. Grant applications in TEAM may only include eligible activities under the Emergency Relief program. Upon award, payments to recipients will be made by electronic transfer to the recipient's financial institution through FTA's Electronic Clearing House Operation (ECHO) system. Successful intercity rail projects may be transferred to the FRA for administration and oversight.

A. Pre-award Authority

Pre-award authority allows affected FTA recipients to incur certain project costs before grant approval and retain the eligibility of those costs for subsequent reimbursement after grant approval. FTA has provided blanket pre-award authority for environmental work (to comply with NEPA) and design costs for resilience projects seeking funding under this NOFA, permitting them to be eligible for reimbursement OR count towards the local match if the competitive resilience project is selected. Applicants may not use other FTA Disaster Relief allocations for these expenses.

Pre-award authority is not a legal or implied commitment that the subject project will be approved for FTA assistance or that FTA will obligate Federal funds. Furthermore, it is not a legal or implied commitment that all items undertaken by the applicant will be eligible for inclusion in the project.

The conditions under which pre-award authority may be used are specified below:

(i) All FTA statutory, procedural, and contractual requirements must be met.

(ii) The recipient must take no action that prejudices the legal and administrative findings that the Federal Transit Administrator must make in order to approve a project.

(iii) When a grant for the project is subsequently awarded, the Financial Status Report in TEAM-Web must indicate the use of pre-award authority.

In addition to the pre-award authority described above, affected recipients are permitted to submit grant amendments for existing section 5307 and 5311 grants in order to use available unexpended balances for eligible disaster-related project costs. Use of formula funds for these purposes is at the discretion of the affected recipient. Section 5307 and 5311 funds may not be used as local match for awards under the Section 5324 Public Transportation Emergency Relief Program. Section 5324 funds may not be used to replenish formula funds spent in response to an emergency.

B. Grant Requirements

Emergency Relief funds may only be used for eligible purposes as defined under 49 U.S.C. 5324 and as described in the Emergency Relief Program Rule (49 CFR part 602).

Recipients of section 5324 funds must comply with all applicable Federal requirements, including FTA's Master Agreement. Each grant for section 5324 funds will include special grant conditions, including but not limited to specific requirements of the Disaster Relief Appropriations Act of 2013, Federal share, and enhanced oversight.

Proposals that receive competitive funding allocations must provide evidence of continued progress toward key project milestones, which will be determined cooperatively by FTA and the awardee within six months of the announcement of allocations. Projects that cease to make progress towards these milestones within a reasonable timeframe may have their funding allocations deobligated or rescinded.

Recipients are advised that FTA is implementing an enhanced oversight process for Disaster Relief Appropriation Act funds awarded under the Emergency Relief Program. FTA intends to undertake a risk analysis of each recipient and grant to determine the appropriate level of oversight.

Successful intercity passenger rail projects may be transferred to the FRA for administration and oversight, and will be subject to FRA program requirements.

C. Reporting Requirements

Post-award reporting requirements include submission of the Federal Financial Report and Milestone Progress Reports in FTA's electronic grant management system consistent with FTA's grants management Circular 5010.1D, as well as any other reporting requirements FTA determines are necessary.

Issued in Washington, DC, this 19th day of December 2013.

Peter Rogoff,

Administrator.

[FR Doc. 2013–30867 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

National Rural Transportation Assistance Program: Solicitation for Proposals

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Notice; request for proposals.

SUMMARY: The Federal Transit Administration (FTA) is soliciting proposals under FTA's Formula Grants for Rural Areas Program (49 U.S.C. 5311), to fund a National Rural Transportation Assistance Program (National RTAP). The National RTAP provides a source of funding to assist in the design and implementation of training and technical assistance projects and other support services tailored to meet the specific needs of transit operators in rural areas. The National RTAP provides for the development of information and materials for use by local operators and State administering agencies, and supports research and technical assistance projects of national interest. The total duration of this cooperative agreement, including the exercising of any options under this text, shall not exceed 5 years. FTA intends to fund the National RTAP at $1,794,903 for the first year, as authorized by the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141 (2012). Funding beyond the first year will depend upon (1) future appropriations and authorizations, and (2) annual performance reviews.

This solicitation describes the priorities established for the National RTAP, the proposal submission process, and criteria upon which proposals will be evaluated. This announcement is available on FTA's Web site at: *http://www.fta.dot.gov/grants/13077.html*. FTA will announce the final selection on the FTA Web site and in the **Federal Register**. A synopsis of this announcement will be posted in the FIND module of the government-wide electronic grants Web site at *http://www.grants.gov*. Proposals must be submitted to FTA, electronically through the GRANTS.GOV ''APPLY'' function.

DATES: Complete proposals must be submitted electronically by 11:59 p.m., Eastern Time, on February 10, 2014. All proposals must be submitted electronically through the ''GRANTS.GOV'' APPLY function. Interested organizations that have not already done so should initiate the process of registering on the

GRANTS.GOV site immediately to ensure completion of registration before the deadline for submission.

FOR FURTHER INFORMATION CONTACT: For general program information, as well as proposal-specific questions, please contact Lorna Wilson at *lorna.wilson@dot.gov* or (202) 366–0893. A TDD is available at 1–800–877–8339 (TDD/FIRS).

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A. Overview

The Formula Grants for Rural Areas Program (49 U.S.C. 5311(b)(3)), as amended by MAP–21, authorizes the Secretary of Transportation to carry out a Rural Transportation Assistance Program (RTAP) in rural areas.

FTA is authorized to use two percent of its Formula Grants for Rural Areas Program appropriation for RTAP. In fiscal year 2013, $11,966,020 was made available for administration of RTAP to make grants and contracts for transportation research, technical assistance, training, and related support services in rural areas. Of this amount, $1,794,903 was reserved to carry out competitively selected National RTAP projects, and the balance was apportioned to the States to carry out State RTAP activities.

B. Background

FTA's National RTAP is funded under the Formula Grants for Rural Areas Program to enhance the delivery of public transportation services provided by State DOTs and operators of rural public transportation. Since 1979, FTA has provided grants to States under the Formula Grants for Rural Areas Program and its predecessor programs to establish and maintain transit systems in communities with populations of fewer than 50,000 individuals. Rural community transit drivers, dispatchers, maintenance workers, managers, and board members need special skills and knowledge to provide quality service to their diverse customers across large service areas. So, in 1987, the National RTAP was created. Since its inception, the National RTAP has developed and distributed training materials, provided technical assistance, generated reports, published best practices, produced scholarship, conducted research, and offered Peer Assistance with the goal of improved mobility for the millions of Americans living in rural communities. For more information on the various programs and services provided by the National RTAP, visit the National RTAP Web site at *http://www.nationalrtap.org/AboutUs.aspx*.

FTA also supports local RTAP activities through funding apportionments to the States. The State RTAPs develop and implement training and technical assistance in conjunction with the State's administration of the Formula Grants for Rural Areas Formula program. The National RTAP provides for the development of information and materials for use by local operators and State administering agencies and supports research and technical assistance projects of national interest. The State RTAPs and National RTAP complement each other and both are funded under the Formula Grants for Rural Areas assistance program.

The objectives of the National RTAP are:

Objective 1—To promote the delivery of safe and effective and efficient public transportation in rural areas.

Objective 2—To support State and local governments in addressing the training and technical assistance needs of the rural transportation community.

Objective 3—To conduct research, including analysis of data reported to FTA's National Transit Database, and to maintain current profiles of the characteristics of rural transit and the inventory of providers of rural and specialized transportation providers.

C. Scope of Work

The recipient will have the lead responsibility for overall management of the National RTAP, which includes: planning and preparing the annual work program; supporting and assisting the entities administering the State RTAP activities; developing and promoting training materials; conducting outreach and coordination with other organizations involved in rural public transportation; attending national and regional meetings focused on rural technical assistance and training; and monitoring the success of the RTAP programs through user input and feedback.

The recipient will also have the lead responsibility for operation of the National RTAP Rural Resource Center, which shall include: Providing toll-free telephone assistance; disseminating information electronically; distributing resource materials; collecting and maintaining available information resources; regularly updating a catalog of relevant training materials; developing timely information briefs; leveraging and adopting the current technology developed and used by National RTAP in the Cloud; performing research as required; and maintaining information about the characteristics and status of rural transit and inventory of specialized transportation providers.

FTA will actively participate in directing project activities by approving the annual Work Plan; participating in review board meetings; reviewing all aspects of technical products; and maintaining frequent contact with project managers.

1. Task 1: Project Planning and Coordination

The recipient will assume primary responsibility for administration and management of the National RTAP. Subtasks include developing:

- A Work Plan, which specifies how the stated objectives of project will be met and ensures integration of all project tasks.
- A Management Plan, which sets forth how the project will be managed and who will be the key personnel involved.
- A Budget Plan, which specifies what will be the costs associated with the project.
- A progress report after each project quarter and a final project report at the end of the project year.
- A communications strategy for promoting the National RTAP.

2. Task 2: Development and Promotion of Training Materials

The recipient will develop and disseminate training materials designed for use by rural transit providers. Subtasks include:

• Developing, field testing, and disseminating to the State RTAPs training packages or courses designed for use by rural transit providers. Selection of topics shall be guided by and consistent with the identified training needs of rural transit providers and the State RTAP activities. Prior to beginning developmental work on any training package, the recipient shall submit to FTA for approval a plan for the development of the package. The plan shall include an overview for each of the component parts to be produced as part of the training package, a time line for development and final production, and a budget. This task may include development of courses for delivery by the National Transit Institute (NTI) or other organizations (e.g., the Tribal Technical Assistance Program (TTAP)).

Identifying and reviewing training materials developed outside of the National RTAP, especially by States under the State RTAP and by private vendors. Maintain information on new and currently available materials in a regularly updated catalogue of existing training materials, made available to state DOTs and others through appropriate means, including electronic dissemination.

3. Task 3: Support for State Administration of RTAP

The recipient will establish a liaison relationship with State RTAP managers to ensure that the products developed and activities undertaken through the National RTAP are useful to and supportive of the State programs, promote information exchange at all levels, and encourage coordination of State efforts. Subtasks include:

• Providing a forum for networking with State RTAP managers while establishing communication for information dissemination (e.g., a newsletter or bulletin). The recipient will report on national and State program accomplishments and activities.

• Promoting and participating in three or four regional RTAP meetings annually, to share information about National RTAP products and other relevant FTA initiatives.

• Providing individualized technical assistance to State RTAP managers as requested by the State or by FTA.

4. Task 4: Outreach and Coordination with Other Organizations Involved with Rural Transit

The recipient will coordinate with other organizations and technical assistance centers that are involved with rural public transportation and related interests, such as FTA's National Center on Mobility Management and non-FTA centers that support these activities, to avoid duplication of efforts and to draw on these organizations' networks for the promotion of National RTAP products and services. The recipient will coordinate activities with the Federal Highway Administration Local Area Technical Assistance Program (LTAP) and TTAP. Subtasks include:

• Coordinating activities with LTAP, TTAP, and other FTA-funded technical assistance centers, and participating in the National Consortium on Human Service.

• Participating in conferences, workshops, and meetings of other national and regional organizations, both to learn about their activities and to promote the National RTAP.

• Remaining informed about other national rural transportation assistance activities within and outside of FTA.

• Hosting a National Rural Technical Assistance Conference, the focus of which must be approved by FTA, during the five-year period of the cooperative agreement.

• Participating in the Transportation Research Board (TRB) biennial National Conference on Rural Public and Intercity Bus Transportation.

5. Task 5: RTAP Rural Resource Center

The recipient will maintain a national clearinghouse for rural public transportation technology sharing and information dissemination, a central collection of products and services that are useful to rural transit professionals. The recipient will promote and monitor usage of the National RTAP Rural Resource Center. Subtasks include:

• Collecting and maintaining relevant information resources, training and technical assistance materials, contacts and referrals, and developing expertise about issues of concern to the rural transit community.

• Operating a telephone hotline information service that provides timely responses to questions and requests for information.

• Developing and providing electronic access to information resources maintained at the National RTAP Rural Resource Center.

• Disseminating information on new rural public transportation technical assistance and training materials and updated databases.

• Collecting and disseminating materials created by State RTAPs.

• Promoting and monitoring the effectiveness of the National RTAP Rural Resource Center's products and services through: regular reports of the Center's use statistics; promotion in publications widely read by the target audience; participation in national, regional, and State meetings; dissemination of materials about the Center; and telephone surveys of operators or other feedback mechanisms, such as postage-paid comment cards included with Center mailings.

• The recipient must have expertise to maintain and update the National RTAP's software tools and platforms and ensure that any modification or additional software applications that are developed for use by rural and tribal transit providers are compatible with the National RTAP environment.

• The recipient will provide a Web site, a National RTAP in the Cloud portal, and a number of hosted software applications that are available for rural and tribal transit providers. The Web site currently operates on Microsoft Windows Server 2008 using an Internet Information Service (IIS) 6.0 or higher. The software tools and platforms currently include: Dotnet Framework 2.0, Microsoft sqlserver 2008 R2, Ajax Control Toolkit, Itextsharp, Telerik Controls, and Ionic Zip/SharpZipLib. In addition, the following tools are used to interconnect with other applications: Podio.API, Twitterized, Free TextBox, and Facebook Api. National RTAP in the Cloud also utilizes DotNetNuke Community Edition (DNN) version 05.06.02 (144).

6. Task 6: Peer-to-Peer Networking

The recipient will develop and implement a national self-help technical assistance network that facilitates the exchange of technologies and techniques among rural transit operators on a peer-to-peer basis. Specific subtasks include:

• Identifying expert peers in areas of current interest on a continuing basis.

• Setting up technical assistance workshops for the efficient utilization of a peer-to-peer network, in coordination with regularly scheduled meetings of national, State, and regional groups.

• Matching peers with those needing assistance on a one-to-one basis.

• Encouraging and facilitating peer-to-peer exchange and provide support services to promote peer assistance.

7. Task 7: Research and Technical Support

The recipient will provide research and technical support capacity to FTA to address issues of immediate concern to the rural transit programs. Examples of specific subtasks to be performed at the request of the FTA project manager could include, but are not limited to:

- Assisting with new MAP–21 directives for rural areas, including new safety and asset management provisions.
- Preparing issue papers or reports in response to FTA requests.
- Convening focus groups or small meetings on specific topics as necessary.

8. Task 8: Mechanism for User Input and Feedback

The recipient will maintain a mechanism for user input and feedback, such as the existing National RTAP Review Board. Historically, the National RTAP Review Board has functioned as the mechanism for providing the National RTAP with guidance on priority needs in the areas of training materials development, information dissemination, and technical assistance. If project funding is insufficient to support the National RTAP Review Board, an alternative mechanism will be developed. Specific subtasks related to the National RTAP Review Board include:

- Convening no more than two official meetings of the National RTAP Review Board each year of the project. One official meeting must be held in Washington, DC The second meeting may be held at the TRB Biennial National Conference on Rural Public and Intercity Bus Transportation or another appropriate national meeting. All official National RTAP Review Board meetings shall be approved by the FTA project manager.
- The National RTAP Review Board will function to:
  - Provide the National RTAP with guidance on priority needs in the areas of training material development, information dissemination, and technical assistance.
  - Oversee the quality of National RTAP products and services.
  - Promote the National RTAP to States and operators.
- The following principles have been developed to guide the National RTAP Review Board:
  - The National RTAP Review Board will be limited to 15 or fewer members, roughly half of which are representatives of transit providers and half representatives of State DOTs. In the event that a National RTAP Review Board member is no longer employed by a rural transit provider or State transit agency (including tribal rural operators), there shall be an automatic vacancy for that member's position on the National RTAP Review Board.
  - National RTAP Review Board membership shall be of limited duration and regular rotations shall be timed so that continuity is maintained.
  - The recipient shall conduct an appropriate orientation for new National RTAP Review Board members, including an introduction to the National RTAP's history, goals, and objectives, and current status. The orientation shall provide new members with relevant materials, including summaries of past National RTAP Review Board meetings, information on National RTAP Review Board member roles and responsibilities, and other relevant information.

9. Task 9: Project Management and Administration

The recipient will meet with the FTA Project Manager within ten (10) working days after issuance of the task order to discuss the objectives of the cooperative agreement and any related projects. The recipient's principal in charge of the National RTAP will submit quarterly progress reports and financial status reports to the FTA project manager. The reports shall include the items listed in the Sample Format for Progress Reports in Appendix B and provide information relevant to the particular reporting period.

D. Award Information

FTA expects to award the National RTAP as a cooperative agreement. FTA will fund the cooperative agreement over a period of 5 years, with $1,794,903 available for the first year of activities. Funding beyond the first year will depend upon (1) future appropriations and authorizations, and (2) annual performance reviews.

E. Eligibility Information

Eligible proposers are non-profit organizations with rural and tribal transportation experience that have the capacity to provide public transportation-related technical assistance and the ability to deliver a national technical assistance and training program.

F. Proposal Submission Process

1. Submission Method

Complete proposals for the National RTAP must be submitted electronically through the GRANTS.GOV Web site no later than 11:59 p.m., Eastern Time on February 10, 2014. The proposer is encouraged to begin the process of registration on the GRANTS.GOV site well in advance of the submission deadline. Mail and fax submissions will not be accepted.

A complete proposal submission will consist of at least two files: (1) The SF–424 Mandatory form (available from GRANTS.GOV) and (2) a narrative application document in Microsoft Word (DOC), Adobe portable document format (PDF), or a compatible file format. At GRANTS.GOV, the proposer will be able to download a copy of the application packet, complete it off-line, and then upload and submit the application via the GRANTS.GOV Web site. The narrative application should be in the format outlined below. Once completed, the narrative application must be placed in the attachments section of the SF–424 Mandatory form. The proposers must attach the narrative application file to its submission in GRANTS.GOV to successfully complete the proposal process. A proposal submission may contain additional supporting documentation as attachments.

Within 48 hours after submitting an electronic proposal, the proposer should receive two email messages from GRANTS.GOV: (1) Confirmation of successful transmission to GRANTS.GOV and (2) confirmation of successful validation by GRANTS.GOV. If confirmations of successful transmission and validation are not received and a notice of failed validation or incomplete materials is received, the proposer must address the reason for the failed validation as described in the notice, and resubmit before the submission deadline. If making a resubmission for any reason, the proposer must include all original attachments, regardless of which attachments were updated.

For assistance with GRANTS.GOV, please contact *support@grants.gov* or 1–800–518–4726 between 7:00 a.m. and 9:00 p.m., Eastern Time.

Important: FTA urges the proposer to submit its proposal at least 72 hours prior to the due date to allow time to receive the validation message and to correct any problems that may have caused a rejection notification. Submissions after the stated submission deadline will not be accepted. GRANTS.GOV scheduled maintenance and outage times are announced on the GRANTS.GOV Web site. Deadlines will not be extended due to scheduled maintenance or outages.

2. Proposal Content

The Mandatory SF424 Form must be downloaded from GRANTS.GOV and incorporated into the proposal

submission package. Proposals shall be submitted in a Microsoft Word (DOC), Adobe portable document format (PDF), or a compatible file format, double-spaced using Times New Roman, 12-point font. The proposal must contain the following components and adhere to the specified maximum lengths:

i. Cover sheet (not to exceed 1 page): Includes entity submitting proposal, principal investigator, title, and contact information (e.g., address, phone, fax, and email). Name and contact information for the entity, key point of contact for all cooperative activities (if different from principle investigator).

ii. Abstract (not to exceed 2 pages): Includes background, purpose, methodology, intended outcomes, and plan for evaluation.

iii. Detailed budget proposal and budget narrative. Includes all elements of cost with supporting detail for estimated direct labor hours, direct and indirect rates, materials and subcontracts, and any other elements.

iv. Project narrative (not to exceed 75 pages): Includes the following information regarding the proposer's technical approach to implementing the program:

a. Staff qualifications and experience in providing technical assistance and ability to implement the other tasks outlined in the solicitation. The proposal shall also include the proposed staff members' knowledge of issues related to rural public transportation and specialized transportation services. One-page biographical sketches for staff members shall be included in the appendices section of the proposal.

b. Existing and future capacity of the organization to address the issues outlined in the proposal and ability to implement tasks I through IX in Appendix A, Scope of Work.

c. Methodology for addressing tasks I through IX in Appendix A, Scope of Work. The proposal shall also include objectives, activities, deliverables, milestones, timelines, and intended outcomes for achieving the goals of the Scope of Work for the first year.

d. Plan to work with stakeholders and build partnerships at the national, State, and local levels.

e. Description of the organization's worksite. The organization may perform services at an offsite facility and maintain a presence within the Washington, DC region.

v. Project Management Plan: Includes well defined objectives, tasks, activities, timelines, deliverables, indicators, and outcomes.

vi. Evaluation Plan: Includes evaluation process for National RTAP activities and data collection.

vii. Supplemental materials and letters of support: May be included in an appendices section that is beyond the 75-page limit.

In addition to the full proposal, entities have the option to submit supplemental material, such as brochures, publications, products, etc. These materials shall be delivered to Lorna Wilson, Federal Transit Administration, 1200 New Jersey Avenue SE, Room E43–465, Washington, DC 20590.

G. Proposal Review, Selection, and Notification

Proposals will be evaluated by an interagency review team based on each applicant's ability to address the National RTAP Scope of Work (see Appendix A) and response to the following criteria: (1) Technical approach; (2) qualifications and experience of the organization and its personnel; (3) past performance reviews (if applicable); (4) completed proposal package. The criteria are explained below:

1. Technical Approach

The overall technical approach to the requirements of the Scope of Work will be evaluated. The proposer should also address how the organization manages strategic and operational risk, including quality assurance and internal controls. The proposer should demonstrate understanding of the objectives of the National RTAP and how those objectives will be met by its proposal. The proposal should respond to the specific requirements of the Scope of Work and clearly explain how those requirements will be accomplished.

2. Qualifications and Experience of the Organization and Its Personnel

The proposer nonprofit organization must demonstrate that it has a broad-based constituency and a purpose relevant to rural public transportation interests. The individual qualifications and work experience of proposed project personnel will be carefully examined. The organization must demonstrate that it has the management capabilities to oversee the project. The organization must show that it will be able to assign employees with a variety of skills and knowledge, including familiarity with rural operational issues facing both public and private transportation operators; experience in dealing with innovative solutions to rural transportation needs; knowledge of current Federal policy initiatives; demonstrated ability to develop and implement a broad program of rural technical assistance; knowledge of information dissemination techniques and training and technical assistance methodology; and organizational skills to coordinate the diverse individuals and organizations involved in such a program.

3. Past Performance and Technical, Legal, and Financial Capacity

The proposal should indicate a strong capability for managing an active and varied rural technical assistance program. Experience in working with rural transportation professionals from local, city, county, State, and Federal governments, public and private operators, and volunteer organizations is an important requirement. The organization should also demonstrate coalition building and organizational development skills. In addition, the proposal should indicate experience in managing and monitoring subrecipients and contractors, if any are included in the proposal. The recipient selected must be an eligible recipient for a cooperative agreement with FTA and able to sign the required certifications and assurances and cooperative agreement. An effective proposer in this regard will have the following characteristics:

- Non-profit organization with an entrepreneurial approach to risk based performance.
- Ability to inspire creative and innovative approaches to technical assistance for current and future trends.
- Demonstrated track record for managing large scale projects.
- Exhibition of strong analytical skills.

4. Evaluation Scores and Weights

The weights (points) associated with each Evaluation Factors are as follows:

Note: All sub-components of each evaluation criteria and responses to the Scope of Work will be evaluated.

Evaluation Factors	Points
V.1. Technical Approach	45
V.2. Qualifications and Experience of the Organization and Personnel	35
V.3. Past Performance and Technical, Legal, Financial Capacity	20
Total	100

FTA may elect to meet with the most qualified proposers in person. Such a meeting will be held at the U.S. Department of Transportation headquarters in Washington, DC The proposers will be notified of a date and time during which they will be asked to present their proposal to the FTA

review panel. If an entity proposes to perform an individual task or tasks less than the full project, the proposal will be evaluated accordingly on its merits. If selected, the proposer may be asked to form a consortium with the applicant chosen to manage the larger project.

Final award decisions will be made by the Administrator of the Federal Transit Administration. In making these decisions, the Administrator will take into consideration: recommendations of the review panel; reviews for programmatic and grants management compliance; the reasonableness of the estimated cost to the government considering the available funding and anticipated results; and the likelihood that the proposed project will result in the benefits expected.

Proposers may propose to provide some or all of the services listed in the tasks described in the Appendix A, Scope of Work. FTA reserves the right to award one or more cooperative agreements.

H. Award Administration

FTA will notify the successful organization in writing and FTA may announce the selection on its Web site, *www.fta.dot.gov*, and in the **Federal Register**. Following notification, the successful entity (or entities) will be required to submit its application through FTA's Electronic Grants Management system. FTA may require the successful proposer to modify its Statement of Work to address FTA priorities. FTA will award and manage a cooperative agreement through the Electronic Grants Management System. There is no cost sharing or pre-award authority for this project.

1. Administrative and National Policy Requirements

i. Electronic Application. The successful proposer will apply for a cooperative agreement through FTA's Electronic Grants Management System. A discretionary project number will be assigned for tracking purposes and must be used in the Electronic Grants Management System. The successful proposer will work with the FTA program manager to finalize the grant application in FTA's Electronic Grants Management System. Assistance regarding these requirements is available from FTA.

ii. Congressional Notification. Discretionary grants and research earmarks greater than $500,000 will go through the congressional notification and release process.

iii. Standard Assurances. The proposer assures that it will comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal administrative requirements in carrying out any project supported by the FTA grant. The proposer will adhere to the grant requirements of 49 U.S.C. 5311, including those of FTA Circular 9040.1F, Formula Grants for Rural Areas. The proposer acknowledges that it will be under a continuing obligation to comply with the terms and conditions of the cooperative agreement issued for its project with FTA. The proposer understands that Federal laws, regulations, policies, and administrative practices might be modified from time to time and that modifications may affect the implementation of the project. The proposer agrees that the most recent Federal requirements will apply to the project, unless FTA issues a written determination otherwise. The proposer must submit the Certifications and Assurances before receiving a cooperative agreement if it does not have current certifications on file.

2. Reporting

Post-award reporting requirements include submission of Federal Financial Reports and Milestone Reports in FTA's Electronic Grants Management System on a monthly or quarterly basis, as determined by the FTA project manager, for all projects. Documentation is required for payment. Please see Appendix B for the reporting format.

The Federal Financial Accountability and Transparency Act (FFATA) requires data entry at the FFATA Subaward Reporting System, *http://www.FSRS.gov,* for all sub-awards and sub-contracts issued for $25,000 or more, as well as for executive compensation for recipient and subrecipient organizations.

3. Legal Capacity

Proposers must indicate that there are no legal issues which would impact their eligibility and authority to apply for and accept FTA funds.

4. Transition Period/Phase-In Plan

As part of its proposal, the successful proposer will have provided the FTA with a Phase-In Plan. After award of the follow-on cooperative agreement has been announced, the FTA project manager will schedule a meeting with the successful proposer to receive a briefing on the Phase-In Plan's details, schedules, and procedures.

I. Agency Contacts

For general program information, as well as proposal-specific questions, please contact Lorna Wilson at *lorna.wilson@dot.gov* or (202) 366–0893. A TDD is available at 1–800–877–8339 (TDD/FIRS).

Issued in Washington, DC, this 19th day of December, 2013.

Peter Rogoff,

Administrator.

Appendix A—National Rural Transportation Assistance Program (RTAP) Scope of Work

Scope Statement

The recipient will provide technical assistance that will be useful to beneficiaries of the FTA National RTAP under this Scope of Work.

Deliverables

i. The recipient will have the lead responsibility for overall management of the National RTAP, which includes: Planning and preparing the annual work program; supporting and assisting the entities administering the State RTAP activities; developing and promoting training materials; conducting outreach and coordination with other organizations involved in rural public transportation; convening national and regional meetings on rural topics; and monitoring the success of the RTAP programs through user input and feedback.

ii. The recipient will also have the lead responsibility for operation of the RTAP Rural Resource Center, which shall include: Providing toll-free telephone assistance; disseminating information electronically; distributing resource materials; collecting and maintaining available information resources; regularly updating a catalog of relevant training materials; developing timely information briefs; leveraging and adopting the current technology developed and used by National RTAP in the Cloud; performing research as required; and maintaining information about the characteristics and status of rural transit and inventory of specialized transportation.

iii. FTA will actively participate in the project activities by attending National RTAP Review Board meetings, commenting on all aspects of technical reports, products, and web services, and maintaining frequent contact with the recipient's project manager. FTA will participate in any redirection of activities as needed.

Exclusions

None.

MILESTONES

	Description
Task I	
Project Planning and Coordination	The recipient will assume primary responsibility for administration and management of the National RTAP.
Subtasks:	
a.	A Work Plan, which specifies how the stated objectives of the project will be met and ensures integration of all project tasks.
b.	A Management Plan, which sets forth how the project will be managed and who will be the key personnel involved.
c.	A Budget Plan, which specifies what will be the costs associated with the project.
d.	A progress report after each project quarter and a final project report at the end of the project year.
f.	A communications Strategy for the promotion of the National RTAP.
Task II	
Development and Promotion of Training Materials	The recipient will develop and disseminate training materials designed for use by rural transit providers.
Subtasks:	
a.	Develop, field test, and disseminate to the State RTAPs training packages or courses designed for use by rural transit providers. Selection of topics shall be guided by and consistent with the identified training needs of rural transit providers and the State RTAP activities. Prior to beginning developmental work on any training package, the recipient shall submit to FTA for its approval a plan for the development of the package. The plan shall include an overview for each of the component parts to be produced as part of the training package, a time line for development and final production, and a budget. This task may include development of courses for delivery by the National Transit Institute (NTI) or other organizations (e.g., the Tribal Technical Assistance Program (TTAP)).
b.	Identify and review training materials that are being developed outside of the National RTAP, especially by States under the RTAP State program and by private vendors. Maintain information on new and currently available materials in a regularly updated catalogue of existing training materials, made available to state DOTs and others through appropriate means, including electronic dissemination.
Task III	
Support for State Administration of RTAP	The recipient will establish a liaison relationship with the State RTAP managers to ensure that the products developed and activities undertaken through the National RTAP are useful to and supportive of the State programs, promote information exchange at all levels, and encourage coordination of state efforts.
Subtasks:	
a.	Provide a forum for networking with State RTAP managers while establishing communication for information dissemination (e.g., newsletter or bulletin). The recipient will report on national and State program accomplishments and activities.
b.	Promote and participate in three or four RTAP regional meetings annually, to share information about National RTAP products and other relevant FTA initiatives.
d.	Provide individualized technical assistance to State RTAP managers as requested by the state or by FTA.
Task IV	
Outreach and Coordination with other Organizations Involved with Rural Transit.	The recipient will coordinate with other organizations and technical assistance centers that are involved with rural public transportation and related interests, such as FTA's National Center on Mobility Management and non-FTA centers that support these activities, to avoid duplication of efforts and to draw on these organizations' networks to promote National RTAP products and services.
Subtasks:	
a.	Coordinate activities with the FHWA Local Area Technical Assistance Program (LTAP) and Tribal Technical Assistance Program (TTAP). Participate in conferences, workshops, and meetings of other national and regional organizations both to learn about their activities and to promote FTA's National RTAP.

MILESTONES—Continued

	Description
b.	Remain informed about other national rural transportation assistance activities within and outside of FTA.
c.	Host a National Rural Technical Assistance Conference, the focus of which shall be approved by FTA's program manager, during the five-year period of the cooperative agreement.
d.	Participate in the Transportation Research Board (TRB) biennial National Conference on Rural Public and Intercity Bus Transportation.
f.	Coordinate with other FTA-funded technical assistance centers, and participating in the National Consortium on Human Service.
g.	Consult with the FTA project manager as to the appropriate form of support for each of these activities.
Task V	
RTAP Rural Resource Center	Maintain a national clearinghouse for rural public transportation technology sharing and information dissemination, a central collection of products and services that are useful to rural transit professionals. The recipient will promote and monitor usage of the National RTAP Rural Resource Center.
Subtasks I:	
a.	Collect and maintain relevant information resources, training and technical assistance materials, and contacts and referrals, and developing expertise about issues of concern to the rural transit community.
b.	Operate a telephone hotline information service that provides timely responses to questions and requests for information.
c.	Develop and provide electronic access to information resources maintained at the National RTAP Rural Resource Center.
d.	Disseminate information on new rural public transportation technical assistance and training materials and updated databases.
e.	Collect and disseminate materials created by the State RTAPs.
h.	Promote and monitor the effectiveness of the National RTAP Rural Resource Center's products and services through: Regular reports of Center use statistics; promotion in publications widely read by the target audience; participation in national, regional and State meetings; dissemination of materials about the Center; telephone surveys of operators or other feedback mechanisms, such as postage-paid comment cards included with Center mailings.
Subtask II	The successful vendor must have expertise in order to maintain and update the software tools and platforms, and ensure that any current modification or additional software applications that are developed for use by rural and tribal transit providers are compatible with the following environment.
Web capabilities/Specifications	The recipient will provide a Web site, a National RTAP in the Cloud portal, and a number of hosted software applications that are available for rural and tribal transit providers. The Web site operates on Microsoft Windows Server 2008 using an Internet Information Service (IIS) 6.0 or higher. The software tools and platforms include: Dotnet Framework 2.0, Microsoft sqlserver 2008 R2, Ajax Control Toolkit, Itextsharp, Telerik Controls and Ionic Zip/SharpZipLib. In addition, the following tools are used to interconnect with other applications: Podio.API, Twitterized, Free TextBox and Facebook Api. National RTAP in the Cloud also utilizes DotNetNuke Community Edition (DNN) version 05.06.02 (144).
Task VI	
Peer-to-Peer Networking	The recipient will develop and implement a national self-help technical assistance network that facilitates the exchange of technologies and techniques among rural transit operators on a peer-to-peer basis.
Subtask(s):	
a.	Identify expert peers in areas of current interest on a continuing basis.
b.	Set up technical assistance workshops to utilize a peer-to-peer network efficiently, in coordination with regularly scheduled meetings of national, State, and regional groups.
c.	Match peers with those needing assistance on a one-to-one basis.
d.	Encourage and facilitating peer-to-peer exchange and providing support services to promote peer assistance.

MILESTONES—Continued

	Description
Task VII	
Research and Technical Support	The recipient will provide a research and technical support capacity to FTA to address issues of immediate concern to the rural transit programs. Examples of specific subtasks to be performed at the request of the FTA project manager could include, but are not limited to, the following:
Subtasks:	
a.	Assist with new MAP–21 directives for rural areas including new safety and asset management provisions
b.	Prepare issue papers or reports in response to FTA requests.
d.	Convene focus groups or small meetings on specific topics.
Task VIII	
Maintain Mechanism for User Input and Feedback	The recipient will maintain a mechanism for user input and feedback such as the National RTAP Review Board. Historically, the National RTAP Review Board has functioned as the mechanism for providing the National RTAP with guidance on priority needs in the areas of training materials development, information dissemination, and technical assistance. If project funding is insufficient to support the National RTAP Review Board, an alternative mechanism should be developed.
Subtasks:	
a.	Convene no more than two (2) official meetings of the National RTAP Review Board each year of the project. One official meeting must be held in Washington, D.C. The second meeting may be held at the TRB Biennial National Conference on Rural Public and Intercity Bus Transportation or another national meeting. All official review board meetings will be approved by the FTA project manager. The National RTAP Review Board, or alternative mechanism, will function to: Provide the National RTAP with guidance on priority needs in the areas of training material development, information dissemination, and technical assistance. Oversee the quality of the National RTAP products and services. Promote the National RTAP to States and operators.
b.	The following principles have been developed to guide the National RTAP Review Board: The National RTAP Review Board will be limited to 15 or fewer members—roughly half of which from transit providers and half as State DOT representatives. In the event that a Board member is no longer employed by a rural transit provider or state transit agency (including tribal rural operators), there shall be an automatic vacancy for that individual's position on the National RTAP Review Board. National RTAP Review Board membership shall be of limited duration, and regular rotations shall occur so that continuity is maintained. The recipient shall conduct an appropriate orientation for new Board members, including an introduction to the National RTAP's history, goals and objectives and current status, and provide relevant materials including summaries of past board meetings, information on Board member roles and responsibilities, and other relevant information.
Task IX	
Project Management and Administration	The recipient shall meet with the FTA Program Manager and task order monitor within ten (10) working days after issuance of the task order to discuss the objectives of the cooperative agreement and any related projects. The recipient's principal in charge of the National RTAP shall submit quarterly progress reports, and financial status reports to the FTA project manager. The reports shall include the items as listed in the Sample Format for Progress Reports and provide information relevant for the particular period (see appendix B).

Appendix B—Sample Format for Progress Report

Goal:

Objective:

- Objective's Total Budget
- Expenditures this quarter, this objective
- Total expenditures, this objective

(The expenditures reported on the

account shall match the progress of the project.)

Status as of ____ : (end date of reporting period):

Activity Planned (*Relative to Project Task Elements, Indicators, and Milestone Activities):*

Actual Activity (*Relative to Project Task Elements, Indicators, and Milestone Activities):*

Difficulties Encountered (As applicable, should include information on specific reasons why goals and objectives or milestones were not met, and analysis and explanations of cost overruns):

- Goal/Objective or Milestone Not Met:
- Problem(s):
- Resolution/corrective action plan and schedule:

Activity anticipated for next reporting period:

	Budget	Expended Q1	Expended Q2	Expended Q3	Expended Q4	Balance
Task 1						
Task 2						
Task 3						
Task 4						
Task 5						
Task 6						
Staff Travel						

[FR Doc. 2013–30820 Filed 12–24–13; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. 2013–0156]

Determination of Availability of Coastwise Qualified Vessels for the Transportation of a Platform Jacket

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice and request for comments.

SUMMARY: As authorized by 46 U.S.C. 55108, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to make determinations permitting the use of a foreign launch barge in support of a Platform Jacket launch operation if no suitable coastwise qualified vessels are found to be available. A complete description of the process for determining the availability of coastwise qualified vessels for the transportation of Platform Jackets, including definitions and requirements, can be found at 46 CFR part 389.

In order for MARAD to determine whether a suitable coastwise qualified vessel is available, this notice in the **Federal Register** requests that comments and information on the availability of coastwise qualified vessels for a Platform Jacket launch be submitted within 30 days of this notice's publication. Our goal is to provide a final determination within 90 days of the publication of this notice, unless a suitable coastwise qualified vessel operator comes forward with a vessel and additional time is needed for negotiation. If, after the comment period, we determine that a suitable coastwise qualified vessel is not available for the specific project requested, a determination of non-availability will be issued allowing a foreign launch barge to load, transport and launch the Platform Jacket.

DATES: Please submit information regarding suitable and available coastwise qualified vessels for the transportation of this Platform Jacket no later than January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Hokana, Office of Cargo Preference and Domestic Trade, Maritime Administration, MAR–730, 1200 New Jersey Avenue SE., Washington, DC 20590. Telephone 202–366–0760; email: *Michael.Hokana@dot.gov.*

SUPPLEMENTARY INFORMATION: All relevant information reasonably necessary to assess the transportation requirements for the Platform Jacket is available upon request to owners, operators and representatives of coastwise qualified vessels or other interested parties.

Walter Oil & Gas Corporation is seeking MARAD's permission to use a foreign launch barge in transporting and launching a Platform Jacket on the Outer Continental Shelf in the Gulf of Mexico. The Platform Jacket will be loaded at a facility to be determined along the Gulf of Mexico coast and will be unloaded at a point in the Ewing Bank Area on the Outer Continental Shelf of the Gulf of Mexico. The projected transportation will occur during the period of September through December 2015. The Platform Jacket has a total height of 1,223 feet, a vertical height of 1,211 feet, and a weight of 27,679 long tons. The Platform Jacket is 45 feet by 150 feet at the top and 330 feet by 330 feet at the bottom. If MARAD cannot identify an available coastwise qualified vessel suitable for this project within 30 days of the publication of this notice, MARAD is authorized to make a determination of non-availability and allow the use of a foreign launch barge to load, transport and launch the Platform Jacket.

If a coastwise qualified vessel operator expresses interest, MARAD will review the availability assertion and will facilitate discussions between the coastwise qualified vessel operator and the Platform Jacket owner requiring transportation service. MARAD determinations under this notice shall be limited solely to Walter Oil & Gas Corporation's request and shall have no precedential effect on other transportation under 46 U.S.C. Chapter 551.

Authority: 46 U.S.C. 55108; 46 CFR 389.5.

By Order of the Maritime Administrator. Dated: December 17, 2013.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2013–30686 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44

U.S.C. chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on September 5, 2013 (FR/Vol. 78, No. 172/pp. 54727–54729).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Kristie Johnson at the National Highway Traffic Safety Administration, Office of Behavioral Safety Research (NTI–131), W46–198, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Dr. Johnson's phone number is 202–366–2755 and her email address is *kristie.johnson@dot.gov*

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

SUPPLEMENTARY INFORMATION:

Title—Evaluation of a New Child Pedestrian Curriculum.

Type of Review—Regular.

OMB Clearance Number—None.

Form Number—NHTSA Forms 1215, 1216, and 1217.

Respondents—All K–5 students in two test schools and two comparison schools will be surveyed. The project will conduct a survey of parents or other student caregivers for both the test and comparison schools. Only one caregiver per student will complete the survey. An Internet-based survey of all instructors and administrators at the test and comparison schools is included.

Estimated Number of Respondents—2,000 students; 2,000 caregivers; 200 instructors and school staff.

Estimated Time per Response—5 minutes per student survey; 5 minutes per caregiver survey; 5 minutes per instructor/staff survey.

Total Estimated Annual Burden Hours—516.67 hours (total for the study).

Frequency of Collection—Student surveys will take place twice; once before curriculum implementation and once after implementation is complete. Caregiver and instructor/staff surveys will take place once—after curriculum implementation.

Abstract—Schools and broader communities around the country have been working to foster a generation of healthy, active children. Children and adults alike are being encouraged to walk as a way to get some of the physical activity we all need. Schools have taken up the challenge to help equip students with the skills they need to be safe pedestrians throughout their lifetimes. The National Highway Traffic Safety Administration (NHTSA) developed a new *Child Pedestrian Safety Curriculum* to teach and encourage safe pedestrian behaviors for students at the elementary school level (grades K–5). The overall goal of the curriculum is to aid elementary age school children in developing age appropriate traffic safety knowledge and practical pedestrian safety skills. The curriculum is organized into five lessons that target key areas of pedestrian safety and are designed to meet national learning standards. The participating schools are located in the State of North Carolina because North Carolina included the NHTSA curriculum as part of its *Let's Go NC* pedestrian and bicycle safety school curriculum.

The study has two objectives: (1) to evaluate how implementation of the curriculum is achieved by schools, instructors, and caregivers as a means of developing best practice guidance; and (2) to assess the effectiveness of the curriculum in instilling correct knowledge and behaviors in young pedestrians. To achieve these objectives, the study is conducting in-person oral surveys of students, a paper-and-pencil self-report survey of the students' caregivers, and an Internet-based survey of instructors and other staff at two schools implementing the curriculum and two similar comparison schools in the same school district that are not implementing the curriculum. The study will also collect behavioral observations of students to determine if behaviors have changed relative to the implementation of the curriculum. No personal information will be collected that would allow any respondent to be identified.

Comments Are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A)

Issued on: December 20, 2013.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–30860 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden. A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on September 5, 2013 (**Federal Register**/Vol. 78, No. 172/pp. 54729–54730).

DATES: Submit comments to the Office of Management and Budget (OMB) on or before January 27, 2014.

FOR FURTHER INFORMATION CONTACT: Kristie Johnson at the National Highway Traffic Safety Administration, Office of Behavioral Safety Research (NTI–131), W46–198, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Dr. Johnson's phone number is 202–366–2755 and her email address is *kristie.johnson@dot.gov.*

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and

Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

SUPPLEMENTARY INFORMATION:

Title—NHTSA Distracted Driving Survey Project.

Type of Request—Regular.

OMB Clearance Number—2127–0665.

Form Number—NHTSA Form 1082.

Respondents—Telephone interviews will be administered to a national sample of people 16 and older who have access to a residential landline and/or a personal cell phone.

Estimated Number of Respondents—30 pretest respondents, 6,000 survey respondents, and 200 non-response bias respondents, for up to 2 administrations of the survey for a total of 12,460 respondents.

Estimated Time per Response—20 minutes per pretest and main survey interviews. 10 minutes per non-response interview.

Total Estimated Annual Burden Hours—2,043 hours × 2 administrations (4,086 hours total).

Frequency of Collection—The survey will be administered in 2014 and possibly again in 2016.

Abstract—The National Highway Traffic Safety Administration (NHTSA) proposes to collect information from a national random sample of 6,000 (12,000 total for both administrations) members of the general public age 16 and older. The sample will be stratified by NHTSA region, age, and gender. The National Survey on Distracted Driving Attitudes and Behaviors (NSDDAB) will ask about (a) attitudes, behaviors, and perceptions related to driving distractions and electronic device use while driving, and (b) the effectiveness of high visibility enforcement demonstration programs to increase public awareness of the dangers of, and legislation related to, distracted and unsafe driving behaviors. The national survey will be preceded by a pretest administered to 30 respondents. Interview length will average 20 minutes. This approval will be for the third and fourth administrations of the NSDDAB. Participation by respondents will be voluntary and anonymous. Cell phone and non-response bias respondents will have the option to receive a small monetary incentive. The personally identifiable information (name and mailing address) used for respondent payment will be held separately from the respondents' survey responses so that no connection can be made between the two. All results will be reported in the aggregate.

The telephone interviewers will use computer-assisted telephone interviewing to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers will be used to minimize language barriers to participation. NHTSA will use the findings from this proposed information collection to build upon and add to the existing knowledge on distracted driving and to help track behavior and attitude changes that can be used to tailor distraction program efforts and to assist States, localities, and communities in developing and refining distracted driving programs.

Comments are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; 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, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued on: December 20, 2013.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–30854 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[U.S. DOT Docket No. NHTSA–2013–0122]

Reports, Forms, and Record Keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collection of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

This document describes the collection of information for which NHTSA intends to seek OMB approval.

DATES: Comments must be received on or before February 24, 2014.

ADDRESSES: You may submit comments identified by DOT Docket ID Number NHTSA–2013–0122 using any of the following methods:

Electronic submissions: Go to *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.

Mail: Docket Management Facility, M–30, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590.

Hand Delivery: West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Fax: 1 (202) 493–2251.

Instructions: Each submission must include the Agency name and the Docket number for this Notice. Note that all comments received will be posted without change to *http://www.regulations.gov* including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Dr. Kathy Sifrit, Contracting Officer's Technical Representative, Office of Behavioral Safety Research (NTI–132), National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., W46–472, Washington, DC 20590. Dr. Sifrit's phone number is (202) 366–0868 and her email address is *kathy.sifrit@dot.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following: (i) 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; (ii) 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; (iii) how to enhance the quality, utility, and clarity of the information to be collected; and (iv) how to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses. In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Mild Cognitive Impairment and Driving Performance

Type of Request—New information collection requirement.

OMB Clearance Number—None.

Form Number—NHTSA Form 1240.

Requested Expiration Date of Approval—3 years from date of approval.

Summary of the Collection of Information—The National Highway Traffic Safety Administration (NHTSA) proposes to collect information from licensed older drivers about their driving habits in order to determine whether they are eligible to participate in a study of the effects of mild cognitive impairment on driving performance. Study participation will be voluntary and solicited through driver rehabilitation specialist (DRS) referrals of drivers suspected of having some degree of cognitive impairment by the State of Virginia Department of Motor Vehicle (VA DMV). A comparison group of drivers matched on age and sex who have not been diagnosed with cognitive impairment will also be recruited, either by contacting individuals who participated in other studies and gave their consent to be contacted about future research opportunities or by posting notices describing the research opportunity at Area Agency on Aging Senior Centers. People interested in in participating will contact a designated staff member through a toll-free number to enroll. During a brief telephone pre-screening, a project assistant will explain inclusion and exclusion criteria for study participation. Candidate participants who meet these criteria will be enrolled in the study.

A project assistant will make appointments to visit each enrollee to explain the study, answer questions about study participation and obtain his/her signature on the informed consent agreement. The remaining data for this study will be collected through both clinical and on-road evaluations by the DRS. At the completion of each on-road performance evaluation, an in-vehicle data collection system will be installed in the subject's own car to obtain driving exposure information. The in-vehicle system will include a device to collect the vehicle's Global Positioning System coordinates and a companion device to capture an image of the driver to confirm that the driver for each trip is the study participant.

The Government may decide to fund an optional task to collect additional data. This Optional Task, if funded, would be conducted thorough monthly telephone interviews with a subset of the same drivers. In addition, a second set of clinical, driving exposure, and performance data would be collected one year after the initial set was collected, for the subset of participants in the Optional Task.

Description of the Need for the Information and Proposed Use of the Information—NHTSA was established to reduce the number of deaths, injuries, and economic losses resulting from motor vehicle crashes on the Nation's highways. As part of this statutory mandate, NHTSA is authorized to conduct research as a foundation for the development of motor vehicle standards and traffic safety programs.

Older adults comprise an increasing proportion of the (driving) population and there is reason for concern about the consequences of early stage dementia and mild cognitive impairment (MCI) and driver performance and safety, as these conditions become markedly more prevalent with advancing age. The objective in this project is to document differences in driving performance and exposure between participants with MCI and a comparison group of drivers. Analyses of these data will provide information about the relationship between scores on clinical measurements of cognitive impairment and multiple levels of driving performance and exposure among older adults. The improved understanding of changes in driving behaviors associated with MCI will help physicians, driving rehabilitation specialists, and others who provide guidance to older adults regarding driving safety to know when to recommend driving cessation. The findings from this study also will help clinicians to identify and intervene when a client with dementia begins to exhibit potentially risky driving behaviors. NHTSA will use the information to inform recommendations to health care providers and to the public regarding when the progression of a disease or condition causing cognitive impairment results in the need to transition from driving, with the ultimate goal of reducing injuries and loss of life on the highway.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—Respondents will include individuals who have been identified by the VA DMV's medical referral and review practices as potentially cognitively impaired, have been required to obtain a DRS evaluation to retain their driving licenses, and have been diagnosed with mild cognitive impairment (MCI). Control respondents will include participants matched for age and sex who do not suffer from clinically diagnosed cognitive impairment. It is estimated that 90 telephone conversations will be conducted with respondents to descriptive solicitations, to yield 60 participants; this assumes that up to half of those initially indicating interest will ultimately not meet inclusion criteria or be uninterested in participating.

Estimate of the Total Annual Reporting and Record Keeping Burden Resulting from the Collection of Information—The 90 telephone conversations will average 10 minutes in length including introduction, qualifying questions, potential participant questions, logistical questions, and conclusion. The total estimated annual burden will be 15 hours. Participants will incur no costs from the data collection and participants will incur no record keeping burden and no record keeping cost from the information collection. If the Optional Task is funded, we assume a subset of 50% of the original sample would participate. These participants will be contacted by phone once a month for the period of one year. The resulting 12 contacts (approximately 10 minutes in length) of an estimated 50% of the original sample (30 participants) will result in a total estimated annual burden of 60 hours.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued on December 20, 2013.

Jeff Michael,

Associate Administrator, Research and Program Development.

[FR Doc. 2013–30851 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0261; Notice No. 13–21]

Research and Development; Public Meeting

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting for the Research and Development Forum to be held January 17, 2014, in Washington, DC. During this meeting, PHMSA will host the session to present the results of recently completed and current research projects. In addition, PHMSA will solicit comments relative to potential new research projects which may be considered for inclusion in its future work.

Information Regarding the Research and Development Public Meeting

DATES: Friday, January 17, 2014; 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at the DOT Headquarters, West Building, Oklahoma Conference Room, 1200 New Jersey Avenue SE., Washington, DC 20590.

Written Comments: PHMSA invites interested persons to submit any relevant data or information to the docket of this proceeding (PHMSA–2013–0261) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–366–3650.
- *Mail:* Docket Management System; US Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS), including any personal information.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) which may be viewed at *http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf.*

Registration: It is requested that attendees pre-register for this meeting by emailing TaNika Dyson at *tanika.dyson.ctr@dot.gov.* Failure to pre-register may delay your access to the building. Participants attending in person are encouraged to arrive early to allow time for security checks necessary to obtain access to the building.

FOR FURTHER INFORMATION CONTACT: Lucy DiGhionno or Dr. Kin Wong, Office of Hazardous Materials Safety, Research and Development, Department of Transportation, Washington, DC 20590; (202) 366–4545.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to present the results of recently completed actions and to seek comments relative to potential new research projects which may be considered for inclusion in future work. PHMSA will consider comments received for proposed list of new projects identified in the draft agenda. The meeting agenda and event information may be obtained from PHMSA's Web site at *http://phmhqnwas027vg.ad.dot.gov/about/calendar.*

Topics on the agenda for the Research and Development Forum include:

- Modeling for Toxic Inhalation Hazard Zones
- Acute Exposure Guidelines and Emergency Response Guidebook Update
- Self-Contained Breathing Apparatus
- Cargo Tank Rollover Special Study
- Study on Improving Nurse Tank Safety
- R&D Initiatives on Packaging Testing
- Paperless Hazard Communications Pilot Program
- Odorization of LP Gas
- Safety Effectiveness of Pressure Relief Devices
- Explosives Testing
- Improving the Safety of Ammonium Nitrate Transport

Magdy El-Sibaie,

Associate Administrator.

[FR Doc. 2013–30707 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2013–0261; Notice No. 13–21]

Research and Development; Public Meeting

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation.

ACTION: Notice of public meeting.

SUMMARY: This notice is to advise interested persons that PHMSA will conduct a public meeting for the Research and Development Forum to be held January 17, 2014, in Washington, DC. During this meeting, PHMSA will host the session to present the results of recently completed and current research projects. In addition, PHMSA will solicit comments relative to potential new research projects which may be considered for inclusion in its future work.

Information Regarding the Research and Development Public Meeting

DATES: Friday, January 17, 2014; 8:30 a.m.–5:00 p.m.

ADDRESSES: The meeting will be held at the DOT Headquarters, West Building, Oklahoma Conference Room, and 1200 New Jersey Avenue SE., Washington, DC 20590.

Written Comments: PHMSA invites interested persons to submit any relevant data or information to the docket of this proceeding (PHMSA–2013–0261) by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 1–202–366–3650.
- *Mail:* Docket Management System; U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* To the Docket Management System; Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE.,

Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the agency name and docket number for this notice at the beginning of the comment. To avoid duplication, please use only one of these four methods. All comments received will be posted without change to the Federal Docket Management System (FDMS), including any personal information.

Docket: For access to the dockets to read background documents or comments received, go to *http://www.regulations.gov* or DOT's Docket Operations Office (see **ADDRESSES**).

Privacy Act: Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the document (or signing the document, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477) which may be viewed at *http://www.gpo.gov/fdsys/pkg/FR-2000-04-11/pdf/00-8505.pdf*.

Registration: It is requested that attendees pre-register for this meeting by emailing TaNika Dyson at *tanika.dyson.ctr@dot.gov.* Failure to pre-register may delay your access to the building. Participants attending in person are encouraged to arrive early to allow time for security checks necessary to obtain access to the building.

FOR FURTHER INFORMATION CONTACT: Lucy DiGhionno or Dr. Kin Wong, Office of Hazardous Materials Safety, Research and Development, Department of Transportation, Washington, DC 20590; (202) 366–4545.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to present the results of recently completed actions and to seek comments relative to potential new research projects which may be considered for inclusion in future work. PHMSA will consider comments received for proposed list of new projects identified in the draft agenda. The meeting agenda and event information may be obtained from PHMSA's Web site at *http://phmhqnwas027vg.ad.dot.gov/about/calendar*.

Topics on the agenda for the Research and Development Forum include:

- Modeling for Toxic Inhalation Hazard Zones
- Acute Exposure Guidelines and Emergency Response Guidebook Update
- Self-Contained Breathing Apparatus
- Cargo Tank Rollover Special Study
- Study on Improving Nurse Tank Safety
- R&D Initiatives on Packaging Testing
- Paperless Hazard Communications Pilot Program
- Odorization of LP Gas
- Safety Effectiveness of Pressure Relief Devices
- Explosives Testing
- Improving the Safety of Ammonium Nitrate Transport

Magdy El-Sibaie,

Associate Administrator.

[FR Doc. 2013–30789 Filed 12–24–13; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35766]

City of Belfast, Me.—Acquisition Exemption—Certain Assets of Belfast and Moosehead Lake Railroad Company

The City of Belfast, Me. (the City), a noncarrier municipality, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire a line of railroad between Pierce Street in downtown Belfast, Me., to the Belfast/Waldo town line at milepost 3.14 (the Line).[1]

The City states that it acquired the Line from Unity Property Management by Release Deed dated July 2, 2010. The City now seeks Board authorization for that transaction. The City states that it has not provided any freight service over the Line and was not aware at the time that it needed Board authorization to acquire the Line.

The City certifies that it derives only de minimis revenue from the Line and that the projected annual revenues as a result of this transaction will not exceed those that would qualify the City as a Class III rail carrier.

The exemption will become effective on January 9, 2014.[2]

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than January 2, 2014.

An original and 10 copies of all pleadings, referring to Docket No. FD 35766, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kristin M. Collins, Kelly & Collins, LLC, 96 High Street, Belfast, ME 04915.

Board decisions and notices are available on our Web site at ''*WWW.STB.DOT.GOV*.''

Decided: December 20, 2013.

By the Board,

Rachel D. Campbell,

Director, Office of Proceedings.

Raina S. White,

Clearance Clerk.

[FR Doc. 2013–30824 Filed 12–24–13; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35724 (Sub-No. 1)]

California High-Speed Rail Authority—Construction Exemption—In Fresno, Kings, Tulare, and Kern Counties, CA

By petition filed on September 26, 2013, California High-Speed Rail Authority (Authority), a state agency formed in 1996, seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901 for authority to construct an approximately 114-mile high-speed passenger rail line between Fresno and Bakersfield, Cal. (the Line).[1]

In a decision served December 4, 2013, and published in the **Federal Register** on December 9, 2013 (78 Fed. Reg. 73,921), the Board instituted a proceeding and extended the deadline for comments on the transportation merits of the proposed construction to December 24, 2013. The Board also denied the Authority's request that the Board conditionally grant the exemption authority by addressing the transportation aspects of the proposed project before the environmental review process has been completed.

[1] In a related proceeding currently held in abeyance, the City is seeking authorization to abandon a portion of the Line. *See City of Belfast, Me.—Aban. Exemption—in Belfast, Me.,* Docket No. AB 1109X.

[2] This notice was scheduled to be published in the **Federal Register** during the time that the agency was closed due to a lapse in appropriations. Publication of this notice was further delayed by the unique circumstances of this case and the related abandonment proceeding. As a result, the effective date of the exemption has been delayed.

[1] By decision served June 13, 2013, in *California High-Speed Rail Authority—Construction Exemption—in Merced, Madera, & Fresno Counties, Cal.,* FD 35724 (the main docket), the Board granted an exemption for the Authority to construct the first 65-mile segment of the planned California High-Speed Train System (HST System), between Merced and Fresno, California. The Line is the second segment of the proposed HST System.

On December 9, 2013, Michael LaSalle filed a letter requesting that the Board require the Authority to notify all landowners within and along the proposed Fresno-to-Bakersfield alignments, as well as all parties of record in the main docket (which pertains to the Merced-to-Fresno segment) of this proceeding and the comment deadline. LaSalle also requests that the Board amend the comment deadline to a reasonable time following the Authority's and the Federal Railroad Administration's issuance of the Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) and after their final decisions regarding the proposed project, including alignments and station locations, have been made. On December 16, 2013, the Community Coalition on High Speed Rail filed a letter joining in LaSalle's requests.

On December 12, 2013, the Citizens for California High Speed Rail Accountability (CCHSRA) filed a letter requesting that the Board extend the comment period to January 31, 2014, because it only recently became aware of the petition and because the December 24 deadline coincides with the holiday season.[2] CCHSRA also requested that the Board consider providing notice to all impacted landowners in Fresno, Kings, Tulare, and Kern Counties.

Notice of the Proceeding. Both LaSalle and CCHSRA request that all affected landowners be given direct notice of this proceeding. Generally, however, publication in the **Federal Register** is legally sufficient notice to interested or affected parties.[3] Moreover, attempting to identify and provide direct notice to all landowners who might potentially be affected would be unworkable.[4] Also, ample notice of the proposed construction project and opportunity to participate in the environmental review for the proposed project have been provided through the EIR/EIS process. That process included five public meetings in 2009 on the potential scope of the Draft EIR/EIS, three public hearings in 2011 on the Draft EIR/EIS, and three public hearings in 2012 on the Revised Draft EIR/Supplemental Draft EIS. All the meetings and hearings were held in the project area including Fresno and Bakersfield.

However, given the significant public interest in this proceeding, the Board will require the Authority to notify all parties of record in the main docket by providing them with a copy of its petition for exemption in this sub-docket, as well as a copy of this decision, by January 3, 2014, and to certify contemporaneously to the Board that it has done so. Those parties, and any other interested persons who wish to participate in this sub-docket as a party of record, will then have until January 21, 2014, to notify the Board of their intent to participate in this sub-docket as a party of record. Only persons who participate as a party of record in this sub-docket by filing a notice of intent or filing comments (or both) will be entitled to service of pleadings and subsequent Board decisions in this sub-docket.

Extension of the Comment Period. In recognition of the new notice procedure set forth above, and taking into consideration the requests for an extension of the current comment deadline, we will extend the deadline for comments on the transportation to February 14, 2014. This extension should provide sufficient time for interested persons to comment on the proposed transaction.

Waiver of service requirement for individual private citizens. The Board is interested in encouraging public participation by all interested persons in this proceeding. As was done in the main docket,[5] to help create a comprehensive record that embodies the full spectrum of interests involved and to facilitate the ability of individual private citizens to participate in that process, the service requirements of 49 CFR 1104.12(a), which require every document filed with the Board to be served upon all parties to the proceeding, will be waived for individual private citizens who file comments in this proceeding. Thus, filings made by individual private citizens will be included in the public record of this proceeding (and posted on the Board's Web site) regardless of whether the filings comply with the service requirements of § 1104.12(a). All other parties of record, including citizen organizations, are expected to comply with the Board's service requirement regulations and serve all parties of record listed on the Board's service list for this proceeding.

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. Replies to the petition for exemption are due by February 14, 2014.

2. As discussed above in this decision, the Authority must notify all parties of record in the main docket of this proceeding of the proposed transaction by January 3, 2014, and certify contemporaneously to the Board that it has done so.

3. Any person who wishes to participate in this proceeding as a party of record must file with the Board a notice of intent to participate by January 21, 2014.

4. The service requirements under 49 CFR 1104.12(a) are waived for individual private citizens participating in this proceeding.

5. This decision will be published in the **Federal Register**.

6. This decision is effective on its service date.

Decided: December 20, 2013.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2013–30825 Filed 12–24–13; 8:45 am]

BILLING CODE 4915–01–P

[2] In a letter filed on December 17, 2013, William Descary, a Bakersfield resident, also requests an extension of the comment period to January 31, 2014, in light of the holiday season.

[3] *Friends of Sierra R.R.* v. *ICC,* 881 F.2d 663, 667–68 (9th Cir. 1989) (citing *Fed. Crop Ins. Corp.* v. *Merrill,* 332 U.S. 380 (1947)); *accord State of Cal. ex rel. Lockyer* v. *FERC,* 329 F.3d 700, 707 (9th Cir. 2003).

[4] *See Nat'l Trails Sys. Act & R.R. Rights of Way,* EP 702, slip op. at 7–8 (STB served Feb. 16, 2011).

[5] *See Cal. High-Speed Rail Auth.—Constr. Exemption—in Merced, Madera, & Fresno Cntys., Cal.,* FD 35724 (STB served May 14, 2013).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. EP 290 (Sub-No. 5) (2014–1)]

Quarterly Rail Cost Adjustment Factor

AGENCY: Surface Transportation Board, DOT.

ACTION: Approval of rail cost adjustment factor.

SUMMARY: The Board has approved the first quarter 2014 rail cost adjustment factor (RCAF) and cost index filed by the Association of American Railroads. The first quarter 2014 RCAF (Unadjusted) is 0.980. The first quarter 2014 RCAF (Adjusted) is 0.424. The first quarter 2014 RCAF–5 is 0.400.

DATES: *Effective Date:* January 1, 2014.

FOR FURTHER INFORMATION CONTACT: Pedro Ramirez, (202) 245–0333. Federal Information Relay Service (FIRS) for the hearing impaired: (800) 877–8339.

SUPPLEMENTARY INFORMATION: In *Railroad Cost Recovery Procedures,* 1 I.C.C. 2d 207 (1984), the Interstate Commerce Commission (ICC) outlined the procedures for calculating the all-inclusive index of railroad input prices

and the method for computing the rail cost adjustment factor (RCAF). Under the procedures, the Association of American Railroads (AAR) is required to calculate the index on a quarterly basis and submit it to the agency on the fifth day of the last month of each calendar quarter. In *Railroad Cost Recovery Procedures—Productivity Adjustment,* 5 I.C.C.2d 434 (1989), *aff'd sub nom. Edison Electric Institute v. ICC,* 969 F.2d 1221 (D.C. Cir. 1992), the ICC adopted procedures that require the adjustment of the quarterly index for a measure of productivity.

The provisions of 49 U.S.C. 10708 direct the Surface Transportation Board (Board) to continue to publish both an unadjusted RCAF and a productivity-adjusted RCAF. In *Productivity Adjustment—Implementation,* 1 S.T.B. 739 (1996), the Board decided to publish a second productivity-adjusted RCAF called the RCAF–5. Consequently, three indices are now filed with the Board: The RCAF (Unadjusted), the RCAF (Adjusted), and the RCAF–5. The RCAF (Unadjusted) is an index reflecting cost changes experienced by the railroad industry, without reference to changes in rail productivity. The RCAF (Adjusted) is an index that reflects national average productivity changes as originally developed and applied by the ICC, the calculation of which is currently based on a 5-year moving average. The RCAF–5 is an index that also reflects national average productivity changes; however, those productivity changes are calculated as if a five-year moving average had been applied consistently from the productivity adjustment's inception in 1989.

In EP 290 (Sub No. 5) (2013–1), served December 20, 2012, the Board noted that AAR's proposed rebasing calculations were verified, and complied with the statute. Because the revisions calculated by AAR affected the fourth quarter 2012 basing factor, this decision contains the revised 2012 fourth quarter basing factor, from 297.5 to 297.6. The revised rebasing calculations are shown in Table C of the Appendix.

The index of railroad input prices, RCAF (Unadjusted), RCAF (Adjusted), and RCAF–5 for the first quarter of 2014 are shown in Table A of the Appendix to this decision. Table B shows the restated third quarter 2013 index and the RCAF calculated on both an actual and a forecasted basis. The difference between the actual calculation and the forecasted calculation is the forecast error adjustment.

We have examined AAR's calculations and we find that AAR has complied with our procedures, as well as the Board's November 27, 2013 decision directing AAR to restate the 2011, 2012, and 2013 RCAFs using BNSF Railway Company's (BNSF) and Union Pacific Railroad Company's (UP) revised R–1 reports. The restated RCAFs for the fourth quarter of 2011 through the fourth quarter of 2013 were recalculated as if AAR had made the revisions in 2013 for the original filings.[1] We find that the first quarter 2014 RCAF (Unadjusted) is 0.980, an increase of 0.5% from the restated fourth quarter 2013 RCAF of 0.975. The RCAF (Adjusted) is calculated, in part, using the RCAF (Unadjusted) and a five-year moving geometric average of productivity change for U.S. Class I railroads from 2007–2011, which is 1.009 (0.9% per year). We find that the RCAF (Adjusted) is 0.424, an increase of 0.2% from the restated fourth quarter 2013 RCAF (Adjusted) of 0.423.[2]

In accordance with *Productivity Adjustment—Implementation,* 1 S.T.B. at 748–49, the RCAF–5 for this quarter will use a productivity trend for the years 2007–2011, which is 1.009 (0.9% per year). We find that the RCAF–5 for the first quarter of 2014 is 0.400, an increase of 0.3% from the restated fourth quarter 2013 RCAF–5 of 0.399.[3]

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

Authority: 49 U.S.C. 10708.

Decided: December 19, 2013.

By the Board, Chairman Elliott, Vice Chairman Begeman, and Commissioner Mulvey.

Jeffrey Herzig,

Clearance Clerk.

Appendix

TABLE A—EP 290 (SUB-NO. 5) (2014–1) ALL INCLUSIVE INDEX OF RAILROAD INPUT COSTS [1]

[Endnotes following Table D]

Line No.	Index component	2012 Weights (in percent)	Fourth quarter 2013 forecast	First quarter 2014 forecast
1	LABOR	31.3	387.1	386.2
2	FUEL	22.4	399.6	377.9
3	MATERIALS AND SUPPLIES	4.9	261.4	265.9
4	EQUIPMENT RENTS	5.6	207.7	208.7
5	DEPRECIATION	11.9	221.0	217.8
6	INTEREST	2.0	76.6	76.6
7	OTHER ITEMS [2]	21.9	220.0	220.5
8	WEIGHTED AVERAGE	100.0	311.1	306.0
9	LINKED INDEX [3]	.....	297.8	292.9
10	PRELIMINARY RAIL COST ADJUSTMENT FACTOR [4]	.....	100.1	98.4
11	FORECAST ERROR ADJUSTMENT [5]	.....	−0.026	−0.004
12	RCAF (UNADJUSTED) (LINE 10 +LINE 11)	.....	0.975	0.980
13	RCAF (ADJUSTED)	.....	0.423	0.424
14	RCAF–5	.....	0.399	0.400

[1] *See* Table D.

[2] The first quarter 2014 RCAF Adjusted (0.424) is calculated by dividing the first quarter 2014 RCAF Unadjusted (0.980) by the first quarter productivity adjustment factor of 2.3110. The first quarter 2014 productivity adjustment factor is calculated by multiplying the fourth quarter 2013 productivity adjustment of 2.3059 by the fourth root (1.0022) of the 2007–2011 annual average productivity growth rate of 0.9%.

[3] The first quarter 2014 RCAF–5 (0.400) is calculated by dividing the first quarter 2014 RCAF Unadjusted (0.980) by the first quarter productivity adjustment factor-5 (PAF–5) of 2.4480. The first quarter 2014 PAF–5 is calculated by multiplying the fourth quarter 2013 PAF–5 of 2.4426 by the fourth root (1.0022) of the 2007–2011 annual average productivity growth rate of 0.9%.

TABLE B—EP 290 (SUB-NO. 5) (2014–1) COMPARISON OF THIRD QUARTER 2013 INDEX CALCULATED ON BOTH A FORECASTED AND AN ACTUAL BASIS[6]

Line No.	Index component	2011 weight (in percent)	Third quarter 2013 forecast	Third quarter 2013 actual
1	LABOR	31.4	391.3	391.3
2	FUEL	22.6	375.6	376.0
3	MATERIALS AND SUPPLIES	5.1	264.2	264.2
4	EQUIPMENT RENTS	5.6	208.0	207.6
5	DEPRECIATION	11.5	218.9	217.8
6	INTEREST	2.3	87.3	87.3
7	OTHER ITEMS	21.5	221.4	218.8
8	WEIGHTED AVERAGE	100.0	307.7	307.0
9	LINKED INDEX	.....	294.4	293.1
10	RAIL COST ADJUSTMENT FACTOR	.....	98.9	98.5

TABLE C—REBASING THE DENOMINATOR OF THE RCAF TO THE FOURTH QUARTER 2012 LEVEL (RESTATED)[7]

1.	Fourth Quarter 2012 Linked Index	299.1
2.	Second Quarter 2012 Linked Index Calculated Using Actual Data	295.5
3.	Second Quarter 2012 Linked Index Calculated Using forecasted Data	297.0
4.	Difference	−1.5
5.	Rounding adjustment to force 1.000	0.0
6.	Fourth Quarter 2012 Linked Index Adjusted for Second Quarter 2012 Forecast Error (Line 1 plus Line 4 plus Line 5).	297.6

TABLE D

Restated RCAFs 2011Q4 through 2013Q4

			Original			Restated[1]		
	PAF	PAF-5	RCAF (Unadjusted)	RCAF (Adjusted)	RCAF-5	RCAF (Unadjusted)	RCAF (Adjusted)	RCAF -5
2007Q4=100								
2011Q4	2.2645	2.3894	1.208	0.533	0.506	1.209	0.534	0.506
2012Q1	2.2724	2.3978	1.169	0.514	0.488	1.170	0.515	0.488
2012Q2	2.2769	2.4062	1.185	0.520	0.492	1.187	0.521	0.493
2012Q3	2.2815	2.4146	1.171	0.513	0.485	1.172	0.514	0.485
2012Q4	2.2861	2.4231	1.209	0.529	0.499	1.210	0.529	0.499
2012Q4=100								
2013Q1	2.2907	2.4279	0.997	0.435	0.411	0.997	0.435	0.411
2013Q2	2.2957	2.4328	1.006	0.438	0.414	1.006	0.438	0.414
2013Q3	2.3008	2.4377	0.977	0.425	0.401	0.977	0.425	0.401
2013Q4	2.3059	2.4426	0.975	0.423	0.399	0.975	0.423	0.399

Endnotes:

[1] AAR has restated the 2012 weights in compliance to our November 27, 2013 decision. The 2013 fourth quarter forecast is the restated version, not the September 5, 2013 filing. The 2012 basing factor has also been restated from 297.5 to 297.6.

[2] "Other Items" is a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes, Loss and Damage, and Special Charges, price changes for all of which are measured by the Producer Price Index for Industrial Commodities Less Fuel and Related Products and Power.

[3] Linking is necessitated by a change to the 2012 weights beginning in the fourth quarter 2013. The following formula was used for the current quarter's index:

$$\frac{\text{1st Qr. 2014 Index (2012 Weights)}}{\text{4th Qr. 2013 Index (2012 Weights)}} \text{ Times 4th Quarter Linked Index (1980 = 100 Linked)} \text{ Equals Linked Index (Current Quarter)}$$

Or

$$\frac{306.0}{311.1} \times 297.8 = 292.9$$

[4] The first quarter 2013 RCAF was rebased using the October 1, 2012 level of 297.5 in accordance with the requirements of the Staggers Rail Act of 1980 (10/1/2012 = 100). In compliance to our November 27, 2013 decision, AAR has restated the October 1, 2012 level of 297.5 to 297.6.

[5] The first quarter 2014 forecast error adjustment was calculated as follows: (a) restated third quarter 2013 RCAF using forecasted data equals 98.9; (b) restated third quarter 2013 RCAF using actual data equals 98.5; and (c) the difference equals the forecast error (b-a) of -0.4. Because the actual third quarter value is less than the forecast value, the difference is subtracted from the Preliminary RCAF. Both the fourth quarter 2013 and the first quarter 2014 forecast error adjustments are recalculated using the restated October 1, 2012 level of 297.6.

[6] AAR has restated the 2011 weights in compliance to our November 27, 2013 decision. The 2013 third quarter forecast and actual are also restated versions. The 2012 fourth quarter basing factor has been restated from 297.5 to 297.6.

[7] The fourth quarter 2012 basing factor was restated using revised data from UP and BNSF.

[8] The shaded cells contain RCAF numbers that did not change as a result of the restatement.

[FR Doc. 2013–30821 Filed 12–24–13; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Bureau of Engraving and Printing

Privacy Act of 1974, as Amended; System of Records

AGENCY: Bureau of Engraving and Printing (BEP), Department of the Treasury.

ACTION: Notice of proposed Privacy Act of 1974 system of records and request for comments.

SUMMARY: In accordance with the Privacy Act of 1974, 5 U.S.C. 552a the Department of the Treasury, Bureau of Engraving and Printing, proposes to establish a new Privacy Act of 1974 system of records titled ''Treasury/BEP .049—Bureau of Engraving and Printing Tour Scheduling System'' also known as BEP Tour Scheduling System.

DATES: Comments must be received no later than January 27, 2014. This new Privacy Act system of records will be effective January 30, 2014, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to Leslie J. Rivera-Pagán, Privacy Officer, Office of the Chief Counsel, U.S. Department of the Treasury, Bureau of Engraving and Printing, Room 419–A, 14th & C Streets SW., Washington, DC 20228, Attention: Revisions to Privacy Act Systems of Records. Comments can also be faxed to (202) 874–2951 or emailed to *Leslie.Rivera-Pagan@bep.gov*. For fax and emails, please place ''Revisions to SORN .049–BEP Tour Scheduling System'' in the subject line. Comments will be made available for public inspection upon written request. The BEP will make such comments available for public inspection and copying at the above listed location, on official business days between 9:00 a.m. and 5:00 p.m. eastern time. Persons wishing to review the comments must request an appointment by telephoning (202) 874–2500. All comments received, including attachments and other supporting documents, are part of the public record and subject to public disclosure. You should submit only information that you wish to make available publicly. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Leslie J. Rivera-Pagán at (202) 874–2500 or *Leslie.Rivera-Pagan@bep.gov*.

SUPPLEMENTARY INFORMATION:

In accordance with the Privacy Act of 1974, 5 U.S.C. 552a, the Department of the Treasury, Bureau of Engraving and Printing, proposes to establish a new system of records titled, ''Treasury/BEP .049–BEP Tour Scheduling System.''

The new proposed system of records is published in its entirety below.

Dated: December 6, 2013.

Helen Goff Foster,

Deputy Assistant Secretary for Privacy, Transparency, and Records.

TREASURY/BEP .049

SYSTEM NAME:

Bureau of Engraving and Printing Tour Scheduling System also known as BEP Tour Scheduling System—Treasury/BEP.

SYSTEM LOCATION:

Bureau of Engraving and Printing, Office of External Relations (OEX)—Public Service Division, Eastern Currency Facility (ECF), 14th & C Streets SW., Washington, DC 20228 and Bureau of Engraving and Printing, Office of External Relations (OEX)—External Affairs Division, Western Currency Facility (WCF), 9000 Blue Mound Road, Fort Worth, TX 76131.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Primary and secondary contacts of group of visitors or congressional groups and Members of Congress and congressional staffers scheduling tours with the BEP's Tour and Visitor Center in Washington, DC, and Fort Worth, TX.

CATEGORIES OF RECORDS IN THE SYSTEM:

- Name of Primary and Secondary Contact (WCF only) of Group of Visitors;
- Name of Constituent known as Primary Contact of Congressional Group, Member of Congress, and Staffer;
- Title and State of Member of Congress;
- Phone Number, Email Address, Fax Number of Congressional Staffer;
- Phone Number, Email Address, Fax Number, Mailing Address, City, State, Zip Code of Primary Contact of Group of Visitors;
- Phone Number of Secondary Contact of Group of Visitors (WCF only);
- Date, Time, and Type of Tour;
- Name of Group;
- Number of Individuals in group;
- Grade of School Group (WCF only);
- Information required to accommodate a disability of an

Individual in a Group Tour, if applicable; and

- Confirmation Number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 31 U.S.C. 321

PURPOSE(S):

The purpose of this system of records is to establish a manual and electronic database that will facilitate the scheduling of group and congressional tour reservations for the BEP's facilities in Washington, DC, (DCF) and Fort Worth, TX (WCF). Records are for internal purposes only and will facilitate the reservation process for the following tours within the Washington, DC, and Fort Worth, TX, facilities:

- Special Gallery Tours (DCF & WCF);
- Group Tours (DCF & WCF);
- Congressional Tours (DCF & WCF);
- Floor Tours (DCF); and
- VIP Tours (WCF).

The BEP Tour Scheduling System, the Group Reservation Request Form, and the Congressional Tour Reservation Form will help the OEX to: (1) Record the daily number of visitors who take the group and congressional tour at BEP's DCF and WCF facilities; (2) accommodate the visitors in a group or congressional tour; (3) anticipate the number of visitors expected on a specific day and timeframe; (4) provide accommodations for individuals with disabilities who take a group tour; (5) identify whether the visitors are a group or congressional tour; (6) send confirmation notices to the point of contact of the group of visitors or congressional staffer; and (7) send to the point of contact of the group of visitors or congressional staffer advance notices of any changes that may affect reservations.

The BEP will not require individual members of a group scheduling or taking tours to present identification or sign entry logs or registers to be able to take any tour within the DCF or WCF facilities. *See* 31 CFR part 605.1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records may be disclosed 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 or 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.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on electronic media and hard copy. Paper records are maintained in locked cabinets in a locked room.

RETRIEVABILITY:

Records are retrieved by:

- Name of primary Contact of Group, Member of Congress, Congressional Staffer, Constituent—Primary Contact of Congressional Group;
- Title and State of Member of Congress;
- Date of Tour;
- Time of Tour;
- Type of Tour;
- Number in Group;
- Name of Group;
- Fax Number, Email Address, Phone Number, City, State, and Zip Code of Primary Contact of Group of Visitors;
- Email Address and Phone Number of Congressional Staffer;
- Approver/User ID of BEP employee or contractor;
- Date when Record was Created or Modified;
- Confirmation Number;
- Name of Secondary Contact of Group of Visitors;
- Phone number of Secondary Contact of Group of Visitors; and
- Grade of School Group.

SAFEGUARDS:

Access to electronic and paper records is limited to authorized personnel in the Office of External Relations, Public Service Division, Eastern Currency Facility in Washington, DC, and the Office of External Relations, External Affairs Division, Western Currency Facility in Fort Worth, TX, and determined by pre-authorized privileges granted to users based on their need to know to perform daily job functions.

RETENTION AND DISPOSAL:

Records are retained and disposed in accordance with the Bureau of Engraving and Printing Agency Specific Records Schedule N1/318/04/21 as required by the National Archives and Records Administration. Paper records that are collected with respect to a group or congressional tour will be destroyed once the information is transferred to electronic record. The electronic records will be destroyed automatically upon completion of the tour.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Bureau of Engraving and Printing, Eastern Currency Facility, Office of External Relations, Public Service Division, 14th & C Streets SW., Washington, DC 20228 and Manager, Bureau of Engraving and Printing, Western Currency Facility, Office of External Relations, External Affairs Division, 9000 Blue Mound Road, Fort Worth, TX 76131.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquires to the Disclosure Officer, Department of the Treasury, Bureau of Engraving and Printing, Office of the Chief Counsel, 14th & C Streets SW., Room 419–A, Washington, DC 20228.

RECORD ACCESS PROCEDURES:

See, ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See, ''Notification Procedure'' above.

RECORD SOURCE CATEGORIES:

The information contained in the system originates from the individual scheduling the group or congressional tour reservation.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2013–30802 Filed 12–24–13; 8:45 am]

BILLING CODE 4840–01–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Bank Secrecy Act Advisory Group; Solicitation of Application for Membership

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice and request for nominations.

SUMMARY: FinCEN is inviting the public to nominate financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

DATES: Nominations must be received by January 27, 2014.

ADDRESSES: Applications may be mailed (not sent by facsimile) to Liaison Division, Financial Crimes Enforcement Network, P.O. BOX 39, Vienna, VA 22183 or emailed to: *BSAAG@fincen.gov.*

FOR FUTHER INFORMATION CONTACT: FinCEN Resource Center at 800–767–2825.

SUPPLEMENTARY INFORMATION: The Annunzio-Wylie Anti-Money Laundering Act of 1992 required the Secretary of the Treasury to establish a Bank Secrecy Act Advisory Group (BSAAG) consisting of representatives from federal regulatory and law enforcement agencies, financial institutions, and trade groups with members subject to the requirements of the Bank Secrecy Act, 31 CFR parts 1000–1099 et seq. or Section 6050I of the Internal Revenue Code of 1986. The BSAAG is the means by which the Secretary receives advice on the operations of the Bank Secrecy Act. As chair of the BSAAG, the Director of FinCEN is responsible for ensuring that relevant issues are placed before the BSAAG for review, analysis, and discussion. Ultimately, the BSAAG will make policy recommendations to the Secretary on issues considered.

BSAAG membership is open to financial institutions and trade groups. New members will be selected to serve a three-year term and must designate one individual to represent that member at plenary meetings. In compliance with Executive Order 13490 of January 21, 2009, and White House policy, member organizations may not designate a representative to participate in BSAAG plenary or subcommittee meetings who is currently registered as a lobbyist pursuant to 2 U.S.C. 1603(a).

It is important to provide complete answers to the following items, as applications will be evaluated on the information provided through this application process. Applications should consist of:

- Name of the organization requesting membership
- Point of contact, title, address, email address and phone number
- Description of the financial institution or trade group and its involvement with the Bank Secrecy Act, 31 CFR parts 1000–1099 et seq.
- Reasons why the organization's participation on the BSAAG will bring value to the group

Organizations may nominate themselves, but applications for individuals who are not representing an organization will not be considered. Members must be able and willing to make the necessary time commitment to participate on subcommittees throughout the year by phone and attend biannual plenary meetings held in Washington DC the second Wednesday of May and October. Members will not be remunerated for their time, services, or travel. In making the selections, FinCEN will seek to complement current BSAAG members in terms of affiliation, industry, and geographic representation. The Director of FinCEN retains full discretion on all membership decisions. The Director may consider prior years' applications when making selections and does not limit consideration to institutions nominated by the public when making selections.

Dated: December 19, 2013.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2013–30723 Filed 12–24–13; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Designation of One Individual and Three Entities Pursuant to Executive Order

SUB–AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the name of one individual and three entities whose property and interests in property are blocked pursuant to Executive Order 13619 of July 11, 2012, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Burma.''

DATES: The designation by the Director of OFAC of the one individual and three entities named in this notice, pursuant to Executive Order 13619, is effective December 17, 2013.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On July 11, 2012, President Barack Obama signed Executive Order 13619, ''Blocking Property of Persons Threatening the Peace, Security, or Stability of Burma'' (''E.O. 13619''), 77 FR 41243 (July 13, 2012), pursuant to, inter alia, the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*), which modifies the scope of the national emergency declared in Executive Order 13047 of May 20, 1997, as modified in scope in Executive Order 13448 of October 18, 2007, and relied upon for additional steps taken in Executive Order 13310 of July 28, 2003, Executive Order 13448 of October 18, 2007, and Executive Order 13464 of April 30, 2008.

Section 1(a) of E.O. 13619 blocks, with certain exceptions, all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person, including any foreign branch, of persons determined by the Secretary of the Treasury, in consultation with or at the recommendation of the Secretary of State, to satisfy any of the criteria set forth in subparagraphs (a)(i)-(a)(vi) of Section 1. On December 17, 2013, the Director of OFAC, in consultation with or at the recommendation of the Department of State, designated pursuant to one or more of the criteria set forth in Section 1, subparagraphs (a)(i)-(a)(vi) of E.O. 13619, the following individual and entities, whose names have been added to the list of Specially Designated Nationals and Blocked Persons and whose property and interests in property are blocked pursuant to E.O. 13619:

1. OO, Kyaw Nyunt; DOB 30 June 1959; Lieutenant Colonel; Staff Officer (Grade 1), D.D.I. (individual) [BURMA].
2. ASIA METAL COMPANY LIMITED, No. 106 Pan Pe Khaung Maung Khtet Road, Industrial Zone (4), Shwe Pyi Thar Township, Yangon, Burma; No. (40) Yangon-Mandalay Road, Kywe Sekan, Pyay Gyi Tagon Township, Mandalay, Burma; No. A/B (1–5), Paung Laung (24) Street, Ext., Ward (2), Nay Pyi Taw, Pyinmana, Burma; Web site *http://www.amcsteel.com;* email Address asiametal@myanmar.com.mm [BURMA].
3. EXCELLENCE MINERAL MANUFACTURING CO., LTD., Plot No. (142), U Ta Yuoat Gyi Street, Industrial Zone No. (4), Hlaing Thar Yar Township, Yangon, Burma [BURMA].
4. SOE MIN HTAIK CO. LTD. (a.k.a. SOE MING HTIKE; a.k.a. SOE MIN HTIKE CO., LTD.; a.k.a. SOE MIN JTIAK CO. LTD.), No. 4, 6A Kabaaye Pagoda Road, Mayangon Township, Yangon, Burma; No. 3, Kan Street, No. 10 Ward, Hlaing

Township, Yangon, Burma [BURMA].

Dated: December 17, 2013.

Adam Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–30627 Filed 12–24–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Removal of JADE Act Tags

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is removing from the Specially Designated Nationals List tags that had identified certain individuals and entities as subject to the blocking and financial provisions of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (''JADE Act'').

DATES: As of August 7, 2013, the financial and blocking provisions of Section 5(b) of the JADE Act do not apply.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Sanctions Compliance and Evaluation, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, Tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*) or via facsimile through a 24-hour fax-on-demand service, Tel.: 202/622–0077.

Background

On August 6, 2013, President Barack Obama issued Executive Order 13651 (''E.O. 13651''). In Section 8 of E.O. 13651, the President determined and certified, pursuant to section 5(i) of the Tom Lantos Block Burmese JADE (Junta's Anti-Democratic Efforts) Act of 2008 (the ''JADE Act''), that it is in the national interest of the United States to waive, and thereby waived, the sanctions described in section 5(b) of the JADE Act. As a result, as of August 7, the effective date of E.O. 13651, the financial and blocking provisions of section 5(b) of the JADE Act do not apply. Except as authorized or exempt, transactions with persons included on the Specially Designated Nationals and Blocked Persons List (''SDN List'') continue to be prohibited pursuant to the International Emergency Economic Powers Act (''IEEPA''). Accordingly, while OFAC is updating the SDN List to remove the [JADE Act] tag that had publicly identified the following individuals and entities as subject to the financial and blocking provisions of Section 5(b) of the JADE Act, transactions and dealings with these individuals and entities continue to be prohibited pursuant to IEEPA:

1. GOLDEN AARON PTE. LTD.
2. MAX MYANMAR GROUP OF COMPANIES
3. DAGON INTERNATIONAL LIMITED
4. ZAW, Zaw
5. AUNG, Win
6. MAX SINGAPORE INTERNATIONAL PTE. LTD.
7. ROYAL KUMUDRA HOTEL
8. ESPACE AVENIR EXECUTIVE SERVICED APARTMENT
9. MAX (MYANMAR) CONSTRUCTION CO. LTD.
10. MAX MYANMAR GEMS AND JEWELLERY CO. LTD.
11. MAX MYANMAR MANUFACTURING CO. LTD.
12. MAX MYANMAR SERVICES CO. LTD.
13. MAX MYANMAR TRADING CO. LTD.
14. G A CAPITAL PTE. LTD.
15. G A FOODSTUFFS PTE. LTD.
16. G A ARDMORE PTE. LTD.
17. G A LAND PTE. LTD.
18. G A RESORT PTE. LTD.
19. G A SENTOSA PTE. LTD.
20. G A TREASURE PTE. LTD.
21. G A WHITEHOUSE PTE. LTD.
22. SENTOSA TREASURE PTE. LTD.

Dated: December 3, 2013.

Adam Sbuzin,

Director, Office of Foreign Assets Control.

[FR Doc. 2013–30626 Filed 12–24–13; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 14242

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 14242, Reporting Abusive Tax Promotions or Preparers.

DATES: Written comments should be received on or before February 24, 2014 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 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 Gerald J. Shields, LL.M., at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet at *Gerald.j.shields@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting Abusive Tax Promotions or Preparers.

OMB Number: 1545–2219.

Form Number: Form 14242.

Abstract: The IC form is used to report an abusive tax avoidance scheme and tax return preparers who promote such schemes. IC is collected to combat abusive tax promoters. Respondents can be individuals, businesses and tax return preparers.

Current Actions: There were no material changes made to the document but the burden was recalculated that resulted in a change to the burden previously approved by OMB. We are making this submission to reinstate the OMB approval.

Type of Review: Reinstate a previously approved IC.

Affected Public: Individuals or Households, Farms, Businesses and other for-profit or not-for-profit organizations.

Estimated Number of Respondents: 360.

Estimated Time Per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 36.

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 18, 2013.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2013–30739 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee.

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, January 15, 2014.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or 718–834–2203

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Tax Forms and Publications Project Committee will be held Wednesday, January 15, 2014 at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Knispel. For more information please contact Ms. Knispel at 1–888–912–1227 or 718–834–2203, or write TAP Office, 2 Metro Tech Center, 100 Myrtle Avenue 7th Floor, Brooklyn, NY 11201, or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to Tax Forms and Publications and public input is welcomed.

Dated: December 19, 2013.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–30738 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, January 16, 2014.

FOR FURTHER INFORMATION CONTACT: Donna Powers at 1–888–912–1227 or (954) 423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Taxpayer Assistance Center Improvements Project Committee will be held Thursday, January 16, 2014, at 2:00 p.m. Eastern Time. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Donna Powers. For more information please contact Ms. Donna Powers at 1–888–912–1227 or (954) 423–7977, or write TAP Office, 1000 S. Pine Island Road, Plantation, FL 33324 or contact us at the Web site: *http://www.improveirs.org.*

The committee will be discussing various issues related to the Taxpayer Assistance Centers and public input is welcomed.

Dated: December 19, 2013.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–30731 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee

AGENCY: Internal Revenue Service (IRS),Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, January 22, 2014.

FOR FURTHER INFORMATION CONTACT: Timothy Shepard at 1–888–912–1227 or 206–220–6095.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Notices and Correspondence Project Committee will be held Wednesday, January 22, 2014, at 12 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Timothy Shepard. For more information please contact Mr. Shepard at 1–888–912–1227 or 206–220–6095, or write TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174, or contact us at the Web site: *http://www.improveirs.org.*

The agenda will include a discussion on various letters, and other issues related to written communications from the IRS.

Dated: December 19, 2013.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–30744 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, January 23, 2014.

FOR FURTHER INFORMATION CONTACT: Ellen Smiley or Patti Robb at 1–888–912–1227 or 414–231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Taxpayer Communications Project Committee will be held Thursday, January 23, 2014, at 2:00 p.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Ms. Ellen Smiley or Ms. Patti Robb. For more information please contact Ms. Smiley or Ms. Robb at 1–888–912–1227 or 414–231–2360, or write TAP Office Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or post comments to the Web site: *http://www.improveirs.org*.

The committee will be discussing various issues related to Taxpayer Communications and public input is welcome.

Dated: December 19, 2013.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–30732 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, January 21, 2014.

FOR FURTHER INFORMATION CONTACT: Linda Rivera at 1–888–912–1227 or (202) 317–3337.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Toll-Free Phone Line Project Committee will be held Tuesday, January 21, 2014 at 11:00 a.m. Eastern Time via teleconference. The public is invited to make oral comments or submit written statements for consideration. Due to limited conference lines, notification of intent to participate must be made with Linda Rivera. For more information please contact: Ms. Rivera at 1–888–912–1227 or (202) 317–3337, or write TAP Office, 1111 Constitution Avenue NW., Room 1509—National Office, Washington, DC 20224, or contact us at the Web site: *http://www.improveirs.org*.

The committee will be discussing Toll-free issues and public input is welcomed.

Dated: December 19, 2013.

Linda Rivera,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. 2013–30736 Filed 12–24–13; 8:45 am]

BILLING CODE 4830–01–P



FEDERAL REGISTER

Vol. 78 Thursday,
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Part II

Department of the Treasury

Office of the Comptroller of the Currency

Board of Governors of the Federal Reserve System

Bureau of Consumer Financial Protection

12 CFR Parts 34, 226, and 1026
Appraisals for Higher-Priced Mortgage Loans; Final Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 34

[Docket No. OCC–2013–0009]

RIN 1557–AD70

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Docket No. R–1443]

RIN 7100–AD90

BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1026

[Docket No. CFPB–2013–0020]

RIN 3170–AA11

Appraisals for Higher-Priced Mortgage Loans

AGENCY: Board of Governors of the Federal Reserve System (Board); Bureau of Consumer Financial Protection (Bureau); Federal Deposit Insurance Corporation (FDIC); Federal Housing Finance Agency (FHFA); National Credit Union Administration (NCUA); and Office of the Comptroller of the Currency, Treasury (OCC).

ACTION: Supplemental final rule; official staff commentary.

SUMMARY: The Board, Bureau, FDIC, FHFA, NCUA, and OCC (collectively, the Agencies) are amending Regulation Z, which implements the Truth in Lending Act (TILA), and the official interpretation to the regulation. This final rule supplements a final rule issued by the Agencies on January 18, 2013, which goes into effect on January 18, 2014. The January 2013 Final Rule implements a provision added to TILA by the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act or Act) requiring appraisals for ''higher-risk mortgages.'' For certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, the January 2013 Final Rule requires creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. On July 10, 2013, the Agencies proposed amendments to the January 2013 Final Rule implementing these requirements. Specifically, the Agencies proposed exemptions from the rules for transactions secured by existing manufactured homes and not land; certain streamlined refinancings; and transactions of $25,000 or less.

DATES: This final rule is effective on January 18, 2014. Alternative provisions regarding manufactured home loans in amendatory instructions 3b and 5f (12 CFR 34.203(b)(8) and 12 CFR part 34, appendix C, 34.203(b)(8) entry OCC), 12 CFR 226.43(b)(8) Board, and 12 CFR 1026.35(c)(2)(viii) CFPB, are effective July 18, 2015.

FOR FURTHER INFORMATION CONTACT: *OCC:* Robert L. Parson, Appraisal Policy Specialist, at (202) 649–6423, G. Kevin Lawton, Appraiser (Real Estate Specialist), at (202) 649–7152, Charlotte M. Bahin, Senior Counsel or Mitchell Plave, Special Counsel, Legislative & Regulatory Activities Division, at (202) 649–5490, Krista LaBelle, Special Counsel, Community and Consumer Law Division, at (202) 649–6350, or 400 Seventh Street SW., Washington, DC 20219.

Board: Lorna Neill or Mandie Aubrey, Counsels, Division of Consumer and Community Affairs, at (202) 452–3667, Carmen Holly, Supervisory Financial Analyst, Division of Banking Supervision and Regulation, at (202) 973–6122, or Kara Handzlik, Counsel, Legal Division, at (202) 452–3852, Board of Governors of the Federal Reserve System, Washington, DC 20551.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Risk Management Section, at (202) 898–3640, Sandra S. Barker, Senior Policy Analyst, Division of Consumer Protection, at (202) 898–3615, Mark Mellon, Counsel, Legal Division, at (202) 898–3884, Kimberly Stock, Counsel, Legal Division, at (202) 898–3815, or Benjamin Gibbs, Senior Regional Attorney, at (678) 916–2458, Federal Deposit Insurance Corporation, 550 17th St, NW., Washington, DC 20429.

NCUA: John Brolin, Staff Attorney, Office of General Counsel, at (703) 518–6540, or Vincent Vieten, Program Officer, Office of Examination and Insurance, at (703) 518–6360, or 1775 Duke Street, Alexandria, Virginia, 22314.

Bureau: Owen Bonheimer, Counsel, or William W. Matchneer, Senior Counsel, Division of Research, Markets, and Regulations, Bureau of Consumer Financial Protection, 1700 G Street NW., Washington, DC 20552, at (202) 435–7000.

FHFA: Robert Witt, Senior Policy Analyst, at 202–649–3128, or Ming-Yuen Meyer-Fong, Assistant General Counsel, Office of General Counsel, (202) 649–3078, Federal Housing Finance Agency, 400 Seventh Street SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION:

I. Summary of the Final Rule

As discussed in detail under part II of this **SUPPLEMENTARY INFORMATION**, section 1471 of the Dodd-Frank Act created new TILA section 129H, which establishes special appraisal requirements for ''higher-risk mortgages.'' 15 U.S.C. 1639h. The Agencies adopted a final rule on January 18, 2013 (January 2013 Final Rule; 78 FR 10368 (Feb. 13, 2013)) to implement these requirements (adopting the term ''higher-priced mortgage loans'' (HPMLs) instead of ''higher-risk mortgages''). The Agencies believe that several additional exemptions from the new appraisal rules are appropriate. Specifically, the Agencies are adopting exemptions for certain types of refinancings and transactions of $25,000 or less (indexed for inflation). The Agencies are also adopting a temporary exemption of 18 months (until July 18, 2015) for all loans secured in whole or in part by a manufactured home. Starting on July 18, 2015, transactions secured by a new manufactured home and land will be exempt from the requirement that the appraisal include a physical inspection of the interior of the property; transactions secured by an existing (used) manufactured home and land will not be exempt from the rules; and transactions secured solely by a manufactured home and not land will be exempt from the rules if the creditor gives the consumer one of three types of information about the home's value, discussed in more detail below.

The Agencies are not adopting the proposed definition of ''business day'' that would have differed from the definition used in the January 2013 Final Rule. A revision to the exemption for ''qualified mortgages'' is adopted that is similar to the proposed revision, as well as a few proposed non-substantive technical corrections.

A. Exemption for Extensions of Credit of $25,000 or Less

The Agencies are adopting without change the proposed exemption from the HPML appraisal rules for extensions of credit of $25,000 or less, indexed every year for inflation.

B. Exemption for Certain Refinancings

The Agencies also are adopting an exemption from the HPML appraisal rules for certain types of refinancings with characteristics common to refinance products often referred to as

streamlined refinances. Consistent with the proposal, the final rule exempts a refinancing where the holder of the credit risk of the existing obligation remains the same on the refinancing. The final rule includes revised terminology and additional examples in Official Staff Commentary to clarify the meaning of this requirement. In addition, the periodic payments under the refinance loan must not result in negative amortization, cover only interest on the loan, or result in a balloon payment. Finally, the proceeds from the refinance loan may only be used to pay off the existing obligation and to pay closing or settlement charges.

C. Exemption for Transactions Secured in Whole or in Part by a Manufactured Home

All loans secured in whole or in part by a manufactured home will be exempt from the HPML appraisal rules for 18 months, until July 18, 2015. For loan applications received on or July 18, 2015, the following changes will apply:

Transactions secured by a new manufactured home and land will be exempt from the requirement that the appraisal include a physical inspection of the interior of the property, but will be subject to all other HPML appraisal requirements.

Transactions secured by an existing (used) manufactured home and land will not be exempt from the rules.

Transactions secured solely by a manufactured home and not land will be exempt from the rules if the creditor gives the consumer one of three types of information about the home's value:

- The manufacturer's invoice of the unit cost (for a transaction secured by a new manufactured home).
- An independent cost service unit cost.
- A valuation conducted by an individual who has no financial interest in the property or credit transaction, and has training in valuing manufactured homes.[1] An example would be an appraisal conducted according to procedures approved by the U.S. Department of Housing and Urban Development (HUD) for existing (used) home-only transactions.

D. Effective Date

The temporary exemption for manufactured home loans and the exemptions for certain refinancings and loans of $25,000 or less will be effective on January 18, 2014, the same date on which the January 2013 Final Rule will become effective. The Agencies find under 5 U.S.C. 553(d)(1) that these provisions may be made effective less than 30 days after publication in the **Federal Register** because these provisions ''grant[] or recognize[] an exemption or relieve[] a restriction.'' 5 U.S.C. 553(d)(1). The modified exemptions for loans secured by manufactured homes will be effective on July 18, 2015.

II. Background

In general, TILA seeks to promote the informed use of consumer credit by requiring disclosures about its costs and terms, as well as other information. TILA requires additional disclosures for loans secured by consumers' homes and permits consumers to rescind certain transactions that involve their principal dwelling. For most types of creditors, TILA directs the Bureau to prescribe regulations to carry out the purposes of the law and specifically authorizes the Bureau to issue regulations that contain such classifications, differentiations, or other provisions, or that provide for such adjustments and exceptions for any class of transactions, that in the Bureau's judgment are necessary or proper to effectuate the purposes of TILA, or prevent circumvention or evasion of TILA.[2] 15 U.S.C. 1604(a).

For most types of creditors and most provisions of TILA, TILA is implemented by the Bureau's Regulation Z. *See* 12 CFR part 1026. Official Interpretations provide guidance to creditors in applying the rules to specific transactions and interpret the requirements of the regulation. *See* 12 CFR part 1026, Supp. I. However, as explained in the January 2013 Final Rule, the new appraisal section of TILA addressed in the January 2013 Final Rule (TILA section 129H, 15 U.S.C. 1639h) is implemented not only for all affected creditors by the Bureau's Regulation Z, but also by OCC regulations and the Board's Regulation Z (for creditors overseen by the OCC and the Board, respectively). *See* 12 CFR parts 34 and 164 (OCC regulations) and part 226 (the Board's Regulation Z); *see also* § 1026.35(c)(7) and 78 FR 10368, 10415 (Feb. 13, 2013). The Bureau's, the OCC's, and the Board's versions of the January 2013 Final Rule and corresponding official interpretations are substantively identical. The FDIC, NCUA, and FHFA adopted the Bureau's version of the regulations under the January 2013 Final Rule.[3]

The Dodd-Frank Act[4] was signed into law on July 21, 2010. Section 1471 of the Dodd-Frank Act's Title XIV, Subtitle F (Appraisal Activities), added TILA section 129H, 15 U.S.C. 1639h, which establishes appraisal requirements that apply to ''higher-risk mortgages.'' Specifically, new TILA section 129H prohibits a creditor from extending credit in the form of a ''higher-risk mortgage'' loan to any consumer without first:

- Obtaining a written appraisal performed by a certified or licensed appraiser who conducts an appraisal that includes a physical inspection of the interior of the property and is performed in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) and title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), and the regulations prescribed thereunder.
- Obtaining an additional appraisal from a different certified or licensed appraiser if the ''higher-risk mortgage'' finances the purchase or acquisition of a property from a seller at a higher price than the seller paid, within 180 days of the seller's purchase or acquisition. The additional appraisal must include an analysis of the difference in sale prices, changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

A creditor that extends a ''higher-risk mortgage'' must also:

- Provide the applicant, at the time of the initial mortgage application, with a statement that any appraisal prepared for the mortgage is for the sole use of the creditor, and that the applicant may choose to have a separate appraisal conducted at the applicant's expense.
- Provide the applicant with one copy of each appraisal conducted in accordance with TILA section 129H without charge, at least three days prior to the transaction closing date.

New TILA section 129H(f) defines a ''higher-risk mortgage'' with reference to the annual percentage rate (APR) for the transaction. A ''higher-risk mortgage'' is a ''residential mortgage loan'' [5] secured

[1] As discussed further in the section-by-section analysis, the Agencies are adopting the definition of ''valuation'' at 12 CFR 1026.42(b)(3): '' 'Valuation' means an estimate of the value of the consumer's principal dwelling in written or electronic form, other than one produced solely by an automated model or system.''

[2] For motor vehicle dealers as defined in section 1029 of the Dodd-Frank Act, TILA directs the Board to prescribe regulations to carry out the purposes of TILA and authorizes the Board to issue regulations. 15 U.S.C. 5519; 15 U.S.C. 1604(i).

[3] *See* NCUA: 12 CFR 722.3; FHFA: 12 CFR part 1222. The FDIC adopted the Bureau's version of the regulations, but did not adopt a cross-reference to the Bureau's regulations in FDIC regulations. *See* 78 FR 10368, 10370 (Feb. 13, 2013).

[4] Public Law 111–203, 124 Stat. 1376 (Dodd-Frank Act).

[5] *See* Dodd-Frank Act section 1401; TILA section 103(cc)(5), 15 U.S.C. 1602(cc)(5) (defining

Continued

by a principal dwelling with an APR that exceeds the average prime offer rate (APOR) for a comparable transaction as of the date the interest rate is set—

- By 1.5 or more percentage points, for a first lien residential mortgage loan with an original principal obligation amount that does not exceed the amount for ''jumbo'' loans (*i.e.,* the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date of the interest rate set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454));
- By 2.5 or more percentage points, for a first lien residential mortgage ''jumbo'' loan (*i.e.,* having an original principal obligation amount that exceeds the amount for the maximum limitation on the original principal obligation of a mortgage in effect for a residence of the applicable size, as of the date of the interest rate set, pursuant to the sixth sentence of section 305(a)(2) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454)); or
- By 3.5 or more percentage points, for a subordinate lien residential mortgage loan.

The definition of ''higher-risk mortgage'' expressly excludes ''qualified mortgages,'' as defined in TILA section 129C, and ''reverse mortgage loans that are qualified mortgages,'' as defined in TILA section 129C. 15 U.S.C. 1639c.

III. Summary of the Rulemaking Process

The Agencies issued proposed regulations for public comment on August 15, 2012, that would have implemented the Dodd-Frank Act higher-risk mortgage appraisal provisions (2012 Proposed Rule). 77 FR 54722 (Sept. 5, 2012). This rule was open for public comment for 60 days (until October 15, 2012). After consideration of public comments, the Agencies issued the January 2013 Final Rule on January 18, 2013. The Final Rule was published in the **Federal Register** on February 13, 2013, and is effective on January 18, 2014. *See* 78 FR 10368 (Feb. 13, 2013).

The preamble to the January 2013 Final Rule stated that the Agencies would consider exemptions for three additional types of transactions that commenters requested the Agencies consider: (1) smaller dollar loans; (2) streamlined refinance loans; and (3) loans secured by ''existing'' (used) manufactured homes. On July 10, 2013, the Agencies issued proposed amendments to the January 2013 Final Rule the 2013 Supplemental Proposed Rule to exempt these transactions from the HPML appraisal requirements. (2013 Supplemental Proposed Rule; 78 FR 48548 (Aug. 8, 2013)). The 2013 Supplemental Proposed Rule sought comment on whether any of these exemptions should be conditioned on the creditor meeting an alternative standard to estimate the value of the property securing the transaction and providing that information to the consumer. Comment also was sought on the appropriate scope of, and possible conditions on, the exemption in the January 2013 Final Rule for loans secured by new manufactured homes. The 2013 Supplemental Proposed Rule was open for public comment for 60 days (until Sept. 9, 2013).

To inform the Agencies in drafting the January 2013 Final Rule as well as the 2012 Proposed Rule, the Agencies conducted a series of public outreach meetings in January and February of 2012.[6] Agency staff conducted additional public outreach in the first half of 2013 to inform the Agencies in drafting the 2013 Supplemental Proposed Rule. In addition to reviewing public comments on the 2013 Supplemental Proposed Rule, Agency staff conducted limited public outreach in September and October to inform the Agencies in drafting this final rule.[7]

A. January 2013 Final Rule

1. Loans Covered

To implement the statutory definition of ''higher-risk mortgage,'' the January 2013 Final Rule used the term ''higher-priced mortgage loan'' or HPML, a term already in use under the Bureau's Regulation Z with a meaning substantially similar to the meaning of ''higher-risk mortgage'' in the Dodd-Frank Act. In response to commenters, the Agencies used the term HPML to refer generally to the loans that could be subject to the January 2013 Final Rule because they are closed-end credit and meet the statutory rate triggers, but the Agencies separately exempted several types of HPML transactions from the rule.[8] The term ''higher-risk mortgage'' generally encompasses a closed-end consumer credit transaction secured by a principal dwelling with an APR exceeding certain statutory thresholds. These rate thresholds are substantially similar to rate triggers that have been in use under Regulation Z for HPMLs.[9] Specifically, consistent with TILA section 129H, a loan is an HPML under the January 2013 Final Rule if the APR exceeds the APOR by 1.5 percentage points for first lien conventional or conforming loans, 2.5 percentage points for first lien jumbo loans, and 3.5 percentage points for subordinate lien loans.[10]

Consistent with TILA, the January 2013 Final Rule included an exemption for ''qualified mortgages,'' as defined in § 1026.43(e) of the Bureau's final rule implementing the Dodd-Frank Act's ability-to-repay requirements in TILA section 129C (2013 ATR Final Rule).[11] 15 U.S.C. 1639c. For revisions to this exemption, see § 1026.35(c)(2)(i) and accompanying section-by-section analysis below.

In addition, the January 2013 Final Rule excludes from its coverage the following classes of loans:

(1) transactions secured by a new manufactured home;

(2) transactions secured by a mobile home, boat, or trailer;

(3) transactions to finance the initial construction of a dwelling;

(4) loans with maturities of 12 months or less, if the purpose of the loan is a ''bridge'' loan connected with the acquisition of a dwelling intended to become the consumer's principal dwelling; and

(5) reverse mortgage loans.

2. Requirements That Apply to All Appraisals Performed for Non-Exempt HPMLs

Consistent with TILA, the January 2013 Final Rule allows a creditor to originate an HPML that is not exempt from the January 2013 Final Rule only if the following conditions are met:

''residential mortgage loan''). New TILA section 103(cc)(5) defines the term ''residential mortgage loan'' as any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open-end credit plan. 15 U.S.C. 1602(cc)(5).

[6] Information about these meetings is available at *http://www.federalreserve.gov/newsevents/rr-commpublic/industry_meetings_20120210.pdf.*

[7] Information about these meetings is available at *http://www.federalreserve.gov/newsevents/rr-commpublic/industry-meetings-20131001.pdf.*

[8] As noted further below, TILA section 129H(b)(4)(B) grants the Agencies the authority jointly to exempt, by rule, a class of loans from the requirements of TILA section 129H(a) or section 129H(b) if the Agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors. 15 U.S.C. 1639h(b)(4)(B).

[9] Added to Regulation Z by the Board pursuant to the Home Ownership and Equity Protection Act of 1994 (HOEPA), the HPML rules address unfair or deceptive practices in connection with subprime mortgages. *See* 73 FR 44522, July 30, 2008; 12 CFR 1026.35.

[10] The existing HPML rules apply the 2.5 percent over APOR trigger for jumbo loans only with respect to a requirement to establish escrow accounts. *See* 12 CFR 1026.35(b)(3)(v).

[11] 78 FR 6408 (Jan. 30, 2013).

• The creditor obtains a written appraisal;
• The appraisal is performed by a certified or licensed appraiser; and
• The appraiser conducts a physical visit of the interior of the property.

Also consistent with TILA, the following requirements also apply with respect to HPMLs subject to the January 2013 Final Rule:

• At application, the consumer must be provided with a statement regarding the purpose of the appraisal, that the creditor will provide the applicant a copy of any written appraisal, and that the applicant may choose to have a separate appraisal conducted for the applicant's own use at his or her own expense; and
• The consumer must be provided with a free copy of any written appraisals obtained for the transaction at least three business days before consummation.

3. Requirement To Obtain an Additional Appraisal in Certain HPML Transactions

In addition, the January 2013 Final Rule implements the Act's requirement that the creditor of a ''higher-risk mortgage'' obtain an additional written appraisal, at no cost to the borrower, when the loan will finance the purchase of the consumer's principal dwelling and there has been an increase in the purchase price from a prior acquisition that took place within 180 days of the current purchase. TILA section 129H(b)(2)(A), 15 U.S.C. 1639h(b)(2)(A). In the January 2013 Final Rule, using their exemption authority, the Agencies set thresholds for the increase that will trigger an additional appraisal. An additional appraisal will be required for an HPML (that is not otherwise exempt) if either:

• The seller is reselling the property within 90 days of acquiring it and the resale price exceeds the seller's acquisition price by more than 10 percent; or
• The seller is reselling the property within 91 to 180 days of acquiring it and the resale price exceeds the seller's acquisition price by more than 20 percent.

The additional written appraisal, from a different licensed or certified appraiser, generally must include the following information: an analysis of the difference in sale prices (*i.e.,* the sale price paid by the seller and the acquisition price of the property as set forth in the consumer's purchase agreement), changes in market conditions, and any improvements made to the property between the date of the previous sale and the current sale.

Finally, in the January 2013 Final Rule the Agencies expressed their intention to publish a supplemental proposal to request comment on possible exemptions for streamlined refinance programs and smaller dollar loans, as well as loans secured by certain other property types, such as existing manufactured homes. *See* 78 FR 10368, 10370 (Feb. 13, 2013). Accordingly, the Agencies published the 2013 Supplemental Proposed Rule.

B. 2013 Supplemental Proposed Rule

Based on comments received on the 2012 Proposed Rule and additional research and outreach, the Agencies believed that several additional exemptions from the new appraisal rules might be appropriate. Specifically, in the 2013 Supplemental Proposed Rule, the Agencies proposed exemptions for transactions secured by an existing manufactured home and not land, certain types of refinancings, and transactions of $25,000 or less (indexed for inflation). The Agencies solicited comment on these proposed exemptions, as well as on the scope and possible conditions on the exemption in the January 2013 Final Rule for loans secured by a new manufactured home (with or without land). In addition, the Agencies proposed a different definition of ''business day'' than the definition used in the Final Rule, as well as a few non-substantive technical corrections.

1. Proposed Exemption for Transactions Secured Solely by an Existing Manufactured Home and Not Land

The Agencies proposed to exempt transactions secured solely by an existing (used) manufactured home and not land from the HPML appraisal requirements. The Agencies sought comment on whether an alternative valuation type should be required.

The Agencies proposed to retain coverage of loans secured by existing manufactured homes and land. The Agencies also proposed to retain the exemption for transactions secured by new manufactured homes, but sought further comment on the scope of this exemption and whether certain conditions on the exemption might be appropriate.

2. Proposed Exemption for Certain Refinancings

In addition, the Agencies proposed to exempt from the HPML appraisal rules certain types of refinancings with characteristics common to refinance programs that offer ''streamlined'' refinances. Specifically, the Agencies proposed to exempt an extension of credit that is a refinancing where the owner or guarantor of the refinance loan is the current owner or guarantor of the existing obligation. The periodic payments under the refinance loan could not have resulted in negative amortization, covered only interest on the loan, or resulted in a balloon payment. Further, the proceeds from the refinance loan could have been used only to pay off the outstanding principal balance on the existing obligation and to pay closing or settlement charges.

3. Proposed Exemption for Extensions of Credit of $25,000 or Less

Finally, the Agencies proposed an exemption from the HPML appraisal rules for extensions of credit of $25,000 or less, indexed every year for inflation.

4. Effective Date

The Agencies' Proposal

The Agencies intended that exemptions adopted as a result of the 2013 Supplemental Proposed Rule would be effective on January 18, 2014, the same date on which the January 2013 Final Rule will become effective. The Agencies requested comment on a number of conditions that might be appropriate to require creditors to meet to qualify for the proposed exemptions. The Agencies stated that, if the Agencies adopted any conditions on an exemption, the Agencies would consider establishing a later effective date for those conditions to allow creditors sufficient time to adjust their compliance systems, if necessary. The Agencies requested comment on the need for a later effective date for any condition on a proposed exemption.

Public Comments

Most public commenters did not directly address whether the implementation date for any conditions on proposed exemptions should be extended beyond January 18, 2014. Four State credit union trade associations, a national credit union trade association, two State banking trade associations, a small mortgage lender, and a community banking trade association supported delaying the implementation date for all of the HPML appraisal requirements. Two credit union trade associations recommended that, if conditions were placed on exemptions in the final rule, the Agencies should delay the implementation date to allow creditors sufficient time to adjust their systems to comply with the conditions. One commenter stated that the uncertainty regarding potential amendments to the January 2013 Final Rule made it difficult to prepare for compliance by the January 18, 2014 implementation date. Some commenters

stated that the difficulty of complying with the rules by January 2014 was compounded by the multiple mortgage rules recently issued by the Bureau that are also due to become effective in January 2014, and one pointed out further that several of these rules were amended after being finalized in January 2013. The small mortgage lender noted that creating and implementing compliance programs is resource intensive, and that it is more difficult for small businesses to implement such programs than for large lenders. These commenters suggested that the Agencies delay the implementation date by varying amounts of time, from six to 18 months.

As discussed in the section-by-section analysis of § 1026.35(c)(2)(ii), several commenters focused on the implementation date of HPML appraisal rules for loans secured by manufactured homes. Manufactured housing industry commenters—two lenders and a State trade association—believed that the Agencies should delay issuing final rules on valuations for covered manufactured home loans until further study on manufactured housing valuations. The manufactured housing lenders noted that requiring appraisals in manufactured housing lending would be a significant change for the manufactured housing industry, requiring time to negotiate contracts with appraisal management companies and to develop new disclosures that contain the appraised value, among other changes. The State manufactured housing industry trade association commenter recommended that the Agencies issue a more concrete proposal regarding manufactured housing valuations and that the effective date be at least two years after the publication of final rules.

As also discussed further in the section-by-section analysis of § 1026.35(c)(2)(ii), a national association of owners of manufactured homes, a consumer advocate group, two affordable housing organizations and a policy and research organization believed that appraisal rules applicable to transactions secured by manufactured homes (both new and existing) and land should be effective ''quickly'' to facilitate the development of appropriate appraisal methods for these transactions by increasing the demand for appraisals. They suggested that rules eliminating any exemptions in the January 2013 Final Rule (*i.e.,* the exemptions for loans secured by new manufactured homes, with or without land) should go into effect six months after the general effective date of January 2014, if possible, and in any event no later than January 2016. These commenters also recommended that loans secured solely by a manufactured home and not land be subject to a temporary exemption until no later than January 2016. In the intervening time, the commenters suggested that the Agencies convene a working group of stakeholders to develop standards for appraising manufactured homes.

Final Rule

The Agencies are adopting an effective date of January 18, 2014 for most provisions of this supplemental final rule, to correspond with the effective date of January 18, 2014 for the January 2013 Final Rule, which is prescribed by statute. Specifically, the Dodd-Frank Act requires that regulations required under Title XIV of the Dodd-Frank Act, which include the HPML appraisal provisions, ''be prescribed in final form before the end of the 18-month period beginning on the designated transfer date,'' which was July 21, 2011.[12] Accordingly, the Agencies issued the January 2013 Final Rule within 18 months of the designated transfer date, on January 18, 2013.[13] The Dodd-Frank Act also requires that regulations required under Title XIV ''take effect not later than 12 months after the date of issuance of the regulations in final form.'' [14] Twelve months after the date of issuance of the HPML appraisal rules is January 18, 2014. Thus, the January 2013 Final Rule, as amended by this supplemental final rule, must go into effect on January 18, 2014, and will apply to applications received by the creditor on or after that date.

The Agencies have authority to exempt certain classes of loans from the HPML appraisal rules if the exemption is determined to be ''in the public interest'' and to ''promote[] the safety and soundness of creditors.'' TILA section 129H(b)(4)(B); 15 U.S.C. 1639h(b)(4)(B). As discussed further in the section-by-section analysis of § 1026.35(c)(2)(ii), the Agencies believe that a temporary exemption of 18 months for transactions secured by a manufactured home meets these two exemption criteria. The temporary exemptions for loans secured by a manufactured home will go into effect on January 18, 2014, the effective date of the 2013 January Final Rule. Modified exemptions for certain types of manufactured home transactions will be effective on July 18, 2015, and applicable to applications received by the creditor on or after that date.

[12] Designated Transfer Date, 75 FR 57252 (Sept. 20, 2010).

[13] Sections 1400(c) and 1471 of the Dodd-Frank Act, in title XIV.

[14] Section 1400(c) of the Dodd-Frank Act, in title XIV.

IV. Legal Authority

TILA section 129H(b)(4)(A), added by the Dodd-Frank Act, authorizes the Agencies jointly to prescribe regulations implementing section 129H. 15 U.S.C. 1639h(b)(4)(A). In addition, TILA section 129H(b)(4)(B) grants the Agencies the authority jointly to exempt, by rule, a class of loans from the requirements of TILA section 129H(a) or section 129H(b) if the Agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors. 15 U.S.C. 1639h(b)(4)(B).

V. Section-by-Section Analysis

For ease of reference, unless otherwise noted, the **SUPPLEMENTARY INFORMATION** refers to the section numbers that will be published in the Bureau's Regulation Z at 12 CFR 1026.35(c). As explained in the January 2013 Final Rule, separate versions of the regulations and accompanying commentary were issued as part of the January 2013 Final Rule by the OCC, the Board, and the Bureau, respectively. 78 FR 10367, 10415 (Feb. 13, 2013). No substantive difference among the three sets of rules was intended. The NCUA and FHFA adopted the rules as published in the Bureau's Regulation Z at 12 CFR 1026.35(a) and (c), by cross-referencing these rules in 12 CFR 722.3 and 12 CFR part 1222, respectively. The FDIC adopted the rules as published in the Bureau's Regulation Z at 12 CFR 1026.35(a) and (c), but did not cross-reference the Bureau's Regulation Z.

Accordingly, in this **Federal Register** notice, the revisions to the January 2013 Final Rule adopted by the Agencies in this supplemental final rule are separately published in the HPML appraisal regulations of the OCC, the Board, and the Bureau. No substantive difference among the three sets of revised rules is intended.

Section 1026.2 Definitions and Rules of Construction

2(a) Definitions

2(a)(6) Business Day

The Agencies' Proposal

The term ''business day'' is used with respect to two requirements in the January 2013 Final Rule. First, the January 2013 Final Rule requires the creditor to provide the consumer with a disclosure that ''shall be delivered or placed in the mail not later than the third business day after the creditor receives the consumer's application for

a higher-priced mortgage loan'' subject to § 1026.35(c). § 1026.35(c)(5)(i) and (ii). Second, the January 2013 Final Rule requires the creditor to provide to the consumer a copy of each written appraisal obtained under the January 2013 Final Rule ''[n]o later than three business days prior to consummation of the loan.'' § 1026.35(6)(i) and (ii).

The Agencies proposed to define ''business day'' for these requirements to mean ''all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a), such as New Year's Day, the Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.'' § 1026.2(a)(6). The Agencies proposed this definition for consistency with disclosure timing requirements under both the existing Regulation Z mortgage disclosure timing requirements and the Bureau's proposed rules for combined mortgage disclosures under TILA and the Real Estate Settlement Procedures Act (RESPA), 12 U.S.C. 2601 *et seq.* (2012 TILA–RESPA Proposed Rule). *See* § 1026.19(a)(1)(ii) and (a)(2); *see also* 77 FR 51116 (Aug. 23, 2012) (*e.g.,* proposed § 1026.19(e)(1)(iii) (early mortgage disclosures) and (f)(1)(ii) (final mortgage disclosures).

Under existing Regulation Z, early disclosures must be delivered or placed in the mail not later than the seventh business day before consummation of the transaction; if the disclosures need to be corrected, the consumer must receive corrected disclosures no later than three business days before consummation (the consumer is deemed to have received the corrected disclosures three business days after they are mailed or delivered). *See* § 1026.19(a)(2)(i)–(ii). For these purposes, ''business day'' is defined as quoted previously. One reason that the Agencies proposed to align the definition of ''business day'' under the January 2013 Final Rule with the definition of ''business day'' for these disclosures was to avoid the creditor having to provide the copy of the appraisal under the HPML rules and corrected Regulation Z disclosures at different times (because different definitions of ''business day'' would apply).

The proposed definition of ''business day'' also was intended to align with the definition of ''business day'' for the timing requirements of mortgage disclosures under the 2012 TILA–RESPA Proposal. *See* proposed § 1026.2(a)(6). The 2012 TILA–RESPA Proposal would have required the creditor to deliver the early mortgage disclosures ''not later than the third business day after the creditor receives the consumer's application.'' Proposed § 1026.19(e)(1)(iii). The 2012 TILA–RESPA Proposal would have required the final mortgage disclosures to have been provided ''not later than three business days before consummation.'' Proposed § 1026.19(f)(1)(ii). For these purposes, ''business day'' would have been defined as the Agencies proposed to define ''business day'' in the 2013 Supplemental Proposed Rule.

The Agencies stated in the 2013 Supplemental Proposed Rule that, if the Bureau adopted this aspect of the 2012 TILA–RESPA Proposal, then adopting the proposed definition of ''business day'' for the final HPML appraisals rule would ensure that the HPML appraisal notice and the early mortgage disclosures have to be provided at the same time (no later than three ''business days'' after the creditor receives the consumer's application). The Agencies further stated that this would also ensure that the copy of the HPML appraisal and the final mortgage disclosures would have to be provided at the same time (no later than three ''business days'' before consummation). The proposal to align these timing requirements was intended to facilitate compliance and reduce consumer confusion by reducing the number of disclosures that consumers might receive at different times.

Public Comments

The Agencies received fourteen comments on the proposed revision to the definition of ''business day,'' with most commenters supporting the revised definition. A community banking trade association, an individual, two State banking trade associations, a mortgage banking trade association, four State credit union trade associations, one national credit union trade association, and a financial holding company believed that revising the definition for consistency with other disclosure timing requirements—particularly those of the combined mortgage disclosures under the 2012 TILA–RESPA Proposed Rule—would reduce regulatory burden and facilitate compliance. The State banking trade associations and the financial holding company believed that making these disclosure requirements consistent with the timing for other mortgage disclosures could also result in better awareness and understanding of disclosures by consumers and reduce consumer confusion. One of the State banking trade associations also believed that the proposed definition provided more certainty for creditors than the definition of business day in the January 2013 Final Rule, which refers to days on which a creditor's offices are open to the public for carrying on substantially all of its business functions. *See* § 1026.2(a)(6).

A State credit union trade association, a national credit union trade association, and a community bank commenter, however, opposed the proposed revised definition of business day, instead favoring the definition in the January 2013 Final Rule. The national credit union trade association and community bank commenter stated that many credit unions and community banks are not open for most or any of their business functions on Saturdays. They argued that including Saturday as a business day would increase their regulatory burden.

Final Rule

As noted, the term ''business day'' is used with respect to two requirements in the January 2013 Final Rule. *See* §§ 1026.35(c)(5)(ii) and (c)(6)(ii). The amendments to the January 2013 Final Rule adopted in this rule add a third use of the term ''business day.'' As discussed more fully in the section-by-section analysis of § 1026.35(c)(2)(ii)(C), transactions secured solely by a manufactured home and not land that are consummated on or after July 18, 2015, will be exempt from the HPML appraisal rules if the creditor obtains and gives to the consumer a copy of one of three types of valuation information ''no later than three business days prior to consummation of the transaction.'' § 1026.35(c)(2)(ii)(C).

For two reasons, the Agencies are not adopting the proposed definition of ''business day'' and instead are retaining the definition of ''business day'' adopted in the January 2013 Final Rule: ''a day on which the creditor's offices are open to the public for carrying on substantially all of its business functions.'' § 1026.2(a)(6). First, the Agencies' goal is to provide consistency with the timing requirements of other mortgage disclosures. Most public commenters who supported the Agencies' proposed amendment to the definition of ''business day'' used in the January 2013 Final Rule did so on the basis of favoring consistency with the timing requirements of other mortgage disclosures, particularly the combined TILA–RESPA early and final mortgage disclosures.

The proposed definition, however, would result in inconsistency because the Bureau did not adopt the definition of ''business day'' that includes Saturdays and excludes enumerated

Federal holidays for the early mortgage disclosures and final mortgage disclosures proposed in the 2012 TILA–RESPA Proposed Rule. Instead, the definition of ''business day'' referring to days on which the creditor's offices are open to the public will be used for the timing requirement for those disclosures.[15] For the reasons discussed in the 2013 Supplemental Proposed Rule, the Agencies believe that the timing requirement for creditors to give consumers the disclosure required after application should be aligned with the TILA–RESPA early disclosures and that the timing requirement for creditors to give consumers copies of appraisals and other valuation information should generally be aligned with the timing requirement for the TILA–RESPA mortgage disclosures.

Second, the Agencies heard from commenters that many credit unions and community banks are not open for most or any of their business functions on Saturdays. As adopted, the final rule will address these concerns.

Section 1026.35 Requirements for Higher-Priced Mortgage Loans

35(c) Appraisals for Higher-Priced Mortgage Loans

35(c)(1) Definitions

The Agencies are adopting three new definitions for purposes of the HPML appraisal rules in § 1026.35(c)—''credit risk,'' ''manufacturer's invoice,'' and ''new manufactured home''—and re-numbering definitions adopted in the January 2013 Final Rule accordingly.

35(c)(1)(ii)

Section 1026.35(c)(1)(ii) defines ''credit risk'' for purposes of § 1026.35(c) to mean the financial risk that a loan will default. The Agencies are adopting a definition of ''credit risk'' to provide greater clarity regarding certain aspects of the exemption for certain refinance transactions, discussed in more detail in the section-by-section analysis of § 1026.35(c)(2)(vii). Under § 1026.35(c)(2)(vii), a covered HPML refinance is eligible for an exemption if one of several criteria are met, including that either (1) the credit risk of the refinance loan is retained by the person that held the credit risk on the existing obligation or (2) the refinance loan is owned, insured or guaranteed by the same Federal government agency that owned, insured or guaranteed the existing obligation. *See* § 1026.35(c)(2)(vii)(A) and comment 35(c)(2)(vii)(A)–1.

35(c)(1)(iv)

Section 1026.35(c)(1)(iv) defines ''manufacturer's invoice'' to mean a document issued by a manufacturer and provided with a manufactured home to a retail dealer that separately details the wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options (large appliances, built-in items and equipment), plus actual itemized charges for freight from the factory to the dealer's lot or the home site (including any rental of wheels and axles) and for any sales taxes to be paid by the dealer. The invoice may recite such prices and charges on an itemized basis or by stating an aggregate price or charge, as appropriate, for each category.

This definition is adopted from the definition of ''manufacturer's invoice'' in HUD regulations regarding Title I loans insured by the Federal Housing Administration (FHA) that are secured by a new manufactured home and not land, at 24 CFR 201.2. The Agencies believe that defining the term ''manufacturer's invoice'' to mirror the definition in HUD regulations is appropriate for consistency; the January 2013 Final Rule defines the term ''manufactured home'' by referencing HUD regulations. *See* § 1026.35(c)(1)(iii). The only aspect of the HUD definition of ''manufacturer's invoice'' not adopted in the final rule is a provision requiring manufacturer's certification. The Agencies do not have data regarding how often manufacturer's invoices outside of the Title I program include the manufacturer's certification prescribed in HUD regulations at 24 CFR 201.2 that apply to the Title I program. Thus, the Agencies are concerned that requiring this certification at this time might create unanticipated compliance challenges.

The final rule defines ''manufacturer's invoice'' to ensure that creditors understand § 1026.35(c)(2)(viii)(B)(*1*), which goes into effect on July 18, 2015. Under § 1026.35(c)(2)(viii)(B)(*1*), a covered HPML secured by a new manufactured home and not land is exempt from the HPML appraisal requirements of § 1026.35(c) if the creditor provides the consumer with a copy of a manufacturer's invoice for the manufactured home securing the transaction. Further details regarding this provision and other valuation-related documents that a creditor could give the consumer to qualify for the exemption are discussed in the corresponding section-by-section analysis.

35(c)(1)(vi)

Section 35(c)(1)(vi) defines ''new manufactured home'' to mean a manufactured home that has not been previously occupied. The Agencies believe that adopting a definition of ''new manufactured home'' will help prevent confusion among creditors of manufactured home transactions. The final rule differentiates between loans secured by new and existing (used) manufactured homes in the application of certain requirements, so a clear definition is intended to facilitate compliance. *See* § 1026.35(c)(2)(viii).

35(c)(2) Exemptions

The Agencies are adopting new Official Staff Commentary to § 1026.35(c)(2). Specifically, comment 35(c)(2)-1 clarifies that § 1026.35(c)(2) provides exemptions solely from the HPML appraisal requirements in Regulation Z (§ 1026.35(c)(3) through (6)). The comment states that institutions subject to the requirements of title XI of FIRREA and its implementing regulations that make a loan qualifying for an exemption under section 1026.35(c)(2) must still comply with the appraisal and evaluation requirements under FIRREA and its implementing regulations.

The Agencies are adopting this comment to ensure that creditors subject to FIRREA are aware that, for any HPML they originate that qualifies for an exemption from the HPML appraisal requirements in § 1026.35(c), they would still be required to obtain an appraisal or evaluation in conformity with FIRREA title XI requirements.[16] These requirements are implemented in Federal banking agency regulations and further explained in the Interagency Appraisal and Evaluation Guidance.[17] Comment 35(c)(2)–1 also underscores that the HPML appraisal requirements were not intended to override existing Federal appraisal rules applicable to institutions regulated by Federal financial institutions regulatory agencies.

35(c)(2)(i)

The Agencies' Proposal

Qualified mortgages ''as defined in [TILA] section 129C'' are exempt from

[15] *See* Bureau's 2013 TILA–RESPA Final Rule (issued Nov. 20, 2013) at p. 147 *et seq.,* available at *http://files.consumerfinance.gov/f/201311_cfpb_final-rule-preamble_integrated-mortgage-disclosures.pdf.*

[16] At least one commenter requested that the Agencies clarify that FIRREA requirements would *not* apply to loans exempt from the HPML appraisal rules. The opposite is true.

[17] *See* OCC: 12 CFR parts 34, Subpart C, and 164; Board: 12 CFR part 208, subpart E, and part 225, subpart G; FDIC: 12 CFR part 323; NCUA: 12 CFR part 722. *See also* 75 FR 77450 (Dec. 10, 2010).

the special appraisal rules for ''higher-risk mortgages.'' 15 U.S.C. 1639c; TILA section 129H(f)(1), 15 U.S.C. 1639h(f)(1). The Agencies implemented this exemption in the January 2013 Final Rule by cross-referencing § 1026.43(e), the definition of ''qualified mortgage'' issued by the Bureau in its 2013 ATR Final Rule. *See* § 1026.35(c)(2)(i). The Bureau's rules define ''qualified mortgage'' pursuant to the authority granted to the Bureau to implement the Dodd-Frank Act ability-to-repay requirements. *See, e.g.,* TILA section 129C(a)(1), (b)(3)(A), and (b)(3)(B)(i), 15 U.S.C. 1639c(a)(1), (b)(3)(A), and (b)(3)(B)(i).

To align the regulation with the statute, the Agencies proposed to revise the appraisal rules' exemption for qualified mortgages to include all qualified mortgages ''as defined pursuant to TILA section 129C.'' 15 U.S.C. 1639c. In addition to authority granted to the Bureau, TILA section 129C grants authority to HUD, the U.S. Department of Veterans Affairs (VA), the U.S. Department of Agriculture (USDA), and the Rural Housing Service (RHS), which is a part of USDA, to define the types of loans ''insure[d], guarantee[d], or administer[ed]'' by those agencies, respectively, that are qualified mortgages. TILA section 129H(b)(3)(B)(ii), 15 U.S.C. 1639h(b)(3)(B)(ii). The Agencies recognized that HUD, VA, USDA, and RHS may issue rules defining qualified mortgages pursuant to their TILA section 129C authority. Therefore, the Agencies proposed to expand the definition of qualified mortgages that are exempt from the HPML appraisal rules to cover qualified mortgages as defined by HUD, VA, USDA, and RHS. 15 U.S.C. 1639c.

Public Comments

Commenters on the revision to the qualified mortgage exemption were: a State credit union trade association, a national appraiser trade association, a State banking trade association, a mortgage banking trade association, a manufactured housing lender, a national association of owners of manufactured homes, a consumer advocate group, two affordable housing organizations, and a policy and research organization. All of these commenters supported the proposed revision. The State banking trade association and State credit union trade association emphasized that the definition of qualified mortgage in the final rule should include all types of qualified mortgages, including balloon payment qualified mortgages. The mortgage banking trade association favored expanding the definition of ''qualified mortgage'' to include qualified mortgages as defined by HUD, VA, USDA, and RHS based on a belief that qualified mortgages as defined by these agencies will be subject to stringent product requirements and other consumer safeguards. The manufactured housing lender also favored such an expansion based on a belief that these agencies' loan programs provide credit options for underserved consumers in lower income groups.

The Final Rule

In § 1026.35(c)(2)(i), the Agencies are adopting an exemption similar to the proposed exemption for qualified mortgages. In the final rule, the exemption for qualified mortgages applies to either:

- A loan that is a ''covered transaction'' under the Bureau's ability-to-repay rules—namely, a loan subject to the ability-to-repay rules of the Bureau in § 1026.43 (*see* § 1026.43(b)(1) (defining ''covered transaction''))—*and* that is also a qualified mortgage under the Bureau's ability-to-repay requirements in § 1026.43 or, for loans insured, guaranteed, or administered under programs of HUD, VA, USDA, or RHS, a qualified mortgage under the applicable rules of those agencies (but only once such rules are in effect; otherwise, the Bureau's definition of a qualified mortgage applies to those loans); or
- A loan that is not a ''covered transaction'' under the Bureau's ability-to-repay rules, but meets the qualified mortgage criteria established in the rules of the Bureau or, for loans insured, guaranteed, or administered under programs of HUD, VA, USDA, or RHS, meets the qualified mortgage criteria under the applicable rules of those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans).

The expanded exemption adopted by the Agencies includes qualified mortgages defined by the Bureau in any of its regulations, such as loans described in § 1026.43(e) as well as § 1026.43(f). Thus, qualified mortgages exempt from the HPML appraisal rules include loans subject to the Bureau's ability-to-repay rules that:

- Meet the general criteria for a qualified mortgage under § 1026.43(e)(2).
- Meet the special criteria for a qualified mortgage under § 1026.43(e)(4).[18]
- Meet the criteria for small creditor portfolio loans in § 1026.43(e)(5).
- Meet the criteria for temporary balloon-payment qualified mortgages in § 1026.43(e)(6).
- Meet the criteria for balloon-payment qualified mortgages under § 1026.43(f).

The Agencies believe that the statutory provision exempting ''qualified mortgage[s], as defined in section 129C'' evidences Congress's intent to exempt all loans with the characteristics of a qualified mortgage from the HPML appraisal rules. TILA section 129H(f)(1); 15 U.S.C. 1639h(f)(1). As discussed above, TILA section 129C encompasses qualified mortgages defined by the Bureau pursuant to its authority to do so, as well as qualified mortgages defined by HUD, VA, USDA and RHS for loans in their respective programs. *See* TILA section 129C(a)(1), (b)(3)(A), and (b)(3)(B)(i), 15 U.S.C. 1639c(a)(1), (b)(3)(A), and (b)(3)(B)(i) (authority of the Bureau) and TILA section 129C(b)(3)(B)(ii), 15 U.S.C. 1639c(b)(3)(B)(ii) (authority of HUD, VA, USDA, and RHS).

Additionally, the amended qualified mortgage exemption language is intended to ensure that loans that meet the qualified mortgage criteria of the Bureau, HUD, VA, USDA, or RHS, as applicable, but are exempt from the Bureau's ability-to-repay rules in § 1026.43, are afforded an exemption from the HPML appraisal rules as well. In the Bureau's ability-to-repay rules, ''qualified mortgage'' is a designation only for ''covered transactions,'' which are loans subject to the ability-to-repay requirements of TILA section 129C(a), implemented in § 1026.43(c).[19] 15

[18] These include loans that are eligible, based solely on criteria related to the consumer's ability to pay, to be purchased or guaranteed by Fannie Mae or Freddie Mac and loans eligible to be insured or guaranteed by HUD, VA, USDA, or RHS. To be qualified mortgages, these loans also must meet the following general criteria for a qualified mortgage: (1) provide for regular periodic payments (§ 1026.43(e)(2)(i)); (2) have a term of no more than 30 years (§ 1026.43(e)(2)(ii)); and (3) not exceed thresholds for total points and fees set out in § 1026.43(e)(3) (§ 1026.43(e)(2)(iii)). *See* § 1026.43(e)(4)(i)(A). The qualified mortgage status of loans eligible for purchase by Fannie Mae or Freddie Mac expires starting on January 11, 2021. The qualified mortgage status of loans eligible to be insured or guaranteed by HUD, VA, USDA, or RHS expires on the effective date of a rule issued by each of these respective agencies defining ''qualified mortgage'' for their own programs. On Sept. 30, 2013, HUD published proposed rules defining ''qualified mortgage'' based on its authority under TILA section 129C(b)(3)(B)(ii)(I). 15 U.S.C. 1639c(b)(3)(B)(ii)(I); 78 FR 59890 (Sept. 30, 2013).

[19] In the 2013 ATR Final Rule, ''covered transaction'' is defined to mean ''a consumer credit transaction that is secured by a dwelling, as defined in § 1026.2(a)(19), including any real property attached to a dwelling, *other than a transaction exempt from coverage under* [*§ 1026.43(a)*]'' (emphasis added). ''Qualified mortgage'' is defined

Continued

U.S.C. 1639c. The Bureau excluded certain transactions from the scope of the rules, including loans originated as part of certain programs, such as a program administered by a Housing Finance Agency, or loans originated by certain entities, such as a Community Development Financial Institution (CDFI). *See* § 1026.43(a)(3). Under the Bureau's ability-to-repay rules, these loans are not considered to be ''covered transactions'' and are therefore not eligible to be qualified mortgages under the Bureau's ability-to-repay rules. This is the case even if the loans meet the criteria for a qualified mortgage in the Bureau's rules.

Under the proposed exemption—for ''qualified mortgages as defined pursuant to 15 U.S.C. 1639c''—loans exempted from the Bureau's ability-to-repay requirements would not be eligible for the qualified mortgage exemption from the HPML appraisal rules because, technically, they are not ''defined'' as qualified mortgages under Bureau rules. Such excluded loans would include:

- Loans made as part of a program administered by a State housing finance agency (HFA); [20]
- Loans made by a creditor designated as a CDFI, a creditor designated as a Downpayment Assistance through Secondary Financing Provider, a creditor designated as a Community Housing Development Organization, and a creditor that is a 501(c)(3) organization and meets certain other criteria; [21] and
- Loans made pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008.[22]

As discussed above, the Agencies believe that, by exempting qualified mortgages in the statute, Congress intended to exempt from the requirements those loans that have the characteristics of a qualified mortgage. The Agencies believe that if the HPML appraisal rules exempted only ''qualified mortgages as defined pursuant to 15 U.S.C. 1639c,'' the rules would apply to transactions that Congress did not intend to subject to the appraisal requirements. By contrast, the final rule, which exempts ''a loan that satisfies the criteria of a qualified mortgage,'' ensures that all transactions intended to be exempt from the HPML appraisal requirements are excluded from coverage.

In addition, this exemption ensures that transactions with the terms and features of a qualified mortgage are not treated differently when made by or through programs of entities that fall outside the scope of the Bureau's ability-to-repay rules in § 1026.43 than when made by other creditors. Thus, the final rule avoids the anomalous result that an HPML made through the program of an HFA, for example, would be subject to the HPML appraisal rules, whereas an HPML with the exact same terms and features made by a private creditor would not.

Accordingly, comment 35(c)(2)(i)–1 explains that, under § 1026.35(c)(2)(i), a loan is exempt from the appraisal requirements of § 1026.35(c) if either:

- The loan is—(1) subject to the Bureau's ability-to-repay requirements in § 1026.43 as a ''covered transaction'' (defined in § 1026.43(b)(1)) and (2) a qualified mortgage pursuant to the Bureau's rules or, for loans insured, guaranteed, or administered by HUD, VA, USDA, or RHS, a qualified mortgage pursuant to the applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's definition of a qualified mortgage applies to those loans); or
- The loan is—(1) not subject to the Bureau's ability-to-repay requirements in § 1026.43 as a ''covered transaction,'' but (2) meets the criteria for a qualified mortgage in the Bureau's rules or, for loans insured, guaranteed, or administered by HUD, VA, USDA, or RHS, meets the criteria for a qualified mortgage in the applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans).

Comment 35(c)(2)(i)–1 further explains that loans enumerated in § 1026.43(a) are not ''covered transactions'' under the Bureau's ability-to-repay requirements in § 1026.43, and thus cannot be qualified mortgages (entitled to a rebuttable presumption or safe harbor of compliance with the ability-to-repay requirements of § 1026.43, *see, e.g.,* § 1026.43(e)(1)). These include an extension of credit made pursuant to a program administered by an HFA, as defined under 24 CFR 266.5, or pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008. *See* § 1026.43(a)(3)(iv) and (vi). They also include extensions of credit made by a creditor identified in § 1026.43(a)(3)(v). The comment clarifies that, nonetheless, these loans are not subject to the appraisal requirements of § 1026.35(c) if they meet the Bureau's qualified mortgage criteria in § 1026.43(e)(2), (4), (5), or (6) or § 1026.43(f) (including limits on when loans must be consummated) or, for loans that are insured, guaranteed, or administered by HUD, VA, USDA, or RHS, in applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage apply to those loans).

The comment includes the following example: Assume that HUD has prescribed rules to define loans insured under its programs that are qualified mortgages and those rules are in effect. Assume further that a creditor designated as a Community Development Financial Institution, as defined under 12 CFR 1805.104(h), originates a loan insured by the Federal Housing Administration, which is a part of HUD. The loan is not a ''covered transaction'' and thus is not a qualified mortgage. *See* § 1026.43(a)(3)(v)(A) and (b)(1). Nonetheless, the transaction is eligible for an exemption from the appraisal requirements of § 1026.35(c) if it meets the qualified mortgage criteria in HUD's rules.

Finally, the comment clarifies that nothing in § 1026.35(c)(2)(i) alters the definition of a qualified mortgage under regulations of the Bureau, HUD, VA, USDA, or RHS.

35(c)(2)(ii)

The Agencies' Proposal

In the 2013 Supplemental Proposed Rule, the Agencies proposed an exemption from the HPML appraisal rules for extensions of credit of $25,000 or less. This threshold amount was based on the Agencies' consideration of an appropriate threshold in light of comments to the 2012 Proposed Rule, as well as data reported under the Home Mortgage Disclosure Act (HMDA), 15 U.S.C. 2801 *et seq.* The Agencies also proposed to adjust the threshold for inflation every year, based on the percentage increase of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W). Proposed comments 35(c)(2)(ii)-1, -2, and -3 provided additional guidance on the proposed exemption.

The Agencies expressed the belief that the expense to the consumer of an appraisal with an interior inspection could be significant and unduly burdensome to consumers of HPMLs of $25,000 or less that are not qualified mortgages. Thus, an appraisal requirement could hamper consumers' use of smaller home equity loans. The Agencies also stated their concern that a requirement for an appraisal with an interior inspection may pose a

as ''a covered transaction'' that meets certain criteria. § 1026.43(e)(2).

[20] *See* § 1026.43(a)(3)(iv).

[21] *See* § 1026.43(a)(3)(v)(A)–(D).

[22] *See* § 1026.43(a)(3)(vi).

burdensome cost for consumers who seek to purchase lower-dollar homes using HPMLs that are not qualified mortgages; these tend to be low- to moderate-income (LMI) consumers who are less able to afford extra costs than higher-income consumers.

The Agencies stated the view that the exemption can facilitate creditors' ability to meet consumers' smaller dollar credit needs, and that this could in turn promote the soundness of an institution's operations by supporting profitability and an institution's ability to spread risk over a variety of products. The Agencies noted that public comments on the 2012 Proposed Rule suggested that the reduction in costs and burdens associated with this exemption might benefit smaller institutions in particular.

To inform the proposal, the Agencies also relied on data on mortgage lending in 2009, 2010, and 2011 reported under HMDA. The Agencies noted that, for example, an appraisal including an interior inspection for a subordinate lien home improvement loan might be burdensome on a consumer, without sufficient offsetting consumer protection or safety and soundness benefits. Therefore, the Agencies examined the mean and median loan sizes for subordinate lien home improvement loans in 2009, 2010, and 2011. Based in part on this HMDA data, the Agencies believed $25,000 was an appropriate threshold. *See* 78 Fed. Reg. 48547, 48564 (August 8, 2013).

At the same time, in light of the views expressed by consumer advocates, the Bureau had concerns that, as a result of borrowing so-called ''smaller'' dollar home purchase or home equity loans, some consumers may be at risk of high loan-to-value (LTV) ratios, including LTVs that lead to going ''underwater''—owing more than their home is worth. The Bureau believed that receiving a written valuation might be helpful in informing a consumer's decision about whether to obtain the loan by making the consumer better aware of how the value of the home compares to the amount that the consumer might borrow. As a result, the Agencies requested comment in the 2013 Supplemental Proposed Rule regarding whether certain conditions should be placed on the proposed smaller dollar loan exemption.

Public Comments

Public Comments on the 2012 Proposed Rule

In the 2012 Proposed Rule, the Agencies requested comment on exemptions from the final rule that would be appropriate. In response, several commenters recommended an exemption for smaller dollar loans. These commenters generally believed that appraisals with interior inspections for these loans would significantly raise total costs as a proportion of the loan and thus potentially be detrimental to consumers. The commenters were concerned that requiring an appraisal for smaller dollar HPMLs would result in excessive costs to consumers without sufficient offsetting benefits. Some asserted that applying the HPML appraisal rules to smaller dollar loans might disproportionately burden smaller institutions and potentially reduce access to credit for their consumers.

Comments to the 2012 Proposed Rule varied widely regarding the appropriate threshold for a smaller dollar loan exemption. Suggested thresholds ranged from $10,000 or less up to $125,000 for certain transactions. The Agencies did not finalize a smaller dollar loan exemption in the January 2013 Final Rule, instead choosing to propose a smaller dollar loan exemption in the subsequent 2013 Supplemental Proposed Rule.

The Agencies did not receive comments on the 2012 Proposed Rule from consumers or consumer advocates. However, in informal outreach conducted by the Agencies after the January 2013 Final Rule was issued, a consumer advocacy group expressed the view that LMI consumers obtaining or refinancing loans secured by lower-value homes may have a particular need for the protections of the HPML appraisal rules. They also expressed the view that requiring quality appraisals for smaller dollar loans, and requiring that they be provided to the consumer, can help prevent the kinds of appraisal fraud that can lead to consumers borrowing more money than is supported by the equity in their home or taking out loans that are otherwise not appropriate for them.

Public Comments on the 2013 Supplemental Proposed Rule

In the 2013 Supplemental Proposed Rule, the Agencies sought comment on a proposed exemption for loans of $25,000 or less, and whether a threshold higher or lower than $25,000 was appropriate. The Agencies encouraged commenters to include data to support their views.

Twenty-nine commenters addressed the threshold for the smaller dollar loan exemption: nine State credit union trade associations, three credit unions, one national credit union trade association, two community banks, one community banking trade association, one financial holding company, two State banking trade associations, one mortgage banking trade association, one consumer advocate group, three affordable housing organizations, one policy and research organization, one national association of owners of manufactured homes, one State manufactured housing association, one small mortgage lender, and one individual.

No commenters on this proposed exemption opposed including an exemption from the HPML appraisal requirements for smaller dollar loans. Eight commenters believed that the Agencies should either retain or reduce the $25,000 threshold. A national association of owners of manufactured homes, two affordable housing organizations, a consumer advocate group, and a policy and research organization generally recommended that, if the Agencies adopted the exemption, the exemption threshold should be no more than $25,000. They believed that a large percentage of the transactions affected were likely to be manufactured home transactions, although they urged the Agencies to apply the exemption equally to manufactured homes and site-built homes. A State banking trade association also supported an exemption for extensions of credit of $25,000 or less, citing increased costs and burdens associated with obtaining appraisals with interior inspections. An individual commenter urged the Agencies to reduce the threshold to $10,000, believing a $25,000 threshold could lead to significant monetary risk for consumers, particularly LMI consumers.

All of the other commenters urged the Agencies to raise the threshold for the exemption. Eight State credit union trade associations, three credit unions, one national credit union trade association, one State manufactured housing association, and one small mortgage lender suggested that the threshold be raised to $50,000. Generally, these commenters supported the increase because they believed that the cost of an appraisal for transactions of lower amounts did not correspond to a meaningful benefit. They also supported regulatory relief to creditors. A credit union stated that a threshold under $50,000 may result in less lending to LMI consumers because lenders would not be willing to make the loans. A State credit union association stated that lenders may not make loans if the threshold is below $50,000 because the cost of originating and processing loans under that amount already exceeds origination fees,

without a requirement for an appraisal with an interior inspection. Another credit union noted that it obtains evaluations, rather than appraisals, for transactions below $50,000.[23]

Several commenters suggested other thresholds. A State credit union trade association commenter suggested that the threshold should be raised to $100,000 or, at a minimum, to $75,000. The commenter stated that requiring costly appraisals on smaller dollar HPMLs disproportionately hurts LMI consumers and consumers in rural areas, where appraisals can be costly and the wait time for appraisals, according to a member survey, is generally one-and-a-half to three months, but can be up to six months. A community banking trade association believed that, for loans below $100,000, the cost of an appraisal is high relative to the cost of the loan, but the credit risk to the bank is low. One community bank suggested a threshold of $35,000, noting that the average size of loans secured by a manufactured home (and not land) that are made by the bank is under $35,000. Another community bank believed that $40,000 was an appropriate threshold and expressed concerns about the cost of appraisals, especially in rural areas.

A few commenters suggested thresholds that are the same as those in other mortgage rules, asserting that this alignment would reduce regulatory burden. A mortgage banking trade association stated that the threshold should be $100,000 because the Bureau's ability-to-repay rule permits creditors to apply higher points and fees for loans below $100,000.[24] Two of the commenters suggesting a $50,000 threshold asserted that doing so would make the exemption consistent with a threshold in the Bureau's Regulation Z rules under the Home Ownership and Equity Protection Act of 1994 (HOEPA) for different interest rate triggers.[25]

The suggestions of some commenters focused on excluding subordinate lien transactions from the rule. A State credit union association believed $50,000 was an appropriate threshold because it would exclude from coverage of the HPML appraisal rules many subordinate lien transactions. This commenter believed that appraisals for subordinate lien loans taken concurrently with first lien loans were unnecessary because often an appraisal will have been performed for the first lien transaction. The commenter also believed that most home improvement loans are more than $25,000, so the proposed threshold could hinder the use of smaller home equity loans. The commenter asserted that the expense of the appraisal with an interior inspection could considerably raise the total costs of financing the home improvement loan.

In addition, a State banking association and a financial holding company recommended exempting home equity loans from the rule. The financial holding company noted that, in the calculation to determine HPML status, the spread between APR and APOR is smaller for first lien loans than for subordinate lien loans (1.5 percentage points above APOR and 3.5 percentage points above APOR, respectively), and objected to an appraisal requirement for first lien home equity loans in particular. This commenter recommended that the Agencies raise the APR–APOR spread to 3.5 percentage points for all home equity loans. The State banking association argued that first lien home equity loans present very little credit risk.

The Agencies also sought comment on whether the threshold for the smaller dollar loan exemption should be adjusted periodically for inflation and whether the adjustments should be annually or some other period. A small mortgage lender and a State banking trade association expressed support for the annual adjustment. The small mortgage lender noted that this approach was consistent with other provisions in Regulation Z.[26]

Conditioning an exemption. In addition, the Agencies requested comment on whether conditions should be imposed on the smaller dollar loan exemption. The Agencies specifically asked whether the smaller dollar loan exemption should be conditioned on the creditor providing the consumer with an alternative estimate of the collateral value. A national association of owners of manufactured homes, two affordable housing associations, a consumer advocate group, and a policy and research organization believed that, if the Agencies adopted the exemption, consumers should be given at least the manufacturer's invoice for new manufactured home transactions, even if they fall under the threshold. These commenters believed that providing the invoice would be low cost, and yet would provide an important check on overvaluation. Another affordable housing organization believed that creditors in manufactured home transactions of $25,000 or less should be required to obtain replacement cost estimates performed by a trained, independent appraiser from a nationally-published cost service. *See also* section-by-section analysis of § 1026.35(c)(2)(viii).

A community bank commenter asserted that consumers should receive a copy of the valuation used by the creditor as a condition to the exemption. A small mortgage lender suggested that a government-provided tax assessment would be an appropriate valuation to provide to consumers. This commenter argued that because municipalities already use tax assessments to determine property value for tax and insurance purposes, the assessments have been proven to be sufficiently reliable. The commenter contended that requiring more costly valuation methods as a condition of the exemption might prompt creditors to determine that the exemption is unduly burdensome and stop making these smaller dollar loans.

An affordable housing organization suggested that, as a condition to the exemption (as well as other exemptions), creditors should be required to provide any valuation used to determine the security for the loan and suggested that creditors should be given flexibility to choose the appropriate valuation for the transaction. At the same time, the commenter recommended that a creditor should be required to obtain replacement cost estimates from a trained, independent appraiser and to provide these estimates to a consumer.

The Agencies did not receive comments on a number of additional comment requests, including requests for information about the risks that smaller dollar loans could lead to high LTV loans; specific data on the costs and burdens associated with the exemption, especially for smaller institutions; and data on the extent to which creditors anticipate originating HPMLs of $25,000 or less that are not qualified mortgages.

The Final Rule

The Agencies are adopting the exemption for HPMLs for extensions of credit of $25,000 or less as proposed and renumbering it § 1026.35(c)(2)(ii). The Agencies are also adopting the proposal to adjust the threshold annually, based on the percentage increase of the CPI–W. Official Staff

[23] Regulations applicable to national credit unions generally require a credit union to obtain an ''evaluation'' rather than an appraisal for transactions with a value of $250,000 or less. *See* 12 CFR 722.3(a)(1) and (d).

[24] *See* § 1026.43(e)(3).

[25] *See* § 1026.32(a)(1)(i)(B), effective January 10, 2014. *See also* 78 FR 6856 (Jan. 31, 2013) (2013 HOEPA Final Rule).

[26] *See* § 1026.3(b) (exempting from Regulation Z loans over the applicable threshold dollar amount, adjusted annually); § 1026.32(a)(1)(ii) (setting the points and fees trigger for high-cost mortgages, adjusted annually).

Commentary for § 1026.35(c)(2)(ii) is also adopted as proposed.

Comment 35(c)(2)(ii)–1 explains that, for purposes of § 1026.35(c)(2)(ii), the threshold amount in effect during a particular one-year period is the amount stated in this comment for that period. Specifically, comment 35(c)(2)(ii)–1.i. provides that from January 18, 2014, through December 31, 2014, the threshold amount is $25,000. Comment 35(c)(2)(ii)–1 further provides that the threshold amount is adjusted effective January 1 of every year by the percentage increase in the CPI–W that was in effect on the preceding June 1. The comment also states that, every year, the comment will be amended to provide the threshold amount for the upcoming one-year period after the annual percentage change in the CPI–W that was in effect on June 1 becomes available. In addition, the comment states that any increase in the threshold amount will be rounded to the nearest $100 increment. The comment provides the following example: if the percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900.

Comment 35(c)(2)(ii)–2 clarifies that a transaction is exempt under § 1026.35(c)(2)(ii) if the creditor makes an extension of credit at consummation that is equal to or below the threshold amount in effect at the time of consummation.

Finally, comment 35(c)(2)(ii)–3 explains that a transaction does not meet the condition for an exemption under § 1026.35(c)(2)(ii) merely because it is used to satisfy and replace an existing exempt loan, unless the amount of the new extension of credit is equal to or less than the applicable threshold amount. The comment provides the following example: assume a closed-end loan that qualified for a § 1026.35(c)(2)(ii) exemption at consummation in year one is refinanced in year ten and that the new loan amount is greater than the threshold amount in effect in year ten. The comment states that, in these circumstances, the creditor must comply with all of the applicable requirements of § 1026.35(c) with respect to the year ten transaction if the original loan is satisfied and replaced by the new loan, unless another exemption from the requirements of § 1026.35(c) applies. *See* § 1026.35(c)(2) and § 1026.35(c)(4)(vii).

For the reasons discussed in the 2013 Supplemental Proposed Rule as described in ''The Agencies' Proposal,'' the Agencies believe that the exemption finalized in § 1026.35(c)(2)(ii) is in the public interest and promotes the safety and soundness of creditors. As discussed in the 2013 Supplemental Proposed Rule, the Agencies believe that the burden and expense of imposing the HPML appraisal requirements on HPMLs of $25,000 or less that are not qualified mortgages outweigh potential consumer protection benefits in many cases. As discussed above, no commenters objected to an exemption, and many commenters generally agreed with the Agencies' assessment of the costs versus the benefits of appraisals for these loans. Commenters also noted that the cost of the appraisals would be even higher in rural areas, due to the scarcity of appraisers and the potential for added time to locate and engage an appraiser.

As noted, the Agencies received a number of comments on the 2013 Supplemental Proposed Rule suggesting that the Agencies should raise the amount of the threshold. These commenters cited the cost of the appraisals and at least one commenter provided some information about the percentage of HPMLs made by the lender that are smaller dollar, but overall very little data was offered to support the various threshold suggestions. For example, despite the Agencies' requests for data, no commenters provided data indicating that a significant number of the smaller dollar loans they originate would not be qualified mortgages and thus would be subject to the HPML appraisal requirements absent an exemption.

To inform the threshold determination, the Agencies again examined HMDA data. According to 2012 HMDA data, increasing the proposed threshold could substantially increase the proportion of HPMLs that would be exempted from the rule. For example, a $25,000 exemption would exempt 55 percent of conventional subordinate lien home improvement HPMLs from coverage and 37 percent of conventional subordinate lien home purchase HPMLs. In comparison, a $50,000 exemption would exempt 87 percent of conventional subordinate lien home improvement HPMLs and 70 percent of percent of conventional subordinate lien home purchase HPMLs.[27] The Agencies believe that increasing the threshold from $25,000 to, for example, $50,000, would exempt too large a proportion of HPMLs, such that the exemption would violate the intent of the statute to subject both first and subordinate lien loans to the appraisal requirements. The Agencies believe that a threshold of $25,000 appropriately exempts from the rule those smaller dollar loans that would benefit from the exemption, such as smaller dollar home improvement loans. Moreover, the Agencies believe creditors are generally better able to absorb losses that might be associated with a loan of $25,000 or less than loans of higher amounts.

As discussed under ''Public Comments,'' some commenters suggested exempting loans based on lien status or whether the loan is a home equity loan. For example, a State credit union association advocated for a threshold that would exclude most subordinate lien loan from the rules. A State banking association and a financial holding company recommended exempting home equity loans from the rule, particularly first lien home equity loans. The financial holding company noted that, in the calculation to determine HPML status, the spread between APR and APOR is smaller for first lien loans than for subordinate lien loans (1.5 percent above APOR and 3.5 percent above APOR, respectively). This commenter recommended that the Agencies raise the APR–APOR spread triggering HPML status to 3.5 percentage points for all home equity loans, whether first lien or subordinate lien.

The Agencies believe that an exemption based on a monetary threshold rather than an exemption based on a loan's lien status or loan purpose (home equity versus home purchase, for example) is necessary to protect consumers and more consistent with the statute. The statute clearly indicates that HPMLs secured by a consumer's principal dwelling should be covered, whether home purchase or home equity, and whether first lien or subordinate lien. *See* TILA section 129H(f), 15 U.S.C. 1639h(f). In addition, the differing APR–APOR spreads for first lien and subordinate lien loans were set by statute. *See id.* Both first lien and subordinate lien home equity loans reduce equity in a consumer's home and can put consumers at financial risk; the Agencies believe that limiting this risk to consumers for both types of loans is appropriate. The Agencies also believe that consistency of the rule across these loan types will facilitate compliance.

Regarding comments that the threshold should match those in other

[27] *See* Federal Financial Institutions Examination Council (FFIEC), HMDA, *http://www.ffiec.gov/Hmda/default.htm.*

mortgage rulemakings, the Agencies decline to do so because the other mortgage rules are not comparable to the appraisal requirements. The $50,000 threshold in the 2013 HOEPA Final Rule referred to by two commenters relates to which APR–APOR spread applies in determining whether a loan is ''high-cost.'' [28] Specifically, the $50,000 threshold is relevant only if the loan is secured by a first lien on a dwelling that is personal property. This threshold was intended to capture a very specific type of loan for an exemption from an entirely different set of rules. The Agencies therefore question the basis for applying the same threshold in establishing an exemption from the HPML appraisal rules.

For similar reasons, the Agencies believe that setting the threshold at $100,000 to align with the $100,000 tier for permitting higher points and fees for qualified mortgages, as one commenter suggested, is not appropriate. *See* § 1026.43(e)(3). The smaller dollar loan thresholds in that rule were crafted in the context of ensuring a consumer's ability to repay a mortgage, not for purposes of determining whether an appraisal should be performed for a particular transaction. Moreover, the $100,000 threshold is only the highest loan amount of five tiers of loan amounts for which higher points and fees are permitted at varying levels.

For the reasons discussed above, therefore, the Agencies are maintaining the proposed $25,000 threshold in the final rule. The Agencies also are adopting the proposal to adjust the threshold for inflation every year, based on the percentage increase of CPI–W. As noted, commenters supported an annual adjustment for inflation. Also, as discussed in the 2013 Supplemental Proposed Rule, inflation adjustments for other thresholds in Regulation Z are also annual, so the adjustment will provide for consistency across mortgage rules.

Conditions on the exemption. The Agencies are finalizing the smaller dollar loan exemption with no conditions. Some commenters suggested providing alternative valuations to consumers as a condition to the smaller dollar loan exemption, including providing the consumer with an estimate of the value of the collateral property that the creditor relied on in making the credit decision. However, the Agencies believe that for HPMLs of $25,000 or less that are not qualified mortgages, the added burden or cost of a condition could deter lenders from making these loans, which could harm consumers. In addition, the Agencies believe that an unconditional exemption for transactions of $25,000 or less will be simpler and easier for creditors to apply, thus facilitating compliance and enhancing the utility of the exemption.

One reason that the Agencies are not raising the exemption above $25,000 is the Agencies' concern that conditioning the exemption might then be necessary to ensure that the exemption both promotes the safety and soundness of creditors and is in the public interest. In the Agencies' view, arguments that neither an appraisal nor an alternative valuation need be obtained or provided to the consumer become increasingly less persuasive for transactions over $25,000, as larger amounts tie up greater amounts of home equity and losses become less easily absorbed by creditors. The Agencies deem it best not to add complexity by conditioning the exemption and believe that no conditions are needed at the level of $25,000 or less.

35(c)(2)(iv)

The Agencies are adopting a new comment to clarify the exemption in § 1026.35(c)(2)(iv) for ''a transaction to finance the initial construction of a dwelling.'' Specifically, new comment 35(c)(2)(iv)-2 clarifies that the exemption for construction loans in § 1026.35(c)(2)(iv) applies to temporary financing of the construction of a dwelling that will be replaced by permanent financing once construction is complete. The exemption does not apply, for example, to loans to finance the purchase of manufactured homes that have not been or are in the process of being built, when the financing obtained by the consumer at that time is permanent. The comment cross-references § 1026.35(c)(2)(viii), which sets out the HPML appraisal rules applicable to transactions secured by manufactured homes.

The Agencies are adding this comment in response to public comments on the 2013 Supplemental Proposed Rule suggesting that manufactured home loans where the unit has not been constructed are similar to temporary construction loans exempt under § 1026.35(c)(2)(iv) and should be exempt on the same basis. The Agencies understand that manufactured home loans in this situation generally are permanent financing, and therefore the same rationale for exempting temporary construction loans, expressed in the January 2013 Final Rule, would not apply to those loans.

35(c)(2)(vii)

The Agencies' Proposal

The Agencies proposed to exempt from the HPML appraisal rules certain types of refinancings with characteristics common to refinance programs offering ''streamlined'' refinances. Specifically, the Agencies proposed to exempt an extension of credit that is a refinancing where the ''owner or guarantor'' of the refinance loan was the ''owner or guarantor'' of the existing obligation. In addition, the regular periodic payments under the refinance loan could not have resulted in negative amortization, covered only interest on the loan, or resulted in a balloon payment. Finally, the proceeds from the refinance loan would have to have been used solely to pay off the outstanding principal balance on the existing obligation and to pay closing or settlement charges.

As discussed in the 2013 Supplemental Proposed Rule, the Agencies believe that this exemption would be in the public interest and promote the safety and soundness of creditors.

Background

In an environment of historically low interest rates, the Federal government has supported streamlined refinance programs as a way to promote the ongoing recovery of the consumer mortgage market. Notably, the Home Affordable Refinance Program (HARP) was introduced by the U.S. Treasury Department in 2009 to provide refinance relief options to consumers following the steep decline in housing prices as a result of the financial crisis. The HARP program was expanded in 2011 and is currently set to expire in at the end of 2015.

Federal government agencies—HUD, VA, and USDA—as well as government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, have developed streamlined refinance programs to address consumer, creditor and investor risks.[29] These programs enable many consumers to refinance the balance of those mortgages through an abbreviated application and underwriting process.[30]

[28] *See* § 1026.32(a)(1)(i)(B) as amended by 78 FR 6962 (Jan. 31, 2013).

[29] Under existing GSE streamlined refinance programs, Freddie Mac and Fannie Mae purchase and guarantee streamlined refinance loans for consumers under HARP (whose existing loans have LTVs over 80 percent) as well as for consumers whose existing loans have LTVs at or below 80 percent.

[30] *See* Fannie Mae Single Family Selling Guide, chapter B5–5, section B5–5.2 (Refi Plus® and DU Refi Plus® loans); Freddie Mac Single Family Seller/Servicer Guide, chapters A24, B24, and C24 (Relief Refinance® Loans); HUD Handbook 4155.1, chapters 3.C and 6.C (Streamline Refinances) and

Under these programs, consumers with little or no equity in their homes,[31] as well as consumers with significant equity in their homes,[32] can restructure their mortgage debt, often at lower interest rates or payment amounts than under their existing loans.[33]

Valuation requirements of ''streamlined'' refinance programs. The streamlined underwriting for certain refinancings often does not include an appraisal that conforms with USPAP or a physical inspection of the property. One reason for this is that, in currently available streamlined refinance programs, the value of the property securing the existing and refinance obligations does not determine borrower eligibility for the refinance.

Generally, the principal concern under streamlined refinance programs is not whether the creditor or investor could in the near term recoup the mortgage amount by foreclosing upon and selling the securing property. The immediate goals for these loans are to secure payment relief for the borrower and thereby avoid default and foreclosure; to allow the borrower to take advantage of lower interest rates; or to restructure their mortgage obligation to build equity more quickly—all of which reduce risk for creditors and investors and benefit consumers.

The credit risk holder of the existing obligation might obtain a valuation other than an appraisal for the refinance to estimate LTV for determining the appropriate securitization pool for the loan. LTV as determined by this valuation can also affect the terms offered to the consumer. Sometimes an appraisal is required when the property is not standardized, or the credit risk holder of the existing obligation and the refinance loan does not have what it deems to be sufficient information about the property.

Fannie Mae and Freddie Mac. Fannie Mae and Freddie Mac each have streamlined refinance programs: Fannie Mae DU (''Desktop Underwriter'') Refi Plus™ and Refi Plus™ and Freddie Mac Relief Refinance®-Same Servicer/Open Access. Under these programs, Fannie Mae must hold both the old and new loan, as must Freddie Mac under its program. An appraisal is not required when the GSEs are confident in an estimate of value (usually based on their respective proprietary automated valuation models (AVMs)), which is then provided to lenders originating loans under these programs.[34]

HUD/FHA. The HUD ''Streamline'' Refinance program administered by the FHA permits but generally does not require a creditor to obtain an appraisal.[35] The Agencies understand that almost all FHA streamlined refinances are done without requiring an appraisal.[36] The FHA program does not require an alternative valuation type for transactions that do not have appraisals.

VA and USDA. VA and USDA programs do not require appraisals. The VA and USDA streamlined refinance programs also do not require an alternative valuation type for transactions for which an appraisal is not required.

Private ''streamlined'' refinance programs. The Agencies also understand that some private creditors offer streamlined refinance programs for their borrowers that meet certain eligibility requirements. In the 2013 Supplemental Proposed Rule, the Agencies sought comment and relevant data on how often private creditors obtain alternative valuation estimates in these transactions (*i.e.,* streamlined refinances outside of the government agency and GSE programs discussed previously) when no appraisal is conducted.[37] The Agencies did not receive comment on this issue.

Public Comments

Public Comments on the 2012 Proposed Rule

A number of commenters on the 2012 Proposed Rule recommended that the Agencies exempt streamlined refinancings. Some of these commenters expressed a view that the Dodd-Frank Act's ''higher-risk mortgage'' appraisal rules were not appropriate for refinancings designed to move a borrower into a more stable mortgage product with affordable payments. Commenters pointed out, among other things, that these types of refinancings can be important credit risk management tools in the primary and secondary markets, and can reduce foreclosures, stabilize communities, and stimulate the economy. GSE commenters indicated that in many cases loans originated under Federal government streamlined refinance programs do not require appraisals and asserted that doing so would interfere with these programs.

Consumer advocates did not comment on the 2012 Proposed Rule, but in subsequent informal outreach with the Agencies for the 2013 Supplemental Proposed Rule, they expressed concerns about not requiring appraisals in HPML streamlined refinance programs. They expressed the view that a quality appraisal that also is required to be made available to the consumer can be a tool to prevent fraud in refinance transactions. They also pointed out instances in which an appraisal on a refinance transaction revealed appraisal fraud on the original purchase transaction. In the 2013 Supplemental Proposed Rule, the Agencies invited further comment on these and any related concerns, and appropriate means of addressing these concerns as part of this rulemaking. The Agencies did not

Title I Appendix 11–3 (manufactured home streamline refinances); USDA Rural Development Admin. Notice 4615 (Rural Refinance Pilot); and VA Lenders Handbook, chapter 6 (Interest Rate Reduction Refinance Loans, or IRRRLs). Creditworthiness evaluations generally are not required for Refi Plus, Relief Refinance, HUD Streamline Refinance, or IRRRL loans unless borrower monthly payments would increase by 20 percent or more. *See* HUD Handbook 4155.1, chapter 6.C.2.d; Fannie Mae Single Family Selling Guide, chapter B5–5, section B5–5.2 (Refi Plus and DU Refi Plus loans); Freddie Mac Single Family Seller/Servicer Guide, chapters A24, B24, and C24; VA Lenders Handbook, chapter 6.1.c.

[31] For example, HARP supports refinancing through the GSEs for borrowers whose LTV exceeds 80 percent and whose existing loans were consummated on or before May 31, 2009. See *http://www.makinghomeaffordable.gov/programs/lower-rates/Pages/harp.aspx.*

[32] *See, e.g.,* Freddie Mac 2011 Annual Report at Table 52, reporting that the majority of Freddie Mac funding for Relief Refinances in 2011 was for borrowers with LTVs at or below 80 percent. This report is available at *http://www.freddiemac.com/investors/er/pdf/10k_030912.pdf.*

[33] Over two million streamlined refinance transactions occurred under FHA and GSE programs in 2012 (including both HPML and non-HPML refinances). According to public data recently reported by FHFA, 1,803,980 streamlined refinance loans occurred under Fannie Mae or Freddie Mac streamlined refinance programs. *See* FHFA Refinance Report for February 2013, available at *http://www.fhfa.gov/webfiles/25164/Feb13RefiReportFinal.pdf.* The Agencies estimate, based upon data received from FHA during outreach to prepare this proposal, that the FHA insured 378,000 loans under its ''Streamline'' program in 2012.

[34] For GSE streamlined refinance transactions purchased in 2012 at LTVs of above 80 percent, AVM estimates were obtained for approximately 81 percent and appraisals (either interior inspection or exterior-only) were obtained for approximately 19 percent. For GSE streamlined refinance transactions purchased in 2012 at LTVs of 80 percent or below, AVM estimates were obtained for approximately 87 and appraisals (either interior inspection or exterior-only) were obtained for approximately 13 percent.

[35] *See, e.g.,* HUD Handbook 4155.1, chapter 6.C.1.

[36] According to data from FHA, in calendar year 2012, only 1.1 percent of FHA streamline refinances required an appraisal.

[37] In general, FIRREA regulations governing appraisal requirements permit the use of an ''evaluation'' (or in the case of NCUA, a ''written estimate of market value'') rather than an appraisal in same-creditor refinances that involve no new monies except to pay reasonable closing costs and, in the case of the NCUA, no obvious and material change in market conditions or physical adequacy of the collateral. *See* OCC: 12 CFR 34.43 and 164.3; Board: 12 CFR 225.63; FDIC: 12 CFR 323.3; NCUA: 12 CFR 722.3. *See also* OCC, Board, FDIC, NCUA, *Interagency Appraisal and Evaluation Guidelines,* App. A–5, 75 FR 77450, 77466–67 (Dec. 10, 2010).

receive additional comments on this issue as part of the 2013 Supplemental Proposed Rule, the relevant public comments on which are summarized below.

Public Comments on the 2013 Supplemental Proposed Rule

Commenters were generally supportive of exempting streamlined refinances from the HPML appraisal requirements. These included comments from a credit union, a State credit union trade association, a national mortgage banking trade association, and a national real estate trade association. The commenters stated that the exemption would encourage and enable many consumers to refinance the balance of their mortgages through an abbreviated underwriting process that will save them time and money and help them restructure their debt and lower their interest rate or mortgage payment. The State credit union association commenter stated that an appraisal is not necessary for these types of transactions as the value of the home is not the factor driving the restructuring transaction. The national real estate trade association asserted that the cost of the appraisal would increase the costs to the consumer, especially in rural areas where there are fewer appraisers, with no offsetting benefit to the consumer.

Three national appraiser organizations opposed the proposed exemption for streamlined refinances and urged the Agencies not to adopt it in the final rule. Two of these commenters asserted that a key component of a consumers' decision to refinance their loan is the market value of their home. A third national appraiser organization believed that the proposed exemption was unnecessary and inconsistent with what this commenter viewed as the Dodd-Frank Act's emphasis on risk management, particularly for HPMLs.

The Agencies solicited comment on the circumstances in which an originator's assumption of ''put back'' risk on a refinance loan raises safety and soundness concerns, even where the owner or guarantor on the refinance loan remains the same. Two national appraiser organizations and a State HFA offered comments related to this question. The appraisal organizations commented that where a loan involves new risk to either government agencies or the taxpayers, an appraisal should be required. Generally, where new risk results from a transaction, an appraisal with an interior inspection should be required. These commenters added that, if the risk is already known or exists (*i.e.,* is not new risk), an exterior inspection appraisal might be sufficient.

The State HFA commented that the scope of the same ''owner or guarantor'' requirement should be expanded to include Federally-insured or -guaranteed streamlined refinancing transactions. The group suggested that the proposed language focused on the secondary market for mortgage loans rather than the Federal entities bearing the risk at the loan level. The Agencies understand that this State HFA has programs in which a Federally-insured or -guaranteed loan (such as by FHA or VA) might be refinanced and placed in a mortgage revenue bond guaranteed by the HFA. The State HFA expressed concerns that under this arrangement, the loan might not meet the same ''owner or guarantor'' criteria of the proposed refinance exemption because the HFA would be a new guarantor at the secondary market level. However, the State HFA pointed out that the refinance loan continues to be insured by FHA or guaranteed by VA at the loan level.

A State credit union organization believed that exempting refinances in which the ''owner or guarantor'' of the refinanced loan also is the ''owner or guarantor'' of the existing loan would reduce time and transaction costs. A State banking trade association commented in the context of balloon mortgages that streamlined refinances with the same ''owner and guarantor'' typically have lower costs than a refinance with another creditor. The national trade association that represents creditors believed that the language of the proposal requiring that the ''owner or guarantor'' be the same would exclude loans that are originated by the servicer or subservicer on the original obligation, and requested clarification to allow those entities to originate streamlined refinances and still be eligible for the exemption.

As noted under ''Background,'' the Agencies also sought information on the valuation practices of private creditors for refinanced loans where the private owner or guarantor remains the same and the loans are not sold to a GSE or insured or guaranteed by a Federal government agency. Two national organizations representing appraisers commented that when refinanced loans are not sold to the GSEs or insured or guaranteed by a government agency, creditors are likely to order appraisals with interior inspections because of the increased risk to the creditor.

Five commenters—three State credit union associations and two State banking trade associations—supported the proposed exemption for streamlined refinances but requested that the Agencies remove the proposed prohibition on balloon payments. These commenters believed that balloon mortgages can be an affordable option and serve an important role in helping consumers retain their homes. For similar reasons, one of the State credit union associations also supported eliminating the proposed prohibition on interest-only payments. A State banking trade association urged the Agencies to consider including Balloon Payment Qualified Mortgages [38] in the proposed expanded definition for qualified mortgages, arguing that these types of mortgages undergo rigorous underwriting procedures similar to those required under the general qualified mortgage provisions.[39]

In addition to the restrictions on exempt refinancings that the Agencies proposed, one State bank commenter recommended that the proceeds from the refinance be used to pay both principal and accrued interest since the majority of refinance loans today include the accrued interest of the refinanced loan into the new loan amount. This commenter stated that including accrued interest would not adversely affect the consumer and could be beneficial if the consumer does not have the cash to pay the amount.

An affordable housing organization commenter stated that any streamlined refinance resulting in higher payments, higher interest rates or longer loan terms for the consumer should not be exempt. This commenter also believed that previously refinanced loans should not be exempt to prevent an accumulation of high fees from eroding the consumer's equity.

A State credit union association commenter opposed limiting the amount of points and fees that may be financed on an exempt refinance transaction. This commenter pointed out that a points and fees test applies to ''high-cost'' mortgages in Regulation Z [40] and asserted that it is not necessary to include point and fee caps as part of HPML appraisal rules. This commenter also argued that to do so would create more regulatory confusion for consumers and financial institutions.

Two commenters—a national mortgage banking association and an

[38] *See* § 1026.43(e)(6) and (f).

[39] § 1026.43(e)(2).

[40] *See* § 1026.32(a), implementing TILA section 103(aa), 15 U.S.C. 1602(aa), as amended by section 1431 of the Dodd-Frank Act (revising the points and fees triggers for determining whether a loan is a ''high-cost mortgage.'' *See also* § 1026.43(e)(3), implementing TILA section 129C(b)(2)(A)(vii), 15 U.S.C. 1639c(b)(2)(A)(vii) (limiting points and fees that may be charged on a ''qualified mortgage'').

affordable housing organization—suggested that one of the criteria for an exempt refinance transaction should be a consumer benefit. The national mortgage banking association commenter recommended that the Agencies adopt the benefits test used by the GSEs for HARP loans, which requires that the new loans put borrowers in a better position by reducing their payments or moving them from a risky loan structure.[41] Similarly, the affordable housing organization commenter stated that only streamlined refinance transactions clearly lowering the consumer's risk should be exempt. On the other hand, a State credit union association commenter opposed introducing additional limits on the exemption, such as requiring that the borrower have made timely payments for a specified period or that the consumer ''benefit'' from the transaction in some way defined in the regulations.

The Agencies also requested comments on whether the exemption for refinance loans should be conditioned on the creditor obtaining an alternative valuation and providing a copy to the consumer three business days prior to closing. The Agencies further asked whether obtaining and providing an alternative valuation would better position the consumer to consider alternatives, and whether consumers seeking to refinance their existing first lien loan typically need or want to consider alternatives to refinancing. Lastly, the Agencies generally requested comment and data on whether a condition on the exemption is necessary.

Four commenters—a State credit union association, a national community bank trade association, a national mortgage banking association, and a financial holding company—affirmatively opposed requiring creditors to obtain an alternative valuation to qualify their refinance loans for the refinance exemption from the HPML appraisal rules. Commenters stated that doing so would hinder the refinancing process and increase the time and expense of these transactions unnecessarily. These commenters did not believe that a significant benefit exists in giving an alternative valuation when consumers are not increasing the amount of their debt or changing the collateral.

Comments from a State bank and a State credit union association suggested that if an alternative valuation were required, creditors should be able to rely on an existing appraisal to the extent permitted by existing Federal appraisal regulations and the interagency appraisal guidelines,[42] which allow for using an existing appraisal prepared for another financial institution. A credit union commenter and a State credit union association commenter suggested that if an alternative is required, a ''drive-by'' appraisal or comparable market analysis to ensure that the home still stands and is in reasonable condition is prudent when modifying or restructuring debt to reduce foreclosures and further delinquencies.

Three national appraiser organizations and an affordable housing organization recommended that, at minimum, an alternative valuation to an appraisal with an interior inspection should be required so that consumers are better informed. The appraiser group commenters recommended that creditors obtain replacement cost estimates or other less costly services provided by appraisers, such as desktop appraisals. One appraiser group generally asserted that the consumer should be made aware of what type of valuation service was performed and by whom.

No commenters provided data relevant to whether requiring an alternative valuation as a condition of the proposed refinance exemption would be necessary or beneficial.

In the 2013 Supplemental Proposed Rule, the Agencies recognized that estimates of value may not always be required by Federal law or investors. For example, some creditors are not subject to the appraisal and evaluation requirements that apply to Federally regulated financial institutions[43] under FIRREA and, therefore would not be required to obtain a FIRREA-compliant valuation on a ''no cash out'' refinance. Thus, the Agencies requested comment on the extent to which either appraisals or other valuation tools such as AVMs or broker price opinions (BPOs) are used in connection with streamlined refinances—by non-depositories not covered by FIRREA in particular. Only one commenter, a national appraiser organization, responded to this question, stating that BPOs are not used in refinance transactions and, in fact, are illegal in many states. Moreover, this commenter pointed out that GSEs and other government agencies prohibit using BPOs in refinancing, and use their own AVMs to waive appraisal requirements when appropriate.

The Final Rule

The Agencies are adopting the exemption for certain refinancings proposed in the 2013 Supplemental Proposed Rule with modifications to some of the criteria for an exempt refinance transaction, described in the section-by-section analysis below. Consistent with the 2013 Supplemental Proposed Rule, the Agencies decline to adopt an exemption for all refinance loans, as a few commenters on the 2012 Proposed Rule suggested. The appraisal rules in TILA Section 129H apply to ''residential mortgage loans'' that are higher-priced and secured by the consumer's principal dwelling. TILA section 129H(f), 15 U.S.C. 1639h(f). The term ''residential mortgage loan'' includes refinance loans.[44] Accordingly, the Agencies believe that an exemption for all HPML refinances would be overbroad. For example, in refinance transactions involving additional cash out to the consumer, consumer equity in the home can decrease significantly, increasing risks, so the Agencies do not believe an exemption from this rule would be appropriate.

As stated in the 2013 Supplemental Proposed Rule, the Agencies believe that a narrower exemption for certain types of HPML refinance loans, generally consistent with the program criteria for streamlined refinances under GSE and Federal government agency programs, is in the public interest and will promote the safety and soundness of creditors. The Agencies recognize that, by reducing the risk of foreclosures and helping borrowers better afford their mortgages, streamlined refinancing programs can contribute to stabilizing communities and the economy, both now and in the future. Streamlined HPML refinance transactions can help borrowers who are at risk of default in the near future, as well as those who might not default in the near term but could benefit by refinancing into a lower rate mortgage for considerable cost savings over time. The Agencies also recognize that streamlined refinancing programs assist credit risk holders to manage their risks. Originating HPML refinances that are beneficial to consumers can be important to creditors to ensure the

[41] *See* Fannie Mae Selling Guide, B5–5.2–02, DU Refi Plus and Refi Plus Underwriting Considerations (9/24/2013).

[42] *See* OCC: 12 CFR 34.45(b)(2) and 12 CFR 164.5(b)(2); Board: 12 CFR 225.65(b)(2); FDIC: 12 CFR 323.5(b)(2); NCUA: 12 CFR 722.5(b)(2).

[43] *See* 12 U.S.C 3350(7) (defining ''financial institution'' for purposes of FIRREA and implementing regulations).

[44] ''The term 'residential mortgage loan' means any consumer credit transaction that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling or on residential real property that includes a dwelling, other than a consumer credit transaction under an open end credit plan . . ..'' TILA section 103(cc)(5), 15 U.S.C. 1602(cc)(5).

continuing performance of loans on their books and to strengthen customer relations. For investors in these loans, the streamlined refinances can reduce financial risks associated with potential defaults and foreclosures.

As a general matter, the purpose of the exemption for certain refinance transactions is to facilitate transactions that can be beneficial to borrowers even though they are HPMLs. When the consumer is not obtaining additional funds to increase the amount of the debt (other than the costs related to the refinancing), and the entity that will hold the credit risk of the refinance loan is already the credit risk holder on the existing loan, the benefit from obtaining a new appraisal may be insufficient to warrant the additional cost. The Agencies believe that an exemption from the HPML appraisal rules for certain HPML refinances can ensure that the time and cost generated by new appraisal requirements are not introduced into certain HPML transactions—namely, those that are not qualified mortgages but are part of programs designed to help consumers avoid defaults and improve their financial positions, as well as help creditors and investors avoid losses and mitigate credit risk.

Definition of ''Refinancing''

Consistent with the proposal, § 1026.35(c)(2)(vii) in the final rule defines a ''refinancing'' to mean ''refinancing'' in § 1026.20(a). Also consistent with the proposal, the definition of ''refinancing'' under § 1026.35(c)(2)(vii) does not require that the creditor remain the same for both the refinancing and the existing obligation.[45] As noted in the 2013 Supplemental Proposed Rule, this is a departure from the definition of ''refinancing'' under § 1026.20(a); commentary to that provision clarifies that a ''refinancing'' under § 1026.20(a) includes ''only refinancings undertaken by the original creditor or a holder or servicer of the original obligation.'' *See* comment 20(a)-5. By contrast, the exemption in § 1026.35(c)(2)(vii) allows a different creditor to extend the refinance loan, as long as the credit risk holder remains the same on both the existing loan and the refinance.

As stated in new comment 35(c)(2)–1, discussed previously, the Agencies emphasize that any creditor subject to regulation by a Federal financial regulatory agency remains subject to FIRREA regulations regarding appraisals and evaluations and the accompanying Interagency Appraisal and Evaluation Guidelines.[46] As such, these institutions will have to obtain an appraisal or ''evaluation'' under FIRREA rules for any refinance loan, regardless of whether it qualifies for an exemption from the HPML appraisal rules.

Finally, in § 1026.35(c)(2)(vii), the Agencies are clarifying that the refinance loans eligible for the exemption are limited to loans ''secured by a first lien,'' which is consistent with the Agencies' intention in the 2013 Supplemental Proposed Rule.

35(c)(2)(vii)(A)

The exemption from the HPML appraisal rules requires that the refinance transaction satisfy several criteria. These are described in the section-by-section analysis of § 1026.35(c)(2)(vii)(A), (B), and (C).

One criterion that a refinance loan must meet is that either: (1) The credit risk of the refinance loan is retained by the person that held the credit risk of the existing obligation and the credit risk is not subject, at consummation, to a commitment to be transferred to another person; or (2) the refinance loan is insured or guaranteed by the same Federal government agency that insured or guaranteed the existing obligation.

*35(c)(2)(vii)(A)(*1)—*same credit risk holder.* Substantively consistent with the 2013 Supplemental Proposed Rule, § 1026.35(c)(2)(vii)(A)(*1*) allows the exemption for certain refinancings to apply if the credit risk holder is the current credit risk holder of the existing obligation (assuming the criteria in § 1026.35(c)(2)(vii)(B) and (C) are also met). The Agencies are adopting this requirement as a condition of obtaining the refinance loan exemption from the HPML appraisal rules because the Agencies believe that this restriction is important to ensuring that the exemption promotes the safety and soundness of financial institutions. An exemption for streamlined refinances from the HPML appraisal rules can help creditors more readily refinance loans to mitigate risk by placing consumer in loans with better terms. Decreased default risk for all parties is also in the public interest.

For clarity, as discussed previously, the final regulation defines ''credit risk'' to mean the financial risk that a loan will default. *See* § 1026.35(c)(1)(ii) and corresponding section-by-section analysis. The final rule also differs from the proposal in that it does not use the terms ''guarantor'' or ''owner,'' but instead refers to the holder of the credit risk.

Based on public comments, the Agencies are concerned that the terms ''guarantor'' and ''owner'' may have multiple meanings in the mortgage markets and be confusing. For example, the Agencies are concerned that the agreements associated with loans securitized in a private-label mortgage-backed security (MBS) may include parties identified as ''guarantor'' and ''owner,'' but such parties do not bear the ''credit risk'' as defined in this final rule. *See* § 1026.35(c)(1)(ii).

In GSE securitizations, a GSE bears all of the credit risk because it either ''owns'' a loan and holds the loan in portfolio, or ''guarantees'' the loan by placing the loan in an MBS and guaranteeing payments of principal and any interest to investors. Some of these loans might have private mortgage insurance, but the GSE is the beneficiary.

By contrast, in private-label securitizations, the credit risk is spread among multiple parties; for example, the originating credit might retain some residual risk (and will be required to for ''Qualified Residential Mortgages'' [47]), the other MBS investors bear certain risks depending on the ''tranche'' or risk tier of the investor, and private mortgage insurers or bond insurers also may guarantee some losses. Typically, when a loan in an MBS is refinanced, the loan will not remain in the same MBS.[48] The Agencies believe that where entities take on material new credit risk with a refinance, safety and soundness and the public interest are not served by exempting that refinance from the HPML appraisal rules.

At the same time, the Agencies recognize that the private-label securitization market could involve MBS structures that include an entity that provides a guarantee similar to that guarantee provided by Fannie Mae and Freddie Mac today. Therefore, the criterion in § 1026.35(c)(2)(vii)(A)(*1*) is intended to address not only GSE securitizations, but also any equivalent private-label structures that meet the requirements of the exemption. The Agencies believe that private creditor refinance transactions may have similar benefits to consumers, creditors, and credit markets as those under GSE and

[45] ''Creditor'' is defined under Regulation Z to mean, in pertinent part, ''[a] person who regularly extended consumer credit that is subject to a finance charge * * *, and to whom the obligation is initially payable, either on the face of the note or by contract * * *.'' § 1026.2(a)(17).

[46] *See* OCC: 12 CFR parts 34, Subpart C, and 164; Board: 12 CFR part 208, subpart E, and part 225, subpart G; FDIC: 12 CFR part 323; NCUA: 12 CFR part 722. *See also* 75 FR 77450 (Dec. 10, 2010).

[47] *See* 78 FR 57920 (Sept. 20, 2013).

[48] Certain disincentives for refinancing a loan out of a private-label refinance may exist, including contractual restrictions on refinancing the loan.

government agency programs. In particular, the Agencies believe that the central feature of public streamlined refinance programs—the credit risk holder on the existing obligation remains the credit risk holder on the refinance loan—must be in place in any private streamlined refinances that would be entitled to an exemption from the HPML appraisal requirements.

Accordingly, the Agencies are not adopting proposed comment 35(c)(2)(vii)(A)–1, which was intended to help clarify the meaning of the terms ''owner'' and ''guarantor.'' Instead, the Agencies are adopting a revised version of this comment, re-numbered comment 35(c)(2)(vii)(A)(*1*)–1, that focuses on what it means to hold the credit risk on a loan for purposes of the exemption. Specifically, comment 35(c)(2)(vii)(A)(*1*)–1 states that the requirement that the holder of the credit risk on the existing obligation and the refinance loan be the same applies to situations in which an entity bears the financial responsibility for the default of a loan by either holding the loan in its portfolio or guaranteeing payments of principal and any interest to investors in a mortgage-backed security in which the loan is pooled. *See* § 1026.35(c)(1)(ii) (defining ''credit risk''). The comment states that, for example, a credit risk holder could be a bank that bears the credit risk on the existing obligation by holding the loan in the bank's portfolio. Another example of a credit risk holder would be a government-sponsored enterprise that bears the risk of default on a loan by guaranteeing the payment of principal and any interest on a loan to investors in a mortgage-backed security. Finally, the comment clarifies that the holder of credit risk under § 1026.35(c)(2)(vii)(A)(*1*) does not mean individual investors in an MBS or providers of private mortgage insurance.

Consistent with the proposal (*see* proposed comment 35(c)(2)(vii)(A)–1), the Agencies do not intend that individual investors in an MBS be considered credit risk holders under this exemption criterion. The risks held by investors in these arrangements are too disparate for these investors to be considered credit risk holders under the final rule.

The Agencies also do not intend private mortgage insurers—either at the loan level or MBS level (as bond insurers, for example)—to be credit risk holders under the final rule because the types of losses they guarantee may vary for each loan by contract, as may their valuation standards for collateral underlying loans they insure. These factors are subject to private contractual arrangements that are not publicly available. Even if the refinance loan were insured by the same private mortgage insurance provider that insured the existing obligation, the types of losses guaranteed by this provider on the refinance loan might be different from those guaranteed on the existing loan and a new party to the refinance transaction could be taking on significant new credit risk.

In new comment 35(c)(2)(vii)(A)(*1*)–2, the final rule provides two illustrations of refinance situations in which the credit risk holder would be considered the same for both the existing obligation and the refinance loan. These examples are not intended to be exhaustive. In the first illustration, the existing obligation is held in the portfolio of a bank, thus the bank holds the credit risk. The bank arranges to refinance the loan and also will hold the refinance loan in its portfolio. If the refinance transaction otherwise meets the requirements for an exemption under § 1026.35(c)(2)(vii), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance loan. In this case, the exemption would apply regardless of whether the bank arranged to refinance the loan directly or indirectly, such as through the servicer or subservicer on the existing obligation. *See* comment 35(c)(2)(vii)(A)(*1*)–2.i.

In the second illustration, the existing obligation is held in the portfolio of a GSE, thus the GSE holds the credit risk. The GSE approves a refinance of the existing obligation by the servicer of the loan and immediately purchases the refinance loan. The GSE pools the refinance loan in a mortgage-backed security guaranteed by the GSE; thus, the GSE continues to hold the credit risk on the refinance loan. If the refinance transaction otherwise meets the requirements for an exemption under § 1026.35(c)(2)(vii), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance loan. In this case, the exemption would apply regardless of whether the existing obligation were refinanced by the servicer or subservicer on the existing obligation (acting as a ''creditor'' under § 1026.2(a)(17)) or by a different creditor. *See* comment 35(c)(2)(vii)(A)(*1*)–2.ii.

As noted, one commenter requested clarification about whether a servicer or subservicer could originate a refinance that would be eligible for the exemption. This commenter expressed concerns that the requirement that the ''owner or guarantor'' remain the same would prohibit this for exempt refinances. Comment 35(c)(2)(vii)(A)(*1*)–2.ii is intended to clarify that servicers or subservicers may originate refinances that are exempt if the credit risk holder on the original obligation remains the credit risk holder on the refinance loan.

In new comment 35(c)(2)(vii)(A)(*1*)–3, the final rule notes that a creditor may at times make a mortgage loan that will be transferred or sold to a purchaser pursuant to an agreement that has been entered into at or before the time the transaction is consummated. Such an agreement is sometimes known as a ''forward commitment.'' The comment clarifies that a refinance loan with a forward commitment does not satisfy the requirement of § 1026.35(c)(2)(vii)(A)(*1*) if the loan will be acquired by another person pursuant to a forward commitment, such that the credit risk on the refinance loan will transfer to a person who did not hold the credit risk on the existing obligation. This comment is intended to ensure that creditors cannot evade the HPML appraisal requirement by refinancing a loan on which they hold the credit risk but then bear the credit risk on the refinance loan for only a short interim period before transferring the loan to a new longer-term credit risk holder.

Overall, the Agencies believe that the benefits of an appraisal with an interior inspection are less clear where the credit risk holder remains the same for both transactions. The credit risk holder of the existing obligation is more likely to be familiar with the property securing the transaction or relevant market conditions than a new credit risk holder. This knowledge could have resulted from the credit risk holder having evaluated property valuation documents when taking on the original credit risk, as well as ongoing portfolio monitoring. By contrast, when the credit risk holder of the refinance loan is not also the credit risk holder of the existing loan, the refinance loan involves new risk to the new credit risk holder of the refinance loan; here, safety and soundness would be better served by an appraisal in conformity with USPAP and in compliance with FIRREA that includes an interior inspection.[49]

[49] Legislative history of the Dodd-Frank Act also suggests that Congress believed that certain underwriting requirements were not necessary in refinances where the holder of the credit risk remains the same: ''However, certain refinance loans, such as VA-guaranteed mortgages refinanced under the VA Interest Rate Reduction Loan Program or the FHA streamlined refinance program, which are rate-term refinance loans and are not cash-out refinances, may be made without fully re-underwriting the borrower . . . . It is the conferees' intent that the [Board] and the [Bureau] use their rulemaking authority . . . to extend the same

Continued

As stated in the 2013 Supplemental Proposed Rule, the Agencies generally believe that requiring that the credit risk holder remain the same makes it unnecessary to require that the ''creditor'' (as defined under § 1026.2(a)(17)) also be the same for both the existing obligation and the refinance loan. Under Regulation Z's definition of ''creditor,'' the creditor will not necessarily be the credit risk holder for both the existing and the refinance loans. By allowing the creditor to be different (as long as the underlying credit risk holder on the loan remains the same), the final rule provides consumers with greater ability to obtain a more beneficial loan without having to obtain an appraisal.

35(c)(2)(vii)(A)(2)—government agency programs. Section 1026.35(c)(2)(vii)(A)(*2*) provides that a refinance loan meeting the other criteria for the exemption (§ 1026.35(c)(2)(vii)(B) and (C)) could also qualify for the exemption if the Federal government agency that insured or guaranteed the existing obligation also insures or guarantees the refinance loan.

Typically these government agency loans would be qualified mortgages under the Bureau's 2013 ATR Final Rule; [50] they also potentially could be qualified mortgages under the qualified mortgage regulations of each of these agencies, once issued.[51] As qualified mortgages, they would be exempt from the HPML appraisal rules under the exemption for qualified mortgages in § 1026.35(c)(2)(i).

The Agencies are adopting a separate provision for Federal government agency loans for several reasons. First, § 1026.35(c)(2)(vii)(A)(*2*) is intended to ensure that the HPML appraisal rules will not disrupt government refinance programs, which the Agencies do not believe was Congress's intent. This provision is meant to clarify the 2013 Supplemental Proposed Rule, which was intended to exempt refinances consistent with existing Federal government agency streamlined refinance programs.

Second, as noted, Federal government agency loans have valuation requirements that the affected Federal agency has deemed sufficiently protective of its interests. The Agencies do not believe that Congress intended that the HPML appraisal rules should override the established requirements and standards of Federal government agencies for their mortgage programs. Moreover, the requirements of Federal mortgage programs, including the valuation requirements, are transparent and established by publicly accountable entities. In this regard, refinances retaining FHA insurance, for instance, are distinguishable from loans with the same loan-level private mortgage insurer, whose valuation and other standards are determined by private contracts. *See also* comment 35(c)(2)(vii)(A)(*1*)–1 and accompanying section-by-section analysis.

Third, the terms ''insured'' and ''guaranteed'' are commonly used to describe the loan-level protections afforded by HUD, VA, and USDA (including RHS) against losses due to default; however, the Agencies are concerned that these terms might not be readily understood to be a part of the same credit risk holder provision under § 1026.35(c)(2)(vii)(A)(*1*). As noted, one commenter indicated, for example, that confusion might exist about whether a loan with FHA insurance or a VA guaranty that was refinanced into a loan also insured or guaranteed by FHA or VA could qualify for the exemption if the secondary market participants differed on the two loans. The Agencies therefore wish to be clear that these loans would still qualify for the exemption because the loan-level credit risk holder remains the same.

Finally, these loans might not always be ''qualified mortgages'' under the Bureau's ATR rules because they might not meet all of the criteria required for that status.[52] The Agencies do not believe that layering the HPML appraisal requirements onto Federal government agency loans provides sufficient benefits to warrant the drawbacks of burdening consumers and creditors in these transactions. A Federal government agency has already determined what the appropriate valuation requirements should be and, as previously discussed, these mortgage programs are intended to provide needed relief to borrowers and to mitigate credit risk for creditors. The Agencies thus believe that the safety and soundness of creditors and the public interest is served by allowing these transactions to go forward under valuation rules established by the Federal agency insuring or guaranteeing the loan.

Relationship to the 2013 ATR Final Rule. The Agencies recognize that in the near term, most Federal government program and GSE streamlined refinance loans will be exempt from the HPML appraisal rules as ''qualified mortgages'' under § 1026.35(c)(2)(i). Under the Bureau's 2013 ATR Final Rule, loans eligible to be purchased, guaranteed, or insured by Fannie Mae, Freddie Mac, HUD, VA, USDA, or RHS (based solely on criteria related to the consumer's ability to repay) are subject to the general ability-to-repay rules (found in § 1026.43(c)). *See* § 1026.43(e)(4)(ii). However, if they meet certain criteria,[53] they are considered ''qualified mortgages'' entitled to either a rebuttable or conclusive presumption of compliance with the general ability-to-repay rules, depending on the loan's interest rate.[54] *See* § 1026.43(e)(1), (e)(4).[55] As qualified mortgages, they are exempt from the HPML appraisal rules. *See* § 1026.35(c)(2)(i).

First, the 2013 ATR Final Rule limits the qualified mortgage status of loans purchased or guaranteed by Fannie Mae and Freddie Mac under the special rules of § 1026.43(e)(4). These loans will not be eligible to be qualified mortgages if consummated after January 10, 2021, unless they meet the criteria of another type of qualified mortgage. *See* § 1026.43(c)(4)(iii)(B). Second, again, GSE-eligible loans and loans eligible to be insured or guaranteed under a HUD,

benefit for conventional streamlined refinance programs where the party making the refinance loan already owns the credit risk. This will enable current homeowners to take advantage of current loan interest rates to refinance their mortgages.'' Statement of Sen. Dodd, 156 Cong. Rec. S5928 (July 15, 2010).

[50] *See* § 1026.43(e)(4)(iii)(A); *see also* TILA section 129C(b)(3)(ii), 15 U.S.C. 1639c(b)(3)(ii).

[51] *See* 78 FR 59890 (Sept. 30, 2013).

[52] To be ''qualified mortgages,'' loans eligible to be insured or guaranteed by HUD, VA, USDA or RHS must not result in negative amortization or provide for interest-only or balloon payments; have a loan term exceeding 30 years; or points and fees above to three percent of the loan amount (with a higher cap for loans under $100,000). § 1026.43(e)(4)(i)(A) (cross-referencing § 1026.43(e)(2)(i) through (iii).

[53] *See* § 1026.43(e)(4)(i)(A) (cross-referencing § 1026.43(e)(2)(i) through (iii), which require that the loan not result in negative amortization or provide for interest-only or balloon payments; limit the loan term at 30 years; and cap points and fees to three percent of the loan amount (with a higher cap for loans under $100,000).

[54] Creditors making qualified mortgages that are ''higher-priced'' are entitled to a rebuttal presumption of compliance with the general ability-to-repay rules, while creditors making qualified mortgages that are not ''higher-priced'' are entitled to a safe harbor of compliance. A ''higher-priced covered transaction'' under the Bureau's 2013 ATR Rule is a transaction covered by the general ability-to-repay rules ''with an annual percentage rate that exceeds the average prime offer rate for a comparable transaction as of the date the interest rate is set by 1.5 or more percentage points for a first lien covered transaction, other than a qualified mortgage under paragraph (e)(5), (e)(6), or (f) of § 1026.43; by 3.5 or more percentage points for a first lien covered transaction that is a qualified mortgage under paragraph (e)(5), (e)(6), or (f) of § 1026.43; or by 3.5 or more percentage points for a subordinate lien covered transaction. § 1026.43(b)(4).

[55] They also can be ''qualified mortgages'' if, for instance, they meet all of the criteria under the general definition of ''qualified mortgage.'' *See* § 1026.43(e)(2).

VA, USDA, or RHA program [56] are ''qualified mortgages'' only if they meet certain criteria—they must not result in negative amortization or provide for interest-only or balloon payments; have a loan term exceeding 30 years; or points and fees above to three percent of the loan amount (with a higher cap for loans under $100,000).[57]

The Agencies believe that the refinance exemption under the HPML appraisal rule should nonetheless cover Federal government agency and GSE streamlined refinance loans. The exemption is appropriate here in part because the GSEs and Federal government agencies have valuation requirements to protect their interests that are transparent and publicly available. In this regard, an important distinction between the qualified mortgage provisions addressing GSE and Federal government agency loans and the HPML refinance exemption criteria in § 1026.35(c)(2)(vii)(A)(*1*) and (*2*) is that qualified mortgage status may be conferred on loans ''eligible'' to be purchased by a GSE or insured or guaranteed by a Federal government agency; by contrast, the HPML refinance exemption from the HPML appraisal rules requires that these loans actually are purchased by Fannie Mae or Freddie Mac or continue to be insured or guaranteed by a Federal government agency. In this way, compliance with valuation requirements established by these entities is assured as part of the justification for the exemption.

35(c)(2)(vii)(B)

Prohibition on certain risky features. Consistent with the 2013 Supplemental Proposed Rule, § 1026.35(c)(2)(vii)(B) requires that a refinancing eligible for the refinance exemption from the HPML appraisal rules not allow for negative amortization (''cause the principal balance to increase''), interest-only payments (''allow the consumer to defer repayment of principal''), or a balloon payment, as defined in § 1026.18(s)(5)(i).[58]

The Agencies also are adopting without change proposed comment 35(c)(2)(vii)(B)–1 which states that, under § 1026.35(c)(2)(vii)(B), a refinancing must provide for regular periodic payments that do not: result in an increase of the principal balance (negative amortization), allow the consumer to defer repayment of principal (*see* comment 43(e)(2)(i)–2), or result in a balloon payment. The comment thus clarifies that the terms of the legal obligation must require the consumer to make payments of principal and interest on a monthly or other periodic basis that will repay the loan amount over the loan term. The comment further states that, except for payments resulting from any interest rate changes after consummation in an adjustable-rate or step-rate mortgage, the periodic payments must be substantially equal. The comment cross-references comment 43(c)(5)(i)–4 of the Bureau's 2013 ATR Final Rule for an explanation of the term ''substantially equal.'' [59] The comment also clarifies that a single-payment transaction is not a refinancing meeting the requirements of § 1026.35(c)(2)(vii) because it does not require ''regular periodic payments.''

Where these features are present in an HPML that is not a qualified mortgage, the Agencies believe that the information provided by a real property appraisal in conformity with USPAP that includes an interior property inspection is important for the safety and soundness of creditors and the protection of consumers. Additional equity may be needed to support a loan with negative amortization, for example, and the risk of default might be higher for loans with interest-only and balloon payment features.

The Agencies recognize that consumers who need immediate relief from payments that they cannot afford might benefit in the near term by refinancing into a loan that allows interest-only payments for a period of time. However, the Agencies believe that a reliable valuation of the collateral is important when the consumer will not be building any equity for a period of time. In that situation, the consumer and credit risk holder may be more vulnerable should the property decline in value than they would be if the consumer were paying some principal as well.[60]

The Agencies also recognize that, in most cases, balloon payment mortgages are originated with the expectation that a consumer will be able to refinance the loan when the balloon payment comes due. These loans are made for a number of reasons, such as to control interest rate risk for the creditor or as a wealth management tool, usually for higher-asset consumers. Regardless of why a balloon mortgage is made, however, there is always risk that a consumer will not be able to make the balloon payment or refinance, with potentially significant consequences for the consumer and the credit risk holder if something unexpected happens and the consumer cannot do so.

The Agencies note that the GSE and government streamlined refinance programs described above do not allow these features, in part because helping a consumer pay off debt more quickly is one of the goals of these programs.[61] In addition, the prohibition on risky features for this exemption is consistent with provisions in the Dodd-Frank Act reflecting congressional concerns about these loan terms. For example, in Dodd-Frank Act provisions regarding exemptions from certain ability-to-repay requirements for refinancings under HUD, VA, USDA, and RHS programs, Congress similarly required that the refinance loan be fully amortizing and prohibited balloon payments.[62] The

[56] For loans eligible to be insured or guaranteed under a HUD, VA, USDA, or RHA program, the qualified mortgage status conferred under § 1026.43(e)(4)(i) will be replaced for each type of loan when those agencies respectively issue rules defining a qualified mortgage based on each agency's own programs. *See* § 1026.43(e)(4)(iii)(A); *see also* TILA section 129C(b)(3)(ii), 15 U.S.C. 1639c(b)(3)(ii). *See also, e.g.,* 78 FR 59890 (Sept. 30, 2013).

[57] *See* § 1026.43(e)(4)(i)(A) (cross-referencing § 1026.43(e)(2)(i) through (iii).

[58] Section 1026.18(s)(5)(i) defines ''balloon payment'' as ''a payment that is more than two times a regular periodic payment.''

[59] Comment 43(c)(5)(i)–4 states as follows: ''In determining whether monthly, fully amortizing payments are substantially equal, creditors should disregard minor variations due to payment-schedule irregularities and odd periods, such as a long or short first or last payment period. That is, monthly payments of principal and interest that repay the loan amount over the loan term need not be equal, but the monthly payments should be substantially the same without significant variation in the monthly combined payments of both principal and interest. For example, where no two monthly payments vary from each other by more than 1 percent (excluding odd periods, such as a long or short first or last payment period), such monthly payments would be considered substantially equal for purposes of this section. In general, creditors should determine whether the monthly, fully amortizing payments are substantially equal based on guidance provided in § 1026.17(c)(3) (discussing minor variations), and § 1026.17(c)(4)(i) through (iii) (discussing payment-schedule irregularities and measuring odd periods due to a long or short first period) and associated commentary.''

[60] The Agencies acknowledge that these increased risks may be lower where the interest-only period is relatively short (such as one or two years), because the payments in the early years of a mortgage are heavily weighted toward interest; thus the consumer would be paying down little principal even in making fully amortizing payments.

[61] *See, e.g.,* Fannie Mae, ''Home Affordable Refinance (DU Refi Plus and Refi Plus) FAQs'' (June 7, 2013) at 11 (describing options for meeting the requirement that the refinance provide a borrower benefit); Freddie Mac, ''Freddie Mac Relief Refinance Mortgages℠—Open Access Eligibility Requirements'' (January 2013) at 1 (describing options for meeting the requirement that the refinance provide a borrower benefit).

[62] *See* Dodd-Frank Act section 1411(a)(2), TILA section 129C(a)(5)(E) and (F), 15 U.S.C. 1639c(a)(5)(E) and (F). TILA section 129C(a)(5) authorizes HUD, VA, USDA, and RHS to exempt ''refinancings under a streamlined refinancing'' from the Act's income verification requirement of the ability-to-repay rules. 15 U.S.C. 1639c(a)(5). *See also* TILA section 129c(a)(4), 15 U.S.C. 1639c(a)(4).

final rule also is consistent with a provision in the Bureau's 2013 ATR Final Rule that exempts the refinancing of a ''non-standard mortgage'' into a ''standard mortgage'' from the requirement that the creditor make a good faith determination of the consumer's ability to repay the loan. *See* § 1026.43(d). To be eligible for this exemption from the ability-to-repay rules, the refinance loan must, among other criteria, not allow for negative amortization, interest-only payments, or a balloon payment. *See* § 1026.43(d)(1)(ii). The Agencies believe that these statutory provisions and program restrictions reflect a judgment on the part of Congress, government agencies, and the GSEs that refinances with negative amortization, interest-only payment features, or balloon payments may increase risks to consumers and creditors.

The Agencies are concerned that negative amortization, interest-only payments, and balloon payments are loan features that may increase a loan's risk to consumers as well as to primary and secondary mortgage markets.[63] Thus, in the Agencies' view, permitting these non-qualified mortgage HPML refinances to proceed without a real property appraisal in conformity with USPAP and FIRREA that includes an interior inspection would not be consistent with the Agencies' exemption authority, which permits exemptions only if they promote the safety and soundness of creditors and are in the public interest.

As noted, several commenters requested that the prohibition on balloon payments for exempt refinances be eliminated in the final rule. One commenter also requested that the prohibition on interest-only payments be eliminated. For the reasons stated, however, the Agencies continue to believe that the prohibitions on balloon payments and interest-only payments are appropriate. In addition, the Agencies note that some of the public comments in support of eliminating the balloon payment prohibition suggested uncertainty about whether ''balloon payment qualified mortgages'' under the Bureau's ability-to-repay rules would be exempt. *See* § 1026.43(e)(6) and (f). As set out in the section-by-section analysis of the exemption for qualified mortgages under § 1026.35(c)(2)(i), both temporary balloon payment mortgages under § 1026.43(e)(6) and balloon payment qualified mortgages under § 1026.43(f) are exempt from the HPML appraisal rules under the exemption for qualified mortgages. The Agencies believe that this clarification helps address the concerns of commenters on this issue.

35(c)(2)(vii)(C)

No cash out. Proposed § 1026.35(c)(2)(vii)(C) would have required that the proceeds from a refinancing eligible for an exemption from the HPML appraisal rules be used for only two purposes: (1) to pay off the outstanding principal balance on the existing first lien mortgage obligation; and (2) to pay closing or settlement charges required to be disclosed under RESPA. Based on comments, particularly a comment recommending that the Agencies clarify that proceeds could be used to pay accrued interest, the Agencies are revising this provision of the proposal.

Specifically, the Agencies are revising § 1026.35(c)(2)(vii)(C) to require that the proceeds from the refinance loan be used ''only to satisfy the existing obligation and to pay amounts attributed solely to the costs of the refinancing.'' The Agencies have determined that compliance and understanding are best facilitated by generally modeling the ''no cash out'' aspect of the exemption on other provisions in Regulation Z regarding refinancings in the rescission context. Thus, revised § 1026.35(c)(2)(vii)(C) incorporates concepts and guidance from § 1026.23(f)(2), which sets out the portion of a refinance that is rescindable—namely, the portion that exceeds ''the unpaid principal balance, any earned unpaid finance charge on the existing debt, and amounts attributed solely to the costs of the refinancing or consolidation.'' The Official Staff Commentary associated with § 1026.23(f)(2) clarifies, in pertinent part, that ''a new advance does not include amounts attributed solely to the costs of the refinancing. These amounts would include section 1026.4(c)(7) charges (such as attorney's fees and title examination and insurance fees, if bona fide and reasonable in amount), as well as insurance premiums and other charges that are not finance charges. (Finance charges on the new transaction—points, for example—would not be considered in determining whether there is a new advance of money in a refinancing since finance charges are not part of the amount financed.)'' Comment 23(f)(2)–4.

Revised comment 35(c)(2)(vii)(C)–1 provides that the ''existing obligation'' includes the consumer's existing first lien principal balance, any earned unpaid finance charges such as accrued interest, and any other lawful charges related to the existing loan. Accrued interest is any interest that has accumulated since the consumer's last payment of principal and interest, but that the borrower has not yet paid and has not been capitalized into the principal balance. Accrued interest exists when a consumer makes a payment on the existing obligation on October 1st, for example, but then refinances into a new loan on October 20th. In this case, interest would have accumulated between the payment made on October 1st and the date of the refinance. However, the consumer would not have paid that accrued interest and the creditor normally would not have capitalized that interest into the principal balance.

Revised comment 35(c)(2)(vii)(C)–1 further provides that guidance on the meaning of refinancing costs is available in comment 23(f)–4. Finally, consistent with proposed comment 35(c)(2)(vii)(C)–1, the revised comment clarifies that, if the proceeds of a refinancing are used for other purposes, such as to pay off other liens or to provide additional cash to the consumer for discretionary spending, the transaction does not qualify for the exemption for a refinancing under § 1026.35(c)(2)(vii) from the appraisal requirements in § 1026.35(c).

The Agencies view the limitation on the use of the refinance loan's proceeds as necessary to ensure that the principal balance of the loan does not increase, or increases only minimally. This in turn helps ensure that the consumer is not losing significant additional equity and that the holder of the credit risk is not taking on significant new risk, in which case an appraisal with an interior inspection to assess the change in risk could be beneficial to both parties.

The Agencies also note that limiting the use of proceeds to allow for no extra cash out for the consumer other than closing costs is consistent with prevailing streamlined refinance programs.[64] It is also consistent with the exemption from the Bureau's ability-to-repay rules for refinances of ''non-standard mortgages'' into ''standard mortgages.''[65] *See* § 1026.43(d)(1)(ii)(E). The Agencies believe that consistency across mortgage rules can help facilitate

[63] *See also* OCC, Board, FDIC, NCUA, ''Interagency Guidance on Nontraditional Mortgage Product Risks,'' 71 FR 58609 (Oct. 4, 2006).

[64] *See, e.g.,* Fannie Mae Single Family Selling Guide, chapter B5–5, Section B5–5.2; Freddie Mac Single Family Seller/Servicer Guide, chapters A24, B24 and C24.

[65] Under the 2013 ATR Final Rule, a refinance loan or ''standard mortgage'' is one for which, among other criteria, the proceeds from the loan are used solely for the following purposes: (1) To pay off the outstanding principal balance on the non-standard mortgage; and (2) to pay closing or settlement charges required to be disclosed under RESPA. *See* § 1026.43(d)(1)(ii)(E).

compliance and ease compliance burden.

Other conditions. Consistent with the proposal, the Agencies are not adopting additional conditions on the types of refinancings eligible for the exemption from the HPML appraisal rules. In this way, the Agencies seek to maintain flexibility for creditors and investors to adapt and change their borrower eligibility requirements and other requirements for streamlined HPML refinances to address changing market environments and factors that may be unique to their programs.

Regarding comments supporting a requirement that the refinance result in a ''benefit'' to the consumer, such as a lower payment, a lower rate, or shorter term, the Agencies continue to believe that it is unclear how the existence of a borrower benefit in the new transaction relates to what type of valuation should be required. The Agencies are also not adopting a limitation on the points and fees that may be refinanced. Congress addressed loan cost parameters for the appraisal rules by defining HPMLs as loans with interest rates above APOR by a certain percentage. The Agencies are concerned that introducing a points and fees cap into the rule could create confusion and compliance difficulties, given the statutory points and fees caps implemented in other overlapping regulations, such as regulations regarding qualified mortgages and high-cost mortgages, noted earlier.

Other protections in the final rule ensure that the borrower, creditor and investor would be taking on no new material credit risk, which the Agencies believe should be the primary determinant of whether an appraisal with an interior inspection should be required. The Agencies also believe that borrower benefits can be difficult to define because they can be highly transaction-specific. For example, a higher rate might result in a benefit to a consumer where the higher rate results from extending the loan term to lower the consumer's payments. Here, the benefit to the consumer is an improved ability to stay in the home by making the payments more affordable. Finally, the Agencies are concerned that a ''benefits'' test could add complexity and burden to the exemption that might undermine its intended benefits.

The Agencies are also not adopting borrower eligibility requirements, such as that the borrower must have been on-time with payments on the existing mortgage for a certain period of time, as at least one commenter suggested. As discussed in the 2013 Supplemental Proposed Rule, GSE and Federal government agency streamlined refinance programs require that borrower eligibility criteria be met, such as that the consumer have been current on the existing obligation for a certain period of time.[66] Commenters did not, however, explain how borrower eligibility requirements relate to whether an appraisal should be required. Again, the Agencies believe that the criteria for the refinance exemption in the final rule comprise those that relate to whether a more or less rigorous valuation requirement should apply; the Agencies believe that the main consideration is whether new credit risk will be taken on by the consumer, creditor, and investor. The criteria adopted in the final rule are designed to minimize additional risk on the refinance by curbing material increases in principal and ensuring that the ultimate credit risk holder remains the same. In addition, the Agencies believe that streamlined refinance programs can provide maximum benefit to consumers, creditors, and investors when creditors and investors retain some flexibility to adapt borrower eligibility and other requirements to address changing market environments and factors that may be unique to their programs.

Finally, one commenter also urged the Agencies not to apply the exemption to loans that had already been refinanced, to avoid the consumer accruing excessive origination costs with successive refinances. The Agencies share concerns about harm to consumers through serial refinancings. On balance, however, the Agencies believe that consumers who have already refinanced their loans should have the same opportunities to take advantage of lower rates as other consumers. The Agencies believe that the limit on cash out helps mitigate abuses with serial refinancings by ensuring that consumers cannot continually refinance to pay off other debts without a full assessment of the collateral value.

Conditional exemption. In the 2013 Supplemental Proposed Rule, the Agencies sought comment on whether the exemption for refinance loans should be conditioned on the creditor obtaining an alternative valuation (*i.e.,* a valuation other than a real property appraisal in conformity with USPAP and FIRREA that includes an interior inspection) and providing a copy to the consumer three days before consummation. In requesting comment on this issue, the Agencies noted that a refinanced mortgage loan is a significant financial commitment that involves material transaction costs.

Because refinances do involve potential risks and costs, the Agencies requested commenters' views on whether the consumer would better positioned to consider alternatives to refinancing if they were given an alternative valuation. The Agencies also sought data that might be relevant to whether this additional condition would be necessary.

For reasons discussed below, the Agencies are not adopting a condition on the refinance exemption that the creditor obtain and give the consumer an alternative valuation. As noted, several commenters affirmatively opposed requiring creditors to obtain an alternative valuation. Commenters stated that doing so would hinder the process and increase the time and expense of these transactions unnecessarily. These commenters did not believe that a significant benefit exists in giving an alternative valuation when consumers are not increasing the amount of their debt or substituting the collateral.

Other commenters, while not affirmatively supporting or opposing an alternative valuation condition, suggested that if an alternative valuation is required, creditors should be able to rely on an existing appraisal to the extent permitted by existing Federal appraisal regulations and the interagency appraisal guidelines,[67] which allow for using an existing appraisal. Two commenters asked whether a creditor that is considering an extension of credit secured by a junior mortgage could use the appraisal obtained by the creditor who extended credit to the same borrower secured by a first mortgage. FIRREA real estate appraisal regulations required to be issued by the Federal financial institution regulatory agencies[68] allow a regulated institution[69] to accept an

[66] *See also* 2013 ATR Final Rule § 1026.43(d)(2)(iv) and (v). The exemption from the ability-to-repay rules for refinances of ''non-standard mortgages'' into ''standard mortgages'' under the 2013 ATR Final Rule requires that, among other conditions: (1) the consumer made no more than one payment more than 30 days late on the non-standard mortgage in 12-month period before applying for the standard mortgage; and (2) the consumer made no payments more than 30 days late in the six-month period before applying for the standard mortgage. *See* § 1026.43(d)(2)(iv) and (v).

[67] *See* OCC: 12 CFR parts 34, Subpart C, and 164; Board: 12 CFR part 208, subpart E, and part 225, subpart G; FDIC: 12 CFR part 323; NCUA: 12 CFR part 722. *See also* 75 FR 77450 (Dec. 10, 2010).

[68] FDIC: 12 CFR part 323; FRB: 12 CFR part 208, subpart E and 12 CFR part 255, subpart G; NCUA: 12 CFR part 722; and OCC: 12 CFR part 34, subpart C, and 12 CFR part 164.

[69] A regulated institution is an institution regulated by a Federal financial institution

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appraisal that was prepared by an appraiser engaged directly by another financial services institution,[70] if certain conditions are met. These include that a regulated institution may accept an appraisal that was prepared by an appraiser engaged directly by another financial services institution, if: (1) The appraiser has no direct or indirect interest, financial or otherwise, in the property or the transaction; and (2) the regulated institution determines that the appraisal conforms to the requirements of this subpart and is otherwise acceptable.[71]

Still others suggested that, if an alternative is required, a ''drive-by'' appraisal or comparable market analysis to ensure that the home still stands and is in reasonable condition would be advisable. The Agencies believe that conditioning the exemption is not warranted, so they are not adopting this suggestion.

Several commenters supported conditioning the exemption and recommended that an alternative valuation to an appraisal with an interior inspection should be required so that consumers are better informed about their home value.

The Agencies believe that the condition discussed in the 2013 Supplemental Proposed Rule would not provide sufficient benefit to warrant the burden or cost it would introduce into the exemption. The vast majority of refinance transactions involve some type of valuation that, as of January 2014, creditors will have to provide to consumers. For example, for any refinance eligible for a Federal government program or to be sold to a GSE, the creditor would have to comply with any valuation requirements imposed under those programs. For loans not made under those programs but purchased or made by a Federally regulated financial institution, either an ''evaluation'' or an appraisal generally would be required.[72]

The Bureau's rules in Regulation B implementing Dodd-Frank Act amendments to the Equal Credit Opportunity Act [73] (ECOA) require all creditors to provide to credit applicants free copies of appraisals and other written valuations developed in connection with an application for a loan to be secured by a first lien on a dwelling.[74] The copies must be provided to the applicant promptly upon completion or three business days before consummation. *See id.* Regulation B defines ''valuation'' broadly to mean ''any estimate of the value of a dwelling developed in connection with an application for credit.'' [75] § 1002.14(b)(3).

As stated in the 2013 Supplemental Proposed Rule, the Agencies recognize that obtaining estimates of value and providing copies of written valuations to consumers might not always be required by Federal law or investors. For example, certain non-depositories and depositories are not subject to the appraisal and evaluation requirements that apply to Federally regulated financial institutions under FIRREA title XI. However, the Agencies did not receive data or information suggesting that a significant number of refinances would be subject to no valuation requirements. The Agencies believe that the volume of refinances that might be exempt from the HPML appraisal rules and subject to no other valuation requirements of either the government or investors will be very small and that the benefits of conditioning the exemption for these refinances will not outweigh complexity and burden to affected creditors and their consumers seeking streamlined refinances.

Again, the criteria for an exempt refinance adopted in the final rule are designed to limit the new risk that would result in a refinance, including risk resulting from significant additional equity being taken out of the home. Where no material credit risk is taken on in a refinance transactions, including risk resulting from a material reduction in home equity, the Agencies believe that valuation requirements are appropriately left to be determined by the parties involved in the transaction and any other applicable laws and regulations.

In sum, the Agencies believe that the exemption is appropriately narrow in scope to capture the types of refinancings that Congress has generally expressed an intent to facilitate. *See, e.g.,* TILA sections 129C(a)(5) and (6), 15 U.S.C. 1639c(a)(5) and (6).[76] The Agencies believe that this exemption promotes the safety and soundness of creditors and is in the public interest.

35(c)(2)(viii)

In section 35(c)(2)(viii), effective January 18, 2014, the Agencies are adopting a temporary exemption for all transactions secured in whole or in part by a manufactured home, until July 18, 2015. This temporary exemption of 18 months is intended to give creditors sufficient time to make any changes needed to comply with the HPML rules that will apply to manufactured home loans as a result of the final rules that will apply to applications received on or after July 18, 2015. The Agencies understand that creditors may need to make adjustments to their compliance systems for some of the new rules. These changes may involve new technical configurations and training, as well as modified or new contracts with any third-party service providers that the creditor may enlist to perform valuation services and related functions. Thus, the Agencies believe that this temporary exemption promotes the safety and soundness of creditors and is in the public interest.

Rules Effective July 18, 2015

For applications received on or after July 18, 2015, new rules will apply to loans secured by manufactured homes, as follows:

(1) The temporary exemption for loans secured by existing manufactured homes and land will expire; those loans will be subject to the HPML appraisal rules in § 1026.35(c)(3) through (6).

(2) A modified exemption for loans secured by a new manufactured home and land will take effect; those loans will be subject to all of the HPML appraisal requirements except the requirement that the appraisal include a physical visit of the interior of the property. *See* § 1026.35(c)(2)(viii)(A) and accompanying section-by-section analysis.

(3) An exemption for loans secured by either a new or existing manufactured home and not land will be subject to a condition that the creditor obtain and provide to the consumer one of three

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regulatory agency, such as the FDIC, FRB, NCUA, or the OCC.

[70] The Interagency Appraisal and Evaluation Guidelines note that the Agencies' appraisal regulations do not contain a specific definition of the term ''financial services institution.'' The term is intended to describe entities that provide services in connection with real estate lending transactions on an ongoing basis, including loan brokers.

[71] *See* OCC: 12 CFR 34. 45(b)(2) and 12 CFR 164.5(b)(2); Board: 12 CFR 225.65(b)(2); FDIC: 12 CFR 323.5(b)(2); NCUA: 12 CFR 722.5(b)(2).

[72] *See* OCC: 12 CFR 34.43 and 164.3; Board: 12 CFR 225.63; FDIC: 12 CFR 323.3; NCUA: 12 CFR 722.3. *See also* OCC, Board, FDIC, NCUA, *Interagency Appraisal and Evaluation Guidelines,* 75 FR 77450, 77458–61 and App. A, 77465–68 (Dec. 10, 2010). In addition, as noted (*see infra* note 42), data on GSE streamlined refinances indicates that either an AVM or an appraisal (interior visit or exterior-only) was obtained for all streamlined refinances purchased by the GSEs in 2012.

[73] 15 U.S.C. 1691 *et seq.*

[74] *See* 12 CFR 1002.14(a)(1), effective January 18, 2014; 78 FR 7216 (Jan. 31, 2013) (2013 ECOA Valuations Final Rule).

[75] ''Valuation'' is separately defined in Regulation Z, § 1026.42(b)(3). That definition does not include AVMs, however, which was deemed appropriate for purposes of the appraisal independence rules under § 1026.42. Here, however, the Agencies believe that an estimate of value provided to the consumer could appropriately include an AVM.

[76] *See also* Statement of Sen. Dodd, 156 Cong. Rec. S5928 (July 15, 2010).

types of value-related information. *See* § 1026.35(c)(2)(viii)(B) and accompanying section-by-section analysis.

These new rules are discussed below.

Loans Secured by an Existing Manufactured Home and Land

Under the version of § 1026.35(c)(2)(viii) that goes into effect on July 18, 2015, loans secured by an existing manufactured home and land together will be subject to the HMPL appraisal requirements in § 1026.35(c)(3) through (6), consistent with the January 2013 Final Rule and the 2013 Supplemental Proposed Rule.

The Agencies' Proposal

In the 2013 Supplemental Proposed Rule, the Agencies did not propose to exempt from the HPML appraisal rules transactions that are secured by both an existing manufactured home and land. The Agencies did not believe that an exemption for these transactions would be in the public interest and promote the safety and soundness of creditors. The Agencies noted that Federal government and GSE manufactured home loan programs generally require conformity with USPAP real property appraisal standards for transactions secured by both a manufactured home and land.[77] The Agencies expressed the view that the Federal government agency and GSE requirements may reflect that conducting an appraisal in conformity with USPAP standards are feasible for existing manufactured homes together with land.

The Agencies noted that this view was affirmed by participants in informal outreach with experience in the area of manufactured home loan appraisals, who indicated that USPAP-compliant real property appraisals with an interior inspection are feasible and performed with regularity in these types of transactions. The Agencies also noted, however, that some commenters on the 2012 Proposed Rule recommended that the Agencies exempt these types of ''land/home'' transactions.[78]

Public Comments

In the 2013 Supplemental Proposed Rule, the Agencies sought comment on whether an exemption from the HPML appraisal requirements for transactions secured by an existing manufactured home and land would be in the public interest and promote the safety and soundness of creditors. The Agencies also sought comment on, among other issues, whether an exemption for these loans should be conditioned on the creditor providing the consumer with some other type of valuation information.

The Agencies received 14 comment letters on this issue from two national appraisal trade associations, a consumer advocate group, three affordable housing organizations, a policy and research organization, a national association for owners of manufactured homes, a credit union, a community bank, a national trade association for community banks, a State manufactured housing trade association, and two manufactured housing nonbank lenders. In addition, a national manufactured housing industry trade association referred to and endorsed the comments of two manufactured housing lenders.

The credit union, community bank, consumer advocate group, affordable housing organizations, national association of owners of manufactured homes, and appraisal trade associations all supported the proposal to retain the coverage of HPMLs secured by an existing manufactured home and land, consistent with the January 2013 Final Rule.

The community bank stated that existing manufactured homes typically depreciate more than comparable site-built homes and should receive an interior and exterior inspection. This commenter asserted that an interior inspection is important for obtaining a proper valuation and that providing an exemption from the interior inspection requirement would not be appropriate. This commenter added that consumers and creditors deserve a safe and accurate transaction.

The appraisal trade associations acknowledged that appraisal assignments for transactions secured by existing manufactured homes and land can involve greater complexity than assignments for site-built homes. These commenters indicated, however, that in recent years they have undertaken over 150 training sessions to train over 5,500 appraisal industry professionals on performing appraisals for transactions secured by a manufactured home and land.

The consumer advocate group, two affordable housing organizations, a policy and research organization, and national association of owners of manufactured homes indicated that any issues with appraiser availability were due to a lack of valuation standards in this segment of the housing market. They maintained that requiring appraisals for these transactions would ensure demand, thus fostering greater appraiser capacity.

On the other hand, the community bank trade association, State manufactured housing trade association, and two manufactured housing nonbank lenders opposed the proposal to cover loans secured by an existing manufactured home and land and recommended exemption these transactions from the HPML appraisal rules.

The community bank trade association stated that appraisals increase costs to manufactured home borrowers who often have low incomes. In the view of this commenter, credit risk on portfolio lending and underwriting standards for secondary market transactions provide sufficient incentives for creditors to select appropriate alternative valuation methods, which include a variety of methods other than an appraisal in conformity with USPAP and FIRREA based upon a physical inspection of the interior of the property as required by the HPML appraisal rules. In addition, according to this commenter, some community banks report that appraisers can be readily engaged for manufactured housing transactions in general; for others, however, appraisers are reportedly difficult to find or appraisals are more costly or take longer than in-house non-appraisal valuations. The State manufactured housing trade association also referred to difficulties with obtaining appraisals for these loans. This commenter expressed the view that creditors should be subject only to an appraisal requirement when participating in a government or GSE program that imposes such a requirement.

One of the nonbank lenders stated that these transactions should be exempt due to a lack of sufficient appraisers and a lack of sufficient data on comparable sales (''comparables'') of manufactured homes, particularly in rural areas. This commenter also raised concerns about costs, noting that appraisals with interior inspections could, in this lender's experience, raise loan cost by 68 to 81 basis points. In addition, the lender noted that in the 6 percent of its 2012 manufactured home transactions secured by land and home

[77] *See, e.g.,* HUD: 24 CFR 203.5(e); HUD Handbook 4150.2, Valuations for Analysis for Home Mortgage Insurance for Single Family One- to Four-Unit Dwellings, chapter 8.4 and App. D; USDA: 7 CFR 3550.62(a) and 3550.73; USDA Direct Single Family Housing Loans and Grants Field Office Handbook (USDA Handbook), chapters 5.16 and, 9.18; VA: VA Lenders Handbook, VA Pamphlet 26–7 (VA Handbook), chapters 7.11, 11.3, and 11.4; Fannie Mae: Fannie Mae Single Family 2013 Selling Guide B5–2.2–04, Manufactured Housing Appraisal Requirements (04/01/2009); Freddie Mac: Freddie Mac Single Family Seller/Servicer Guide, H33: Manufactured Homes/H33.6: Appraisal requirements (02/10/12).

[78] *See* 78 FR 10368, 10379–80 (Feb. 13, 2013).

that were subject to a similar HUD appraisal requirement, the collateral did not appraise at or above the sales price in 30 percent of transactions. In the view of this lender, these outcomes were due in significant part to an inappropriate emphasis in the HUD program on the use of manufactured homes as comparables. The other nonbank lender stated that an appraisal for transactions secured by an existing manufactured home and land would be unreliable and a misuse of consumer funds. This commenter also noted that it already complies with appraisal disclosure requirements in Regulation B.[79] Finally, as noted above, a national trade association for manufactured housing endorsed the comments of these manufactured home lenders.

The Final Rule

Consistent with the 2013 Supplemental Proposed Rule, the final rule that goes into effect July 18, 2015, does not exempt loans secured by an existing manufactured home and land from the HPML appraisal requirements in § 1026.35(c)(3) through (6).[80] Covering transactions secured by an existing home and land is consistent with the requirements of the GSEs and Federal government agencies for these types of loans.

In addition, the Agencies received information from manufactured home lender representatives who indicated that obtaining appraisals in conformity with USPAP that include interior inspections for loans secured by an existing manufactured home and land is not uncommon among manufactured home creditors. Some lender commenters on the 2013 Supplemental Proposed Rule supported applying the HPML appraisal rules to these transactions as consistent with prudent lending practices.

Moreover, the Agencies obtained comments on the 2013 Supplemental Proposed Rule from consumer advocates, affordable housing organizations, and other stakeholders, but had not had the benefit of comments from these stakeholders on the 2012 Proposed Rule. As discussed above, consumer and affordable housing advocates strongly supported applying the HPML appraisal requirements to transactions secured by an existing manufactured home and land. They argued, among other things, that consumers would thereby obtain information about the value of their homes that would account more thoroughly for the value added to a home by the land on which the existing home is or will be placed. Similar comments were submitted by a national real estate trade organization, a policy and research organization, and a national association of owners of manufactured homes.[81]

Appraiser organizations that submitted written comments and appraisers consulted by the Agencies in informal outreach also strongly recommended that the HPML appraisal rules be adopted for transactions secured by existing manufactured homes and land. They indicated that the appraisal methods for appraising existing manufactured homes and land are the same as for site-built homes and land. Their comments suggested that appraisals with interior inspections for these homes are common and that prudent lending practice and consumer protection are best served by obtaining appraisals for transactions secured by an existing manufactured home and land together, including a physical inspection of the interior of the home.

As noted, one manufactured home lender commenter expressed concerns about applying the HPML appraisal rules to loans secured by existing manufactured homes and land when the home has been moved from its previous site to a dealer's lot. Transactions secured by an existing home that has been moved to a dealer's lot and land can still be appraised in conformity with USPAP, which does not require that the home first be sited before an appraiser performs the appraisal. The Agencies understand that the home could be inspected on the dealer's lot, for example, or once the home is re-sited. The Agencies also note that several commenters asserted that existing manufactured homes are rarely moved. For these reasons, the Agencies believe that an appraisal with an interior inspection that values the home and land together is still warranted for these properties.

Based on these comments and related outreach, the Agencies do not believe that exempting loans secured by a manufactured home and land from the HPML appraisal requirements would be in the public interest or promote the safety and soundness of creditors. The Agencies believe that covering these loans will help ensure that consumers are aware of information related to the value of their manufactured home before consummating an HPML (that is not a qualified mortgage). The Agencies also believe that covering these loans will facilitate the development of greater consistency between the rules and practices applicable to transactions secured by site-built homes and manufactured homes. The Agencies believe that this consistency of rules and practices will contribute to integrating manufactured home lending more fully into the broader mortgage market over time, which could have long-term benefits for consumers and lenders.

The Agencies believe that most lenders of manufactured home loans obtain appraisals in conformity with USPAP and FIRREA for loans secured by existing manufactured homes and land. However, the Agencies understand that not all manufactured home lenders may do so, or do so consistently, and are mindful that smaller lenders in particular may need more time to comply. Therefore, the final rule gives the industry 18 months before compliance with the HPML appraisal requirements is mandatory for these transactions.

35(c)(2)(viii)(A)

Loans Secured by a New Manufactured Home and Land

Section 1026.35(c)(2)(viii)(A), effective July 18, 2015, provides a partial exemption from the HPML appraisal requirements of § 1026.35(c)(3) through (c)(6) for transactions secured by both a new manufactured home and land. Specifically, loans for which the creditor receives the application on or after July 18, 2015, will be exempt from the requirement that the appraisal include a physical visit of the interior of the manufactured home, found in § 1026.35(c)(3)(i). All other HPML appraisal requirements in § 1026.35(c)(3) through (c)(6) will apply.

The Agencies' Proposal

In the January 2013 Final Rule, the Agencies adopted an exemption from the HPML appraisal requirements for loans secured by a ''new manufactured home.'' *See* 78 FR 10368, 10379–10380, 10433, 10438, 10444 (Feb. 13, 2013). In the 2013 Supplemental Proposed Rule, the Agencies stated that, after issuing the January 2013 Final Rule, the Agencies obtained additional information on valuation methods for

[79] *See* 12 CFR 1002.14.

[80] The requirement for a second appraisal in ''flipped'' transactions is not anticipated to be triggered in most existing manufactured home transactions, if any. *See* § 1026.35(c)(4). The Agencies are not aware, based on research, public comments, and outreach, that manufactured home properties are improved and re-sold quickly by investors.

[81] In commenting on the 2012 Proposed Rule, the national real estate trade associated similarly expressed the view that exempting transactions secured by both a manufactured home and land may not be appropriate. *See* 78 FR 48548, 48554, n. 16 (Aug. 8, 2013).

manufactured homes. Based on this information, the Agencies requested comment and information concerning whether to require USPAP-compliant appraisals with interior property inspections conducted by a state-licensed or -certified appraiser for HPMLs secured by both a new manufactured home and land. The Agencies also sought comment on whether some other valuation method should be required as a condition of the exemption for these transactions from the general HPML appraisal requirements in § 1026.35(c)(3) through (c)(6).

In particular, the Agencies noted that appraisers and State appraiser boards consulted in outreach efforts confirmed that real property appraisals in conformity with USPAP are possible and conducted with at least some regularity in transactions secured by a new manufactured home and land. The Agencies expressed their understanding that these appraisals value the site and the home together based upon comparable transactions that have been exposed to the open market (as would be done with a site-built home or any other existing home).[82] The Agencies further noted that these appraisals could document additional value based on factors such as the home's location, and in some cases could identify visible discrepancies between the manufacturer's specifications and the actual home once it is sited.

In the 2013 Supplemental Proposed Rule, the Agencies also observed that USPAP-compliant real property appraisals are regularly conducted for all transactions under Federal government agency and GSE manufactured home loan programs.[83] FHA Title II program standards, for example, which apply to transactions secured by a manufactured home and land titled together as real property, require an appraisal in conformity with USPAP.[84]

The Agencies noted further that in informal outreach, a representative of manufactured home appraisers and a manufactured home CDFI representative stated that they conduct appraisals for loans secured by a new manufactured home and land before the home is sited based on plans and specifications for the new home.[85] An interior property inspection occurs once the home is sited (although the CDFI representative indicated that it did not always use a state-certified or -licensed appraiser for the final inspection). These outreach participants suggested that, in their experience, qualified certified- or -licensed appraisers and appropriate comparables are not unduly difficult to find to perform these appraisals, even in rural areas.[86]

The Agencies noted that manufactured home lenders commenting on the 2012 Proposed Rule and during informal outreach raised concerns that comparables of other manufactured homes can be particularly difficult to find. The Agencies expressed their understanding that a lack of appropriate comparables can be a barrier to obtaining a manufactured home appraisal, especially in certain loan programs that require appraisals of manufactured homes to use a certain number of manufactured home comparables and have other restrictions on the comparables that may be used.[87]

The Agencies noted, however, that USPAP does not require that manufactured home comparables be used. USPAP allows the appraiser to use site-built or other types of home construction as comparables with adjustments where necessary.[88] The Agencies also stated that a current version of an Appraisal Institute seminar on manufactured housing appraisals confirmed that when necessary, USPAP appraisals can use non-manufactured homes as comparables, making adjustments where needed.[89]

At the same time, the Agencies sought information about the potential impact on the industry and consumers of requiring real property appraisals in conformity with USPAP that include interior inspections in transactions secured by a new manufactured home and land (where these types of appraisals are not already required). In this regard, the Agencies noted that several manufactured home lenders commented on the 2012 Proposed Rule and shared in informal outreach that they typically do not conduct an appraisal with an interior inspection of a new manufactured home, but use other methods, such as relying on the manufacturer's invoice as a baseline for the value of the new home and conducting a separate appraisal of the land in conformity with USPAP.[90] Thus, the Agencies observed that requiring a USPAP-compliant appraisal with an interior inspection could require systems changes for some manufactured home lenders. In addition, the Agencies also noted the possibility that, if the appraisals required under the 2013 January Final Rule were more expensive than existing methods, imposing the HPML appraisal requirements would lead to additional costs that could be passed on in whole or in part to consumers.

Accordingly, the Agencies requested data on the extent to which an appraisal in conformity with USPAP with an interior property inspection would be of comparable cost to, or more or less expensive than, a separate USPAP-compliant appraisal of a lot added

[82] *See, e.g.,* Texas Appraiser Licensing and Certification Board, ''Assemblage As Applied to Manufactured Housing,'' available at *http://www.talcb.state.tx.us/pdf/USPAP/AssemblageAsAppliedToMfdHousing.pdf.*

[83] *See, e.g.,* HUD: 24 CFR 203.5(e); HUD Handbook 4150.2, Valuations for Analysis for Home Mortgage Insurance for Single Family One- to Four-Unit Dwellings, chapter 8.4 and App. D; USDA: 7 CFR 3550.62(a) and 3550.73; USDA Direct Single Family Housing Loans and Grants Field Office Handbook (USDA Handbook), chapters 5.16 and, 9.18; VA: VA Lenders Handbook, VA Pamphlet 26–7 (VA Handbook), chapters 7.11, 11.3, and 11.4; Fannie Mae: Fannie Mae Single Family 2013 Selling Guide B5–2.2–04, Manufactured Housing Appraisal Requirements (04/01/2009); Freddie Mac: Freddie Mac Single Family Seller/Servicer Guide, H33: Manufactured Homes/H33.6: Appraisal requirements (02/10/12).

[84] Title II appraisal standards are available in HUD Handbook 4150.2. For supplemental standards for manufactured housing, see HUD Handbook 4150.2, chapters 8–1 through 8–4. The valuation protocol in Appendix D of HUD Handbook 4150.2 calls for a certification that the appraisal is USPAP compliant (p. D–9).

[85] For a summary of more recent informal outreach conducted by the Agencies, see *http://www.federalreserve.gov/newsevents/rr-commpublic/industry-meetings-20131001.pdf.*

[86] For FHA-insured loans secured by real property—a manufactured home and lot together—HUD requires creditors to use a FHA Title II Roster appraiser that can certify to prior experience appraising manufactured homes as real property. *See* HUD, Title I Letter 481 (Aug. 14, 2009) (''HUD TI–481''), Appendices 8–9, C, and 10–5, issued pursuant to authority granted to HUD under section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

[87] *See* Robin LeBaron, Fair Mortgage Collaborative, *Real Homes, Real Value: Challenges, Issues and Recommendations Concerning Real Property Appraisals of Manufactured Homes* (Dec. 2012) at 19–28. This report is available at *http://cfed.org/assets/pdfs/Appraising_Manufacture_Housing.pdf.*

[88] *See* HUD Handbook 4150.2, chapter 8.4 (providing the following instructions on appraisals for manufactured homes insured under the FHA Title II program: ''If there are no manufactured housing sales within a reasonable distance from the subject property, use conventionally built homes. Make the appropriate and justifiable adjustments for size, site, construction materials, quality, etc. As a point of reference, sales data for manufactured homes can usually be found in local transaction records.'').

[89] *See* Appraisal Institute, ''Appraising Manufactured Housing—Seminar Handbook,'' Doc. PS009SH–F (2008) at Part 8, 8–110, available at *http://www.appraisalinstitute.org/education/seminar_descrb/Default.aspx?sem_nbr=OL–671&key_type=OOS.*

[90] Some consumer and affordable housing advocates and appraisers in outreach have expressed the view that separately valuing the component parts of a manufactured home plus land transaction can result in material inaccuracies.

together with an invoice price for the home unit. The Agencies also requested comment on the potential burdens on creditors and consumers and any potential reduction in access to credit that might result from imposing requirements for an appraisal in conformity with USPAP that includes an interior property inspection on all manufactured home creditors of HPMLs secured by both a new manufactured home and land. In this regard, the Agencies asked commenters to bear in mind that any of these transactions that are qualified mortgages are exempt from the HPML appraisal requirements under the separate exemption for qualified mortgages. *See* § 1026.35(c)(2)(i). Finally, the Agencies requested comment on whether and the extent to which consumers in these transactions typically receive information about the value of their land and home and, if so, what information is received.

Public Comments

Eighteen commenters responded to the Agencies' questions about the exemption for transactions secured by both a new manufactured home and land. These commenters comprised four national appraiser trade associations, a State credit union trade association, a credit union, a national manufactured housing industry trade association, a national association for owners of manufactured homes, two manufactured housing lenders, a consumer advocate group, three affordable housing organizations, a policy and research organization, a State manufactured housing industry trade association, a real estate trade association, and a mortgage banking trade association.

Commenters had varying opinions on whether the exemption for transactions secured by both a new manufactured home and land was appropriate. Four national appraiser trade associations, a credit union, a national association for owners of manufactured homes, a consumer advocate group, three affordable housing organizations, a policy and research organization, and a real estate trade association opposed the exemption. Two of the national appraiser trade associations asserted that the exemption for transactions secured by new manufactured homes and land did not meet the statutory exemption criteria of being in the public interest and promoting the safety and soundness of creditors.[91] These commenters also believed that the January 2013 Final Rule and the 2013 Supplemental Proposed Rule lacked public policy consistency because loans secured by a manufactured home and land would be treated differently based on whether the home is existing or new, even though both are real estate-secured transactions. A real estate trade association and two national appraiser trade associations noted that the exemption was inconsistent with the manufactured housing appraisal requirements of HUD, VA, and GSE manufactured housing loan programs.

A credit union commenter expressed the view that an appraisal with an interior inspection in conformity with USPAP and FIRREA is the only method of valuation that properly accounts for all valuation factors, including the property's location and discrepancies between the manufacturer's specifications and the home itself. Similarly, two national appraiser trade associations argued that this type of appraisal was necessary because the price of a manufactured home may not necessarily reflect its value, due to factors such as the quality of installation and construction of the home. Two national appraiser trade associations, a manufactured housing lender, and a real estate trade association stated that an appraisal in conformity with USPAP of a lot combined with an invoice price for the home unit (as opposed to valuing the home and land as a single item of real property) was an incorrect form of valuation that would not provide a credible indication of the value of the home and land combined.

Several commenters emphasized that performing appraisals in conformity with USPAP and FIRREA for these transactions is feasible. An affordable housing commenter argued that, for new manufactured homes that are not yet sited, appraisers can follow standards in USPAP for appraising site-built homes that are not yet constructed. Under these existing USPAP standards, an appraisal is based on a site inspection and the plans and specifications of the home.[92] When the construction is complete, an appraiser or qualified inspector can confirm whether the finished home meets the same specifications.

According to national appraiser trade associations, appraisals in conformity with USPAP are regularly performed for transactions secured by a new manufactured home and land. These commenters stated that professional appraisers for manufactured homes are widely available, that appropriate comparables can be readily found, and that USPAP protocols (including interior inspections) are appropriate for valuing manufactured housing and land. Two affordable housing organizations, a consumer advocate group, a policy and research organization, and a national association of owners of manufactured homes believed that the same appraisal requirements should apply to transactions secured by a new manufactured home as apply to transactions secured by site-built homes. They believed, however, that appraisers should have more flexibility in manufactured home transactions to use site-built homes as comparables than some Federal government agency and GSE programs currently allow.

Two affordable housing organizations, a consumer advocate group, a policy and research organization, and a national association for owners of manufactured homes believed that transactions secured by a new manufactured home should be subject to the rule if the homeowner owns the land on which the home is sited, even if the home is not subject to a security interest. Another affordable housing organization recommended that new manufactured homes should be subject to the rule, whether affixed to owned land or on land with a long term lease.

In contrast, six commenters—a national mortgage banking association, a State credit union association, two manufactured housing lenders, a national manufactured housing trade association, and a State manufactured housing trade association—supported the exemption for transactions secured by both a new manufactured home and land. Some of these commenters asserted that an exemption was necessary because a physical interior inspection was infeasible. In this regard, the manufactured housing lender stated that a new manufactured home typically will not be delivered and installed until after a loan closes. The commenter noted that, as with construction loans, which are provided an exemption from the HPML appraisal rules (§ 1026.35(c)(2)(iv)), on-site interior inspections of new manufactured homes that will secure loans are not feasible because they are still being manufactured, delivered, or installed when appraisals would need to be ordered. Similarly, a State manufactured housing industry trade association stated that a manufactured home's production does not begin before the determination is made to provide credit to a consumer, so a physical inspection prior to closing would be impossible.[93]

[91] *See* TILA section 129H(b)(4)(B), 15 U.S.C. 1639h(b)(4)(B).

[92] *See* Appraisal Standards Bd., Appraisal Fdn., Standards Rule 1–2(e) and Advisory Opinion 17, ''Appraisals of Real Property with Proposed Improvements,'' at U–17, U–18, and A–37, *available at http://www.uspap.org.*

[93] As noted under ''Public Comments,'' however, a representative of a manufactured home loan

A national manufactured housing industry trade association also questioned the value of an interior inspection of new manufactured homes, stating that each manufactured home is built to the specifications of the retailer and is manufactured in a controlled manufacturing process in accordance with HUD standards, which ensures the application of consistent, quality standards.[94] According to this commenter, the manufacturer certifies to the retailer the authenticity and accuracy of the wholesale cost of the home at the point of manufacture.

Some commenters noted that even though appraisals in conformity with USPAP are required by some Federal government agencies and GSE manufactured housing loan programs, they are not performed frequently. One manufactured housing lender stated that traditional appraisals typically are performed only for certain FHA loans that represent a small fraction of overall land/home manufactured housing loans.[95] A State manufactured housing industry trade association offered similar comments. The State manufactured housing industry trade association commenter also asserted that GSE-like appraisal requirements were not appropriate for these transactions, because most new manufactured home loans are held in portfolio and creditors will set valuation standards appropriate for their own loans.

Commenters also challenged the accuracy of appraisals performed in conformity with USPAP and FIRREA for transactions secured by both a new manufactured home and land. A manufactured housing lender stated that, even for FHA-insured land/home loans, traditional appraisals are prone to yielding appraised values that are lower than the sales price of the home. A national manufactured housing industry trade association stated that traditional appraisals produce appraised values lower than the sales price for more than 20 percent of transactions that are secured by manufactured homes and land. One manufactured housing lender stated that for its loans for which appraisals are ordered, appraisals resulted in appraised values lower than the sales price around 30 percent of the time. Similarly, the State manufactured housing industry trade association stated that, based on information from its members, the rate of appraisals with appraised values lower than the sales price is approximately 30 percent.

Commenters also cited problems with obtaining comparables as contributing to the difficulty with obtaining accurate appraisals. Manufactured housing lenders, a national manufactured housing industry trade association, and a State manufactured housing industry trade association stated that manufactured home comparables, especially in rural areas, tend to be unavailable or inadequate. One lender noted that, in practice, HUD will permit site-built comparables for the Title II FHA loan insurance program in the absence of appropriate manufacturer home comparables, but only on a limited basis. A manufactured housing lender also asserted that relying upon site-built homes as comparables can lead to inflated values.

A national manufactured housing industry trade association and a State manufactured housing industry trade association asserted that no reliable database of previous sales which appraisers can use to develop an accurate, reliable value for manufactured homes exists. The State manufactured housing industry trade association believed that actual sales data must serve as the foundation for any valuation system. The commenter believed that creating such a database would involve both time and expense, and that such a database should not be created by private industry or based upon the voluntary submission of sales price data. This commenter expressed the view that such a database should be created by State governments.

Several commenters believed that issues with appraisers are the cause of manufactured housing appraisals resulting in values lower than the sales price. A manufactured housing lender believed that significant appraiser bias exists against manufactured housing, which results in lower value estimates. Another manufactured housing lender stated that most state-licensed or -certified appraisers have no training or experience in appraising manufactured homes.

Commenters also cited concerns about the cost of requiring appraisals for these transactions. A national manufactured housing industry trade association and two manufactured housing lenders raised related concerns that appraisal costs would make these transactions less affordable for consumers and that an appraisal is expensive relative to the cost of a manufacture home. The national manufactured housing industry trade association expressed the view that these costs could result in reduced manufactured housing lending.

The Agencies specifically requested comment on the potential burdens on creditors and consumers and any potential reduction in access to credit that might result from imposing requirement for an appraisal in conformity with USPAP and FIRREA with an interior property inspection on all creditors of loans secured by both a new manufactured home and land. Two national appraiser trade associations believed that concerns about appraisal costs could be mitigated because professional appraisers can provide a range of services other than an interior inspection but still in conformity with USPAP. These commenters argued that the cost of a professional appraisal is relatively small compared to the value provided to borrowers and to loan underwriting safety and soundness. A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization believed that the costs of an appraisal with an interior inspection would be no higher than the costs of appraisals for site-built homes subject to the rule.

No commenters offered data on the cost of the method of using the manufacturer's invoice for the home and conducting a separate appraisal of the land. However, a national manufactured housing industry trade association asserted that this method costs consumers less than the type of appraisal that the HPML appraisal rules require. Informal outreach by the Agencies with a manufactured housing lender after the 2013 Supplemental Proposed Rule suggested that the interior inspection was the element of the HPML appraisal requirements that added the most cost. Another manufactured housing lender believed that the land-only appraisal would still be expensive for consumers. A national association of owners of manufactured homes, a consumer advocate group, a policy and research organization, and two affordable housing organizations stated that they did not have cost information in order to respond to the question posed by the Agencies.

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lender consulted in informal outreach by the Agencies indicated that the lender does not close loans secured by a new manufactured home and land until the home is sited.

[94] *See* 24 CFR part 3280.

[95] FHA reported providing insurance under its Title I program for 655 manufactured home loans in Fiscal Year (FY) 2012, 986 in FY 2011, and 1,776 in FY 2010. *See* HUD, *FHA Annual Management Report, Fiscal Year 2012* (Nov. 15, 2013) at 17. FHA also reported providing insurance under its Title II program for 20,479 manufactured home loans in FY 2012, 21,378 in FY 2011, and 30,751 in FY 2010. *See id.* According to 2012 HMDA data, 19,614 FHA-insured manufactured home loans (under both Titles I and II) were reported out of a total of 123,628 reported manufactured home loans; thus, FHA-insured loans represented 15.9 percent of HMDA-reported manufactured home loans. *See www.ffiec.gov/hmda.*

In addition, the Agencies requested comment on whether consumers currently receive information about the value of their land and manufactured home. A consumer advocate group, two affordable housing organizations, a policy and research organization, and a national association of owners of manufactured homes asserted that consumers do not currently receive valuation information. Two manufactured housing lenders stated that, when appraisals are performed, lenders are required to provide the ECOA notice informing consumers that a copy of the appraisal may be obtained from the lender upon request.[96] One of the manufactured housing lenders indicated that it routinely issues a copy of the appraisal to its customers. The other lender stated that, after receiving the ECOA notice, very few consumers request the appraisal information.

Finally, the Agencies requested comment on alternative methods that may be appropriate for valuing new manufactured homes and land, which the Agencies could require as a condition of an exemption from the general HPML appraisal rules in § 1026.35(c)(3) through (c)(6). A real estate trade association, two national appraiser trade associations, a consumer advocate group, a policy and research organization, two affordable housing organizations, and a national association of owners of manufactured homes believed that a discussion of conditioning the exemption was unnecessary because they believed that there should be no exemption for these transactions.

All other commenters on this issue—a national mortgage banking association, a State credit union association, two nonbank manufactured home lenders, a State manufactured housing industry trade association, and a national manufactured housing industry trade association—opposed adding conditions to the exemption. The manufactured housing lenders stated that they were unaware of a reliable, uniform valuation method by which to provide information to a consumer in new or existing manufactured housing transactions. The mortgage banking trade association believed that providing an alternative valuation would confuse consumers, and a State credit union trade association believed that a condition would increase the cost for consumers to obtain credit.

The Final Rule

The Agencies are adopting a modified exemption for transactions secured by a new manufactured home and land. Under the final rule, creditors for these transactions will be subject to all of the HPML appraisal requirements except for the requirement that the appraisal include a physical visit of the interior of the manufactured home. *See* § 1026.35(c)(3)(i). As discussed below, the Agencies believe that this exemption from the requirement for a physical visit of the interior of the property is in the public interest and promotes the safety and soundness of creditors. Comment 35(c)(2)(viii)(A)–1 clarifies that a creditor of a loan secured by a new manufactured home and land could comply with § 1026.35(c)(3)(i) by obtaining an appraisal conducted by a state-certified or -licensed appraiser based on plans and specifications for the new manufactured home and an inspection of the land on which the property will be sited, as well as any other information necessary for the appraiser to complete the appraisal assignment in conformity with USPAP and FIRREA. Compliance with the HPML appraisal rules for these transactions is not mandatory until July 18, 2015.

As discussed in the 2013 Supplemental Proposed Rule, the Agencies conducted additional research and outreach after issuing the January 2013 Final Rule to determine how to treat loans secured by existing manufactured homes under the HPML appraisal rules. In this process, the Agencies obtained information about manufactured home lending valuation practices that prompted the Agencies to review the exemption in the January 2013 Final Rule for transactions secured by a new manufactured home, whether or not the transaction is secured by land.

Through research, written comments, and informal outreach, the Agencies obtained the views of a wider range of stakeholders, including consumer advocates, affordable housing organizations, a policy and research organization, and a national association of owners of manufactured homes (summarized earlier ''Public Comments'').[97] In addition, the Agencies consulted with additional manufactured home lenders, one of which indicated that the lender obtains appraisals in conformity with USPAP for these transactions.[98] Based on this information, the Agencies understand that a pivotal factor in valuing manufactured homes is whether the transaction is secured by land. Accordingly, the Agencies are adopting a final rule that applies different rules to loans secured by a new manufactured home and land (§ 1026.35(c)(2)(viii)(A)) and loans secured by a new manufactured home without land (§ 1026.35(c)(2)(viii)(B)).

The Agencies understand that manufactured home lenders regularly value a new manufactured home and land by relying on the manufacturer's (wholesale) invoice for the home unit (marked up by a certain percentage to account for siting costs, dealer profit, and related expenses associated with the transactions) and having a separate appraisal performed on the land. The two values are then added together to obtain a maximum loan amount, which may not be the amount of credit ultimately extended. The Agencies understand that transactions secured by a new manufactured home and land can be consummated before the new home is sited or, in some cases, even built.

For these reasons, the Agencies recognize that applying the HPML appraisal rules to transactions secured by a new manufactured home and land will represent a change in practices for many manufactured home lenders. In part to mitigate unnecessary burden, the Agencies are exempting these transactions from the requirements that the appraisal include a physical inspection of the interior of the new manufactured home. In addition, the Agencies understand that an interior inspection of the property is a central obstacle to complying with the HPML appraisal rules in transactions secured by a new manufactured home and land, since production of the home might not be completed or started before the loan is consummated. Further, the Agencies believe that an interior inspection on a new manufactured home may not be warranted because the home would not have been subject to wear and tear and production and installation inspections new manufactured homes occur as part of a separate regulatory framework administered by HUD.[99]

Under the final rule, as of July 18, 2015, a creditor could, for example, obtain an appraisal based on the

[96] *See* ECOA section 701(e), 15 U.S.C. 1691(e). These provisions were amended by section 1474 of the Dodd-Frank Act, implemented by the Bureau's 2013 ECOA Valuations Rule, 12 CFR § 1002.14, and effective January 18, 2014.

[97] The Agencies did not receive comments from these types of organizations on the 2012 Proposed Rule, which the Agencies believe may be due to the large volume of mortgage rules that were issued for public comment at that time. A large real estate trade association expressed similar views in commenting on both the 2012 Proposed Rule and 2013 Supplemental Proposed Rule.

[98] For a summary of more recent informal outreach conducted by the Agencies, see *http://www.federalreserve.gov/newsevents/rr-commpublic/industry-meetings-20131001.pdf.*

[99] *See* 24 CFR parts 3282 and 3286.

appraiser's review of plans and specifications of the new home and an inspection of the site. *See* comment 35(c)(2)(viii)(A)–1. Neither USPAP nor FIRREA requires an interior inspection, but the Agencies believe that all other aspects of the HPML appraisal rules could and should be complied with. USPAP and FIRREA also do not require an appraiser to use particular types of comparables in valuing manufactured homes, so appraisers will have flexibility in selecting either manufactured home comparables or site-built comparables as the appraiser deems appropriate or as the creditor, secondary market participant, or relevant government agency requires. The Agencies are also aware that public comments and outreach included varying views on the availability of appropriate comparables and appraisers with the relevant competency to conduct USPAP land/home appraisals for transactions secured by a new manufactured home and land, with some generally asserting that appropriate comparables and competent appraisers are readily available, while other expressed concerns that at least in some markets they are not. However, the Agencies believe that giving creditors 18 months before compliance becomes mandatory can provide time for creditors and other stakeholders to determine how to address concerns in these areas.

The Agencies believe that applying the HPML appraisal rules to transactions secured by new manufactured homes and land is important for several reasons. First, as with transactions secured by an existing manufactured home and land, covering transactions secured by a new home and land is consistent with the requirements of the GSEs and Federal government agencies for these types of loans. Again, Congress designated HPML transactions that are not qualified mortgages to be ''higher-risk'' than other transactions; therefore, the Agencies believe it prudent and in keeping with congressional concern to be consistent with other Federal standards for these loans.

Second, appraiser representatives and regulators have made it clear in public comments on this rulemaking and independent publications that separate assessments of the unit value and land added together do not constitute an acceptable appraisal.[100] For loans deemed ''higher-risk'' by Congress, the Agencies have reservations about a valuation practice that diverges from practices deemed appropriate and most likely to result in a valid outcome.

Third, all commenters on the 2013 Supplemental Proposed Rule that did not represent the manufactured home lending industry, as well as a few manufactured home lenders, opposed a full exemption for loans secured by a new manufactured home and land. These comments strongly suggest that the exemption would not be in the public interest, as required by the statute. Commenters opposing a full exemption generally held the view that appraisals in conformity with USPAP and FIRREA for these homes are feasible and that prudent lending practice and consumer protection are best served by obtaining appraisals for transactions secured by a new manufactured home and land together. They believed that appraisals with interior inspections would allow consumers to obtain better information about the value of their homes than methods that combine an appraised value of a site and a marked-up invoice price of a manufactured home. As noted under ''Public Comments,'' some manufactured home lenders indicated that they already conduct appraisals in conformity with USPAP for transactions secured by a new manufactured home and land.

The Agencies decline, however, to adopt suggestions from some of these commenters that the general appraisal requirements should cover a broader range of transactions. Regarding the suggestion that the general appraisal requirements should cover transactions secured by a manufactured home and a leasehold interest, the Agencies are aware that State laws may vary regarding rights attendant to leasehold interests and that different lease terms might have different values; both are factors that would be beyond the scope of the final rule to provide guidance. GSE and Federal agency manufactured housing programs require the securing property to be real estate; whether a manufactured home and lease-hold meets that standard varies by State law and the Agencies believe that uniformity across states for the HPML appraisal rules would best facilitate compliance. At the same time, the Agencies recognize that lease terms and stability of tenancy can affect value, and believe that these factors would be appropriate to take into account as part of valuations for appraising transactions secured by a home and not land. The final rule permits but does not require consideration of these factors.[101] See § 1026.35(c)(2)(viii)(B)(*3*) and accompanying section-by-section analysis.

The Agencies are also not following the suggestion that the appraisal requirement be applied to transactions secured by a home whenever the borrower owns the land, even if the transaction is not secured by the land. The Agencies are concerned that accounting for differing ownership structures of the land would complicate the rule and could be difficult for creditors and appraisers to assess. The Agencies also have questions about whether appraisals of the land and home together, even if the land is not securing the transaction, will consistently lead to the desired result—market value of the collateral securing the loan. Some lenders indicated that when a loan goes into foreclosure, the property may be repossessed and taken back into dealer inventory; thus, it would seem important for a lender to know the value of the structure by itself. Again, the Agencies recognize that the location of the home can have a significant impact on its value, and believe that the location-related factors would be appropriate to take into account as part of valuations for transactions secured by a home and not land. The final rule permits but does not require consideration of these factors. *See* § 1026.35(c)(2)(viii)(B)(*3*) and accompanying section-by-section analysis.

Fourth, most commenters, including leading manufactured housing lending industry representatives, expressed support for developing and even requiring appropriate valuations for manufactured home transactions. In light of additional stakeholder views received since issuance of the January 2013 Final Rule and additional research, the Agencies believe that applying the HPML appraisal rules to transactions secured by new manufactured homes and land, as well as transactions secured by existing manufactured homes and land, creates needed incentives for the continued training of state-certified and -licensed appraisers in valuing manufactured homes and the development of appraisal methods tailored to value collateral in manufactured home lending transactions, including appropriate use of comparables. This will in turn support improved accuracy and

[100] *See, e.g.,* Texas Appraiser Licensing and Certification Board, ''Assemblage As Applied to Manufactured Housing,'' available at *http://www.talcb.state.tx.us/pdf/USPAP/AssemblageAsAppliedToMfdHousing.pdf.*

[101] A national provider of a manufactured home cost guide indicated in comments that its guide includes a land-lease community adjustment guideline that can be used if a manufactured home is located in a land-lease community.

reliability of appraisals for these transactions.

Regarding concerns expressed by commenters about a lack of comparable sales data, the Agencies understand that in many cases comparable sales data is reported to and available in Multiple Listing Services (MLS) regarding sales of manufactured homes and land classified as real property. The Agencies recognize that a more robust tracking of manufactured home sales information would be beneficial and may take time, and encourages efforts in this regard. The delayed effective date is intended to allow more time to move forward in this process.

Finally, the Agencies believe that treating manufactured home loans secured by both the home and land in the same way as loans secured by site-built homes and land will foster the development of greater consistency between the rules and practices applicable to transactions secured by site-built homes and manufactured homes. The Agencies believe that this consistency of rules and practices will contribute to integrating manufactured home lending more fully into the broader mortgage market over time, which could have long-term benefits for consumers and lenders.

For these reasons, on balance, the Agencies have concluded that an exemption from the HPML appraisal requirement for a physical visit of the interior of the home as part of the appraisal will promote the safety and soundness of creditors and be in the public interest.

35(c)(2)(ii)(B)

Loans Secured by a Manufactured Home and Not Land

The Agencies' Proposal

As noted, in the January 2013 Final Rule, the Agencies adopted an exemption from the HPML appraisal requirements for loans secured by a ''new manufactured home.'' *See* 78 FR 10368, 10379–10380, 10433, 10438, 10444 (Feb. 13, 2013). The January 2013 Final Rule did not address loans secured by ''existing'' (used) manufactured homes, which therefore would be subject to the appraisal requirements unless the Agencies adopted an exemption.

As discussed in the 2013 Supplemental Proposed Rule, additional research and outreach on valuation practices for loans secured by an existing manufactured home and not land indicated that current valuation practices for these transactions generally do not involve using a state-certified or -licensed appraiser to perform a real property appraisal in conformity with USPAP and FIRREA with an interior property inspection, as required under TILA section 129H and the January 2013 Final Rule. In addition, lender commenters on the 2012 Proposed Rule had raised concerns about the availability of data on comparable sales that may be used by appraisers for loans secured by an existing manufactured home and not land. They indicated that data from used manufactured home sales not involving land (usually titled as personal property) are not currently recorded in MLS of most states, so an appraiser's ability to obtain information on comparable manufactured homes without land is more limited than in real estate transactions. A provider of manufactured home valuation services confirmed in outreach with the Agencies in 2013 that manufactured home sales information is generally not available through standard real estate data sources.[102] The Agencies also understood that, in many states, appraisers are not currently required to be licensed or certified in order to perform personal property appraisals.

Accordingly, the 2013 Supplemental Proposed Rule would have exempted transactions secured by existing manufactured homes and not land in proposed § 1026.35(c)(2)(ii)(B).[103] The Agencies noted that an exemption would promote the public interest in affordable housing by ensuring transactions were not subject to a requirement not suited to this particular collateral type at this time, and would promote safety and soundness by allowing creditors to rely on currently prevalent valuation methods to ensure profitability and diversity to mitigate risk. The Agencies requested comment on this proposed exemption.

In addition, however, the Agencies' 2013 Supplemental Proposed Rule sought comment on any risks that could be created by an unconditional exemption for transactions secured by a manufactured home, whether new *or* existing, and not land. After the January 2013 Final Rule was issued, consumer advocates and other stakeholders expressed concerns that some transactions in the lending channel for manufactured home-only (chattel) transactions (both of new and existing manufactured homes) can result in consumers owing more than the manufactured home is worth. For this type of loan, stakeholders such as consumer and affordable housing advocates asserted that networks of manufacturers, broker/dealers, and lenders are common, and that these parties can coordinate sales prices and loan terms to increase manufacturer, dealer, and lender profits, even where this leads to loan amounts that exceed the collateral value.

Consumer advocates and others raised concerns that, where the original loan amount exceeds the collateral value and the consumer is unaware of this fact, the consumer is often unprepared for difficulties that can arise when seeking to refinance or sell the home at a later date. They also noted that chattel manufactured home loan transactions tend to have much higher rates than conventional mortgage loans. Some stakeholders suggested that giving the consumer third-party information about the unit value could be helpful in educating the consumer, particularly as to the risk that the loan amount might exceed the collateral value, and might prompt the consumer to ask important questions about the transaction.

Accordingly, the 2013 Supplemental Proposed Rule posed a number of questions seeking comment on conditioning the exemptions for manufactured home-only transactions on providing the consumer with an estimate of the value of the manufactured home no later than three business days before consummation. The 2013 Supplemental Proposed Rule discussed several types of estimates.

First, based on input from lenders and manufactured home valuation providers, the Agencies understood that in new home-only transactions, many creditors determine the maximum amount that they will lend by using the manufacturer's invoice, or wholesale unit price, marked up by a certain percentage to reflect, for example, dealer profit and siting costs. As discussed in the 2012 Proposed Rule, informal outreach participants indicated that this practice—similar to that sometimes used for automobiles—is longstanding in new manufactured home transactions.[104] Lenders asserted that these methods save costs for consumers and creditors and has been found to be reasonably effective and accurate for purposes of ensuring a safe and sound loan.

Second, outreach to manufactured home lenders indicated that in transactions secured by an existing manufactured home and not land, lenders typically obtain replacement

[102] The Agencies also are not aware of site-built or similar comparables for home-only collateral.

[103] In addition, proposed comment 35(c)(2)(ii)(B)–1 would have clarified that an HPML secured by a manufactured home and not land would not be subject to the appraisal requirements of § 1026.35(c), regardless of whether the home is titled as realty by operation of state law.

[104] *See* 77 FR 54722, 54732–33 (Sept. 5, 2012).

cost estimates derived from nationally published cost services, taking into account factors such as the age of the unit (to derive depreciated values) and regional location of the home.[105]

Third, the Agencies understood that additional methods exist for conducting personal property appraisals of manufactured homes. For example, HUD has adopted property valuation standards for HUD-insured loans secured by an existing manufactured home and not land. These standards call for use of a certified independent fee appraiser to conduct a valuation of the home using data on comparable manufactured homes in similar condition and in the same geographic area.[106]

Public Comments

The Agencies received 28 comment letters on transactions secured by manufactured homes and not land from four national appraisal trade associations, a provider of a manufactured housing cost guide, a consumer advocate group, three affordable housing organizations, a national association of owners of manufactured homes, a policy and research organization, a credit union, seven State or regional credit union associations, a national credit union association, a community bank, a national trade association for community banks, a State banking trade association, a national mortgage banking trade association, a national trade association for manufactured housing, a State manufactured housing trade association, and two manufactured housing nonbank lenders.

Many of the comments received pertained to transactions secured by either an existing or new manufactured home, but the comment summary below is generally divided into two parts, one regarding comments on loans secured by a new manufactured home (but not land) and one regarding comments on loans secured by an existing manufactured home (but not land). First, however, some generally applicable comments are reviewed below.

General Comments

A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization indicated that the Agencies should adopt a rule that would ensure that consumers have information about their home value before entering into an HPML secured by an existing manufactured loan without land.

Providers of valuations and their trade associations also generally supported providing copies of valuation information to consumers in these transactions. Two appraiser trade associations stated that consumers have a ''fundamental right'' to understand the market value of the property collateralizing covered loans. A provider of a manufactured home cost guide stated that consumers unequivocally would benefit from knowing the cost estimate value of their home.

Industry support for providing this information to consumers was more limited. A State credit union association stated that in an HPML secured by an existing manufactured home and not land, the consumer should receive a copy of a valuation, which this commenter believed would be a valuable tool for the consumer. A State manufactured housing trade association stated that, if a reliable repository of data on comparable sales were developed, it would support providing the consumer a copy of a valuation based upon such data.

More broadly, manufactured home lending industry commenters questioned the need for valuation regulations on new manufactured home transactions on several grounds. A State manufactured housing trade association noted that most manufactured housing lenders are portfolio lenders who have incentives to adopt appropriate underwriting standards and not to over-finance the loan. This commenter asserted that the widespread practice of using actual cost information from the manufacturer's invoice to determine maximum loan amount prevents over-financing. Finally, the commenter stated that over-financing has not been substantiated as a problem in manufactured home lending. Thus, the commenter suggested that the Agencies take more time to study the issue of manufactured home valuations before proposing a final rule in this area.

Similarly, a national community banking trade association stated that a portfolio lender's assumption of credit risk is an incentive to choose appropriate valuation methods. Further, two State credit union associations stated that existing valuation methods suffice for ensuring reasonably safe and sound loans. Another State credit union association noted that creditors have alternatives to the USPAP interior-inspection appraisal, such as an exterior inspection or drive-by, or an analysis of sales of comparable homes.

One manufactured home lender suggested that consumers purchasing manufactured homes do not need appraisals because manufactured homes are sold like automobiles, in that they are sold from a retailer's display center. Therefore, the commenter suggests that instead of providing consumers with appraisals, consumers should be encouraged to engage independently in comparative shopping when selecting a home as well as when shopping for a loan. Another manufactured home lender stated that consumers do not need information beyond the sales contract, which breaks down certain costs. This commenter stated that information about the value of the home is not relevant to these consumers because they do not buy manufactured homes for investment. A manufactured home lender also stated that it does not offer loans based on the collateral value but instead on the consumer's ability to repay.

A national manufactured housing trade association stated that inspections by HUD-certified inspectors conducted on all new manufactured homes provide lenders and consumers a strong guarantee of the quality of a manufactured home.[107] Moreover, this commenter asserted that the HUD inspection process, coupled with the verification that lenders receive from manufactured home retailers and builders on all new manufactured homes,[108] dispenses with the need for an appraisal and interior inspection.

Two national appraiser associations generally asserted that the importance of valuation information to the consumer and lenders far outweighs the costs and burdens of providing this information. However, one manufactured home lender suggested that the cost of performing third-party appraisals would be unnecessary for the consumer, especially given this commenter's concerns about their reliability in home-only transactions. In addition, the commenter suggested that these costs would be a particular hardship on consumers who purchase manufactured home because they tend to have lower

[105] One option identified in the 2013 Supplemental Proposed Rule (78 FR 48548, 48554 n. 12 (Aug. 8, 2013) was the National Automobile Dealers Association (NADA) Manufactured Housing Cost Guide. *See* NADAguides.com Value Report, available at *www.nadaguides.com/Manufactured-Homes/images/forms/MHOnlineSample.pdf.*

[106] *See* HUD TI–481, Appendices 8–9, C, and 10–5.

[107] *See generally,* 24 CFR parts 3280, 3282, and 3286.

[108] This commenter may have been referring to requirements such as those in HUD manufactured housing regulations that require a manufacturer to certify to the manufactured home dealer or distributer that the home conforms to all applicable Federal construction and safety standards. *See* 24 CFR 3282.205.

incomes and lower credit scores than consumers of site-built homes; thus, they are purchasing a manufactured home because it is the most affordable and viable option available to them to own their own home. Finally, the commenter suggested the burden on manufactured home creditors of valuation requirements is likely to result in a reduction in lending. Similarly, a national manufactured housing trade association commenter suggested that existing valuation methods are adequate and cost consumers substantially less than traditional property appraisals.

A manufactured home lender expressed concerns in particular about requiring creditors to provide a third-party cost service unit value to the consumer for either new or existing manufactured homes. According to this commenter, the technology and personnel required to program and develop a system to compare the home's year, manufacturer, and model name with the appropriate year, manufacturer, and model name from a specific price guide would be considerable. Further, this commenter asserted, this type of requirement would add to all lenders' overhead costs, which would increase the cost of credit (*i.e.,* be passed on to the consumer). This lender predicted that such a task would deter other established creditors, including banks and credit unions, from offering financing secured by a manufactured home.

Location. A question with equal applicability to transactions secured by either a new or existing manufactured home was a request for comment on the impact the location of a new manufactured home can have on its value and whether cost services are available that account adequately for differences in location. Commenters who responded generally agreed that the location of a manufactured home can have a significant impact on its value. Two national appraiser association commenters suggested that the location of a manufactured home can have a significant influence on its value and that they know of no cost services that adequately account for price differences in locations.

A consumer advocacy group, two affordable housing organizations, a national manufactured homeowner association, and a policy and research organization suggested that manufactured homes are very rarely moved because moving a manufactured home is expensive and likely to damage the unit. As a result, a location-based value is more relevant to resale value. These commenters further suggested that attributes of the home's location that affect the home's value are tangible and visible, but that there are other attributes of a manufactured home's location that affect the home's value that are not typically captured in existing valuation models. Examples of such characteristics provided were lease terms or State laws that: (1) Stabilize rent; (2) ensure that the home may remain where it is sited; (3) ensure that the homeowner is able to sell the home to a new owner without having to move it; and (4) protect the lender's interest in the home if the homeowner defaults on the loan.

One manufactured home lender suggested that similar factors, such as proximity to retail shopping, the quality of the neighborhood public and private schools, the condition and upkeep of neighboring properties, and other factors that affect the value of site-built homes will also affect the value of manufactured homes. However, the commenter suggested that due to historical biases against manufactured homes in urban areas and most neighborhoods—expressed through zoning restrictions, prohibitions, and restrictive covenants—most manufactured homes are located in rural communities. A manufactured home lender also indicated that, in fact, it is not uncommon for manufactured homes may be moved from a sited location back to a dealer's lot, particularly when they have been foreclosed upon and are in rural areas.

Further study. Several commenters suggested that more time may be needed to develop reliable alternatives to a USPAP- and FIRREA-compliant appraisal based upon a physical inspection of the interior of the home. Two manufactured housing lenders, while generally opposed to conditioning the exemption, suggested the Agencies that postpone any decision on these issues for several months of further evaluation. A State manufactured housing trade association indicated that it would only support a condition if a mandatory repository of data on comparable sales were developed and sufficient time passed for this repository to populate.[109] This commenter also expressed concerns that very few, if any, loans secured by manufactured homes would be exempt from the HPML appraisal rules as qualified mortgages. *See* § 1026.35(c)(2)(i). This commenter suggested that the large number of loans potentially covered by conditions on any exemption for manufactured home transactions that would involve alternative valuations warranted further study of these options by the Agencies.

Similarly, a consumer advocate group, two affordable housing groups, a national association of owners of manufactured homes, and a policy and research organization, while generally supporting conditions, suggested that the Agencies convene a working group of stakeholders to review and develop valuation standards. These commenters observed that this approach would help to integrate the manufactured housing sector into the larger housing market. In their view, valuation rules would create demand, which would improve capacity for providing valuations and also generate more financing options for manufactured home consumers.

Comments on Loans Secured by a New Manufactured Home (but not Land)

The Agencies solicited comment on whether it would be appropriate and beneficial to consumers to condition the exemption from the HPML appraisal requirements on the creditor providing the consumer with various types of third-party information about the manufactured home's cost, which third-party estimates should be used for these estimates, and when creditors should be required to provide the information. The Agencies received several comments on these questions. Representatives of appraisal providers, a credit union, a community bank, a consumer advocacy group, three affordable housing groups, a national association of owners of manufactured homes, and one policy and research organization generally suggested that consumers would benefit. On the other hand, a manufactured home lender, two manufactured housing trade associations, a State credit union association, a mortgage company, a national community bank trade association, and a national mortgage banking trade association generally suggested that consumers would not benefit and a condition should not be adopted.

Manufacturer's invoice. Regarding the utility of providing the consumer with a copy of the manufacturer's invoice, a consumer advocacy group, two affordable housing groups, a national manufactured homeowner association, and a policy and research organization stated that in the near term consumers would benefit from receiving the manufacturer's invoice because this is what manufactured home lenders rely on in transactions involving new manufactured homes. They asserted that a consumer who is given the invoice is better able to evaluate the accuracy of

[109] This commenter noted, however, that the private sector was not in a position to develop such a repository due to cost and anti-trust concerns. Further, if such a repository were developed, this commenter expected challenges in finding data on comparable sales in rural areas would remain.

the description of the home's features. Given concerns about truth and accuracy in invoices in capturing all dealer payments, though, these commenters suggested that these transactions ultimately should be subject to the HPML appraisal rules on the same basis as site-built homes. In their view, higher valuation standards would improve appraiser capacity and, they argued, decrease incentives to steer consumers to loans with weaker standards.

Regarding the credibility of manufacturer's invoices, the Agencies received conflicting information. One affordable housing organization differentiated between a dealer's invoice and a manufacturer's invoice, indicating that incentives and rebates might be omitted from the dealer's invoice but not from the manufacturer's invoice so the manufacturer's invoice would be more reliable for the consumer. A consumer advocacy group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization, however, commented that the manufacturer's invoice may not have accurate information about the actual cost paid by the dealer because it might not reflect incentives, rebates, and in-kind services agreed upon by the dealer and manufacturer. However, as noted, they believed that the representation of home features on the invoice would be useful to consumers.

A national manufactured housing trade association stated that the manufacturer certifies to the retailer the authenticity and accuracy of the wholesale cost of the manufactured home at the point of manufacture. A manufactured housing lender further suggested that the manufacturer's invoice is the only realistic option upon which to base a home's value because it takes into account the upgrades and other features pertinent to the home. This commenter suggested that the invoice amount also offers a ''conservative'' figure in terms of valuation and loan-to-value considerations. However, the commenter noted that a consumer's total sales price will include certain other third-party charges related to the move and set-up of the manufactured home, dealer mark-ups and occasionally local government fees required to be paid by the dealer.

Third-party cost service estimates. Regarding the utility of providing a third-party unit estimate from an independent cost service, a credit union commenter stated that a third-party unit estimate would give consumers a valuable guideline to prevent predatory practices. Similarly, a community bank commenter stated that this information could help alleviate the potential for dealer price markups over manufacturer's suggested retail price. A national provider of a manufactured home cost service stated in its comment letter that its cost guide information could ''absolutely'' be useful to consumers, but cautioned that providing consumers with multiple different indications of value could make the process more confusing to consumers. The provider further stated that its cost guide can be used to provide a ''guideline'' that is a ''reasonable approximation'' for a new manufactured home value using the ''new or like new'' condition for the current-year model. The cost guide provider indicated that its value estimates consider the home's manufacturer, model, size, year, and region. In its cost guide, adjustments are also possible for State location, the general condition of the home, as well as for value added by additional features.

An affordable housing organization stated that creditors should be required to obtain cost estimates from an independent appraiser based upon nationally-published cost information. This commenter stated that consumers will be better informed with more information.

On the other hand, several industry and industry trade association commenters suggested that providing copies of third-party estimates would be of no benefit to consumers or would cause consumer confusion. One manufactured home lender asserted that cost guides consider pieces of property in the abstract and fail to account for the cost of permits, site preparation, and delivering the home to the purchaser's site. Moreover, this commenter suggested cost guides are typically used by lenders only to determine a value for pre-owned manufactured homes. A State manufactured housing association also noted that the third-party cost guides are not used in practice for new manufactured home transactions, a view confirmed by a manufactured home lender during informal outreach.

Independent valuations. Regarding third-party valuations for new home-only transactions generally, a number of industry, consumer group, and other commenters stated that in their view there does not exist today a reliable national third party database for comparable sales for new manufactured homes. However, two national appraiser association commenters stated that they strongly support requiring an independent third-party valuation by a credentialed third party appraiser with education, training, and experience, or a valuation through the National Appraisal System (NAS), which would be consistent with the requirements of government programs.[110]

Information for the consumer. The Agencies also solicited comment on whether the consumer in an HPML transaction to be secured by a new manufactured home and not land typically receives unit cost information, and what cost information from a reliable independent third-party source might be reasonably available to creditors and useful to a consumer. Several commenters responded to this and a related question; all generally suggested that, other than the retail purchase and sale agreement between the manufactured home purchaser and the retailer, no third-party information is currently provided to consumers about the value of their new manufactured home. One manufactured home lender noted that the retail purchase agreement will list the retail price of the manufactured home and itemize and include in the total cost all other costs and charges associated with the transactions and installation of the home and extras. Another manufactured home lender added that it is not the industry custom to disclose the wholesale amount to a consumer. Rather, the commenter suggested, the Agencies should not require disclosures of cost information for consumers and deviate from widely accepted practice in other areas of retail sales, including automobiles or site-built homes.

Most of the commenters who responded on the information availability issue suggested that there was currently no readily-accessible, publicly-available information that consumers could use to determine whether their loan amount exceeds the collateral value in a new manufactured home chattel transaction. Two national appraiser associations asserted that, under the statute, consumers have a fundamental right to know the value of the home that collateralizes debt they incur. However, a provider of a manufactured home cost guide suggested that consumers could access manufactured home value information on its Web site representing the depreciated replacement cost of a home.

Regarding the best timing for a creditor to provide a unit value estimate to a consumer, two national appraiser associations suggested that the

[110] *See* HUD TI–481, Appendices 8–9, C, and 10–5. The Agencies understand that the NAS is an appraisal method involving both the comparable sales and the cost approach.

information should be delivered to the prospective borrower as early in the loan underwriting process as possible. A consumer advocacy group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization suggested that a copy of the manufacturer's invoice should be provided to consumers after the execution of the buyer's order but prior to the consummation of the transaction. Finally, one community bank suggested that third-party cost guide information should be provided to the consumer at least three days prior to consummation because the data is readily available through the database.

Comments on Loans Secured by an Existing Manufactured Home (but not Land)

Commenters generally supported an exemption from the HPML appraisal rules under § 1026.35(c)(3) through (6) for transactions secured by an existing manufactured home and not land. However, a number of commenters favored conditioning the exemption on the creditor obtaining and providing valuation information to the consumer. Several commenters also stated that any exemption should be temporary. The most common reasons cited by commenters for supporting the exemption were a lack of qualified and available appraisers; a lack of data on comparable sales; and concerns over the cost of appraisals.

Regarding the availability of appraisers, a State manufactured housing trade association cited a scarcity of state-certified and -licensed appraisers to support chattel lending in general, which this commenter stated is particularly pronounced in rural areas where the homes are predominantly located. This commenter also believed valuation professionals lacked sufficient experience with USPAP personal property appraisal standards to comply with them in existing manufactured home-only transactions. Similarly, a manufactured home lender stated that most state-certified or -licensed appraisers are not trained or experienced in manufactured home appraisals and that in many rural areas, no qualified appraisers are available.[111]

In addition, a national community bank trade association indicated that, while some community banks can readily engage appraisers for manufactured home transactions, other banks do find it difficult to identify appraisers. A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization stated, however, that any appraiser capacity issues are driven by a lack of valuation standards for the manufactured housing segment. As a result, allowing the rule to take effect after a temporary period would lead to demand for appraisers, creating an incentive for appraisers to obtain the requisite skills.

A number of commenters expressed concern that the limited availability of data on comparable sales for transactions secured by an existing manufactured home and not land posed a significant barrier to obtaining reliable third-party appraisals for these transactions. A manufactured home lender stated that sales of existing manufactured homes on leased land are not reported to MLS and that data on comparable sales outside of California is generally lacking. The commenter noted, though, that one private company does aggregate comparable sales data from different sources around the country, which is usually used for transactions in land-lease communities. The national manufactured housing trade association added that state-certified or -licensed appraisers do not capture data on sales of existing manufactured homes, whether from retail dealers or communities. In addition, this commenter suggested that data may be distorted by foreclosures in rural areas leading to relocation of homes to dealer inventory. The State manufactured housing trade association commenter stated that the lack of a reliable nationwide database of comparable sales should be remedied and indicated that the one statewide database (in California) only receives data on a voluntary basis.[112]

Further, several industry commenters cited concerns over the cost of appraisals. A national community bank trade association and a State credit union association generally believed that that a USPAP-complaint appraisal with an interior inspection would be costly for low-income borrowers purchasing existing manufactured homes. Another State credit union association and a national credit union association supported the exemption because manufactured home values are generally lower than the values of other types of home. A state-level bank trade association also stated that appraisals would be costly for these transactions.

Third-party cost service estimates. A number of commenters also believed that existing market incentives and valuation methods were sufficient for this type of transaction. For example, national and State manufactured housing trade associations noted that lenders frequently use the value indicated by a national manufactured home cost guide to determine the maximum amount of credit they would extend for transactions secured by existing homes and not land. One manufactured home lender stated that it uses the guide to calculate a ''theoretical'' value, which is imperfect given the lack of reliable information about the condition of the home. Another nonbank lender stated that while it uses this guide to determine approximate wholesale value on trade-ins and as a general guide to the potential sale price for repossessions, it does not use the guide in transactions to finance the purchase or refinance of an existing manufactured home and not land.[113] A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization further confirmed the widespread use of third-party cost service depreciation schedules in this segment of the market.

Regarding the accuracy of third-party cost service estimates for existing manufactured homes, a national provider of a manufactured home cost guide stated that its values are derived by applying depreciation factors to the cost estimate of the home, and are designed to represent ''retail worth'' assuming average condition and certain components. Adjustments can be made for actual condition, inventoried components, and local site value (for homes located in land-lease communities).[114] The commenter stated that the local site value adjustment is representative of a national average of the contributing value for land-lease communities with certain attributes. After accounting for this adjustment, the value can be up to 33 percent higher or

[111] This commenter's observations were also endorsed by another manufactured home lender and a national manufactured housing trade association.

[112] This commenter suggested that a national mandatory-reporting database would need to be sponsored by the government, as cost and possible anti-trust issues make it unlikely the private sector would create such a database.

[113] This nonbank lender also stated that industry lenders do not typically obtain a ''valuation'' in manufactured home transactions.

[114] According to the association, the association develops its guide by collecting data from industry manufacturers to create a guideline based on actual original costs, current regional market activity (which are used to make regional adjustments), and depreciation factors. The association stated that the depreciation cost approach used by its guide is a component of the cost approach used by certified or licensed appraisers, and is approved for use with Fannie Mae Form 1004C, Freddie Mac Form 70B, and the VA.

11 percent lower than the value of the structure only (on average, the location adjustment adds 13 percent). While acknowledging that only appraisers are qualified to analyze a property's sited location, this commenter claimed that its location adjustment was more cost effective than an appraisal based upon a physical inspection, without sacrificing accuracy. When it compared its location-adjusted values with estimates from a sample of over 1,000 personal property appraisals of manufactured homes over a wide range of ages, it found that the median difference between its estimates and the appraised value was less than five percent.

Views of other commenters on the accuracy of third-party cost guide estimate were more mixed. A manufactured home lender stated that cost guides are used as a guideline by lenders rather than as an estimate of resale value. Another manufactured home lender stated that the cost guide does not include transaction costs, including setup fees, which can lead to unreliable estimates for consumers.

A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization believed that estimates based upon these cost guides fail to value correctly important factors related to the location of the home, such as the security of land tenure, risk of rent increases, and community attributes, among others. These commenters also noted that the cost guide assumes the property value has depreciated and that available adjustments based upon the property condition are not required; as a result, maintenance, repairs, and upgrades could be left out of the value and the property could be under-valued. Further, these commenters expressed concern that widespread use of a depreciated value could drive rather than reflect manufactured home values. However, another affordable housing organization believed that, despite concerns expressed by some about the utility of a third-party estimate based upon a nationally-published cost service, consumers will be better informed with this information.

A State manufactured housing trade association expressed concerns that depreciated values available through a cost service can be understated. While this commenter noted that adjustments can be made, the commenter asserted that questions remain as to who should make the adjustments and whether they will be made in a uniform, valid, and reliable manner.

One manufactured home lender believed that the use of physical inspections to provide a basis for making adjustments to depreciated unit cost estimates was not widespread. This commenter also pointed out that some transactions are consummated before the existing manufactured home is placed on the new site making it infeasible for the lender to arrange for pre-closing inspections of the home at its new site in these situations.

Independent valuations. Some commenters also indicated that valuation methods based upon sales comparison approaches are sometimes used in transactions secured by an existing manufactured home and not land. A consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research organization stated that comparable sales typically are selected based upon characteristics such as type of sale, size, style, and location of the home.

A State manufactured housing trade association noted that a private company can provide comparable sales reports for some transactions. A manufactured home lender indicated that this service also included a physical inspection, and is used for transactions secured by homes in land-lease communities in particular when a cost guide estimate does not match the sales price.

A national manufactured housing trade association stated that, for FHA Title I program loans, a physical inspection is conducted to adjust for site additions and the physical condition of the home. A State manufactured housing association asserted that the NAS is rarely used because only a small number of originations are currently done under the Title I FHA program for which NAS appraisals are specifically approved.[115] This commenter and a manufactured home lender stated suggested that the small number of FHA Title I program loans is due in part to eligibility requirements, including appraisal requirements.

The consumer advocate group, two affordable housing organizations, a national association of owners of manufactured homes, and a policy and research group stated that the FHA Title I appraisal system is overly focused on one characteristic of the home (that it is a manufactured home) and excludes use of other types of comparables that may be more suitable. A manufactured home lender noted that HUD-approved valuation methods based upon comparable sales tend to yield values below the sales price, which this commenter attributed to an over-emphasis on use of manufactured homes as comparables.[116] Another manufactured home lender claimed that this occurrence in HUD-approved appraisals is evidence that they undervalue manufactured homes. A manufactured home lender expressed concerns about the cost of NAS appraisals under the FHA Title I program. This lender stated that, if a condition is imposed, lenders should have more than one option for the type of valuation that would satisfy the condition.

A national association for community banking also referred to all of the above types of valuations as options for valuating these transactions, in addition to an evaluation by a bank employee. This commenter stated that some bank employees conduct interior or exterior inspections.

An affordable housing organization believed that creditors should be required to obtain a replacement cost estimate from a trained, independent appraiser using a nationally-published cost service. Two national appraiser trade associations stated that, in light of the importance of the location to the value of the home, the Agencies should require an independent third-party valuation by a credentialed appraiser with education, training, and experience,[117] or a valuation that complies with the appraisal system specified under the FHA Title I program for insuring loans secured by existing manufactured homes and not land. A community bank stated that interior and exterior inspections should be conducted, due to higher depreciation

[115] FHA reported providing insurance under its Title I program for 655 manufactured home loans in Fiscal Year (FY) 2012, 986 in FY 2011, and 1,776 in FY 2010. *See* HUD, *FHA Annual Management Report, Fiscal Year 2012* (Nov. 15, 2013) at 17. FHA also reported providing insurance under its Title II program for 20,479 manufactured home loans in FY 2012, 21,378 in FY 2011, and 30,751 in FY 2010. *See id.* According to 2012 HMDA data, 19,614 FHA-insured manufactured home loans were reported out of a total of 123,628 reported manufactured home loans, for a FHA-insured share of 15.9 percent. *See www.ffiec.gov/hmda.*

[116] These commenters did not identify, however, what other types of comparables, apart from manufactured homes that are not sited on land owned by the consumers, could be used as comparables in these transactions.

[117] This commenter suggested the individual would not necessarily have to be a state-certified or -licensed real estate appraiser. Nonetheless, a national manufactured home cost service provider also noted that the number of individuals certified to use the FHA Title I personal property appraisal system is down, from over 1,000 in previous decades to less than 100 today. HUD also allows creditors to rely on real estate appraisers from its Title II roster to complete these appraisals. *See* HUD TI–481, Appendices 8–9, C, and 10–5.

of manufactured homes compared to site-built homes.

The Final Rule

Under § 1026.35(c)(2)(viii)(B), which goes into effect on July 18, 2015, the Agencies are adopting a conditional exemption for transactions secured by existing manufactured homes and not land. The Agencies believe that exempting transactions secured by existing manufactured homes and not land is in the public interest and promotes the safety and soundness of creditors, provided that such exemption is conditioned on the consumer receiving certain information as provided in detail below. The Agencies also are adopting a condition on the exemption for transactions secured by new manufactured homes and not land adopted in the January 2013 Final Rule. Under the condition, for applications received by the creditor on or after July 18, 2015, an HPML that is not a qualified mortgage and is secured by either a new or existing manufactured home without land will be exempt from the general HPML appraisal rules in § 1026.35(c)(3) through (c)(6) if the creditor provides the consumer with a copy of any one of three specified types of information no later than three days prior to consummation of the transaction. The three types of information that can satisfy the condition are: (1) The manufacturer's invoice for the manufactured home, where the date of manufacture is within 18 months of the creditor's receipt of the consumer's application; (2) a cost estimate of the value of the manufactured home from an independent cost service; or (3) a valuation, as defined in § 1026.42(b)(3), of the manufactured home by a person who has no direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is performed and has training in valuing manufactured homes.

The Agencies also are adopting and re-numbering proposed comment 35(c)(2)(ii)(B)–1, which clarifies that the exemption does not depend on whether the home is titled as realty by operation of State law. The heading for the comment is revised to remove the word ''solely,'' to reflect that this provision applies to transactions that are secured by a manufactured home and other collateral that is not land, such as a leasehold interest. The comment is re-numbered as comment 35(c)(2)(viii)(B)–1. *See also* section-by-section analysis of § 1026.35(c)(2)(viii)(A) (further discussing transactions secured by a manufactured home and a leasehold interest).

The Agencies are not adopting proposed comment 35(c)(2)(ii)(A)–1, which would have provided that an HPML secured by a new manufactured home is not subject to the appraisal requirements of § 1026.35(c), regardless of whether the transactions is also secured by the land on which it is sited. The unconditional exemption for transactions secured by a new manufactured home, with or without land, will go into effect on January 18, 2014, but will end starting with applications received by the creditor on or after July 18, 2015. At that time, the exempt status of transactions secured by new manufactured homes will depend on whether the transaction also is secured by land. Other comments adopted in the final rule relate to the information that a creditor can provide to satisfy the condition and are discussed in the section-by-section analysis below.

Discussion

The Agencies believe that the exemption in § 1026.35(c)(2)(viii)(B) for loans secured by manufactured homes and not land promotes the safety and soundness of creditors in part because the exemption makes it possible for creditors to continue making these loans, which may be an important part of a given creditor's operations; the Agencies understand that for chattel transactions, compliance with all of the general HPML appraisal requirements of § 1026.35(c)(3) through (6) may be infeasible. The condition on the exemption in § 1026.35(c)(2)(viii)(B) is necessary to ensure that the exemption is also in the public interest, because the condition will ensure that consumers receive information pertaining to the value of their manufactured home. The Agencies further believe that by allowing creditors a menu of options for compliance, the condition will provide appropriate flexibility to the creditor to select which materials it deems most cost-effective. The Agencies also believe that having this information before consummation of the loan can be useful to the consumer, and is consistent with the timing of the general HPML appraisal requirement that the creditor must give the consumer a copy of the appraisal three days before consummation.[118] *See* § 1026.35(c)(6)(ii).

TILA Section 129H ensures that, before consummation of a ''higher-risk mortgage,'' creditors obtain a valuation of the home and provide a copy to the consumer. 15 U.S.C. 1639h. The statute focuses on transactions with a higher risk profile (*i.e.,* those with higher interest rates and which are not qualified mortgages). For these riskier transactions, the statute sets standards that are intended to reduce the risk of inflated valuations of the ''dwelling,'' and grants consumers a right to know the appraised value of the ''dwelling'' before entering into these transactions.[119] A manufactured home is a ''dwelling'' under regulations implementing TILA.[120] Indeed, transactions secured by manufactured homes and not land comprise a substantial proportion of the overall annual housing transactions that are HPMLs and not qualified mortgages.[121] The Agencies therefore believe that Congress intended for TILA Section 129H to provide protection against inflated valuations and transparency to borrowers in this housing segment.

Nonetheless, based upon outreach and comments on the 2012 Proposed Rule and further outreach and comments on the 2013 Supplemental Proposed Rule, the Agencies believe that the precise form of valuation specified in the statute—an appraisal by a state-certified or -licensed appraiser in conformity with USPAP and FIRREA, based upon a physical inspection of the interior of the home—is infeasible for this housing segment at this time. A steady supply of state-certified or -licensed appraisers to service thousands of these transactions annually starting on January 18, 2014, does not yet exist.

Even if more state-certified or -licensed appraisers were able to perform appraisals for transactions secured by a manufactured home and not land in the future, the Agencies recognize that sources of data on

[118] Having this information three days before consummation also will allow borrowers the opportunity to discuss it with a HUD-certified housing counselor whose participation in the transaction prior to consummation is mandated for loans under the Bureau's 2013 HOEPA Final Rule, to be codified at 12 CFR 1026.34(a)(5). The role of the HUD-certified housing counselor specifically includes helping borrowers ''avoid inflated appraisals.'' *See* HUD Housing Counseling Program Handbook 7610.1 (May 2010), Ch. 1–2.

[119] U.S. House of Reps., Comm. on Fin. Servs., *Report on H.R. 1728, Mortgage Reform and Anti-Predatory Lending Act,* No. 111–94 (May 4, 2009) (House Report), at p. 56 (noting that when faulty valuation methods lead to overvaluation, individuals ''may later encounter difficulty in refinancing or selling a home because the true value of the property used as collateral is less than the original mortgage.'').

[120] 12 CFR 1026.2(19).

[121] The Bureau's Section 1022 analysis estimates that around 20,000 but potentially more of these transactions occur annually. Potential for a higher number of affected loans results from variables that determine whether a loan is a qualified mortgage that require access to information that is not available for these loans, such as the debt-to-income ratio.

comparable sales for transactions secured by a manufactured home and not land may not be as robust as sources of data on sales of transactions secured by a home and land.[122] As a result, the Agencies believe that, absent an exemption, creditors could be unable to comply with the HPML appraisal requirements in a substantial number of transactions secured by a manufactured home and not land. Thus, the Agencies have concluded that an exemption from a requirement to perform appraisals in conformity with USPAP and FIRREA for these transactions would promote the safety and soundness of creditors and be in the public interest by allowing the transactions to occur without requiring use of a valuation method that is infeasible in a large number of cases.

At the same time, the risk of inflated valuations in these transactions can contribute to increased default risk,[123] which runs counter to both the safety and soundness of creditors and the public interest. The Agencies are concerned, based on research, outreach, and comments received, that these transactions can be prone to inflated valuations and associated risks of under-collateralization, leading to loans where the consumer has little, no, or even negative equity in the home.[124] The Agencies believe that an unconditional exemption for these transactions at a minimum would not adequately account for the risks of under-collateralization.

The effect of an inflated valuation on consumers and their risk of default can be even more pronounced in these transactions. Chattel lending generally carries higher interest rates, which could result in a significant number of HOEPA loans.[125] Further, several industry commenters indicated that manufactured home loans would be less likely to be qualified mortgages than other types of mortgages because their points and fees would typically exceed thresholds set by the Bureau's 2013 ATR Final Rule. *See* § 1026.43(e)(3). At the same time, consumers borrowing these loans are disproportionately in the LMI segment.[126] Higher loan amounts resulting from inflated valuations, combined with the comparatively high interest rates on these loans, can generate payments that pose significant burdens on LMI consumers and can put them at greater risk of default.

Outreach and comments from the 2012 Proposed Rule and 2013 Supplemental Proposed Rule have not shown that existing industry practices or standards necessarily would be sufficient to control the risk of inflated valuations in these transactions, or ensure that consumers are informed of the home value in these transactions. To compound the concern, most of these transactions are not subject to valuation standards imposed by Federal law or regulation or Federal agency or GSE programs. The FHA Title I Manufactured Housing Loan Insurance Program is the only program at the Federal level that covers these transactions; no other Federal agency or GSE has programs for loans secured by a manufactured home and not land. The FHA Title I program includes valuation requirements and loan amount caps to mitigate against the risk of inflated valuations, but currently most transactions secured by a manufactured home and not land are not insured by that program. Some of these transactions are originated by Federally regulated financial institutions subject to FIRREA's appraisal and evaluation requirements, but the FIRREA regulations and related Interagency Appraisal and Evaluation Guidelines apply only to real estate transactions.[127] Under current State laws, the collateral in transactions secured by a manufactured home and not land is not typically classified as real property.

In addition, all creditors are subject to Regulation Z's interim final valuation independence rule (Valuation Independence Rule) for consumer credit secured by chattel, but the valuation service providers are not, due to a limitation in the current rule.[128] The Valuation Independence Rule applies to creditors and ''settlement service'' providers of covered transactions.[129] Under the rule, ''settlement service'' is defined under RESPA and implementing regulations (Regulation X).[130] Under RESPA and Regulation X, a ''settlement service'' is limited to services for ''Federally related mortgage loans,'' which include only loans secured by real property.[131] Thus, valuation service providers for transactions secured by personal property, such as many transactions secured by a manufactured home and not land, are not covered under Regulation Z's Valuation Independence Rule.

Further, commenters indicated that consumers in transactions secured by manufactured homes and not land do not currently receive information about the value of their homes. Participants in informal outreach and research conducted by the Agencies similarly indicated that consumers for these loans are not familiar with independent information about home values and may be subject to high-pressure sales tactics that tend to limit consumer's consideration of their choices and pursuit of independent information.

Finally, while consumers might receive valuations in some of these transactions under the Bureau's 2013 ECOA Valuations Final Rule,[132] creditors might not always obtain a valuation subject to disclosure to the consumer under that rule. For example, in new manufactured home transactions without land, outreach and comments indicated that creditors often rely primarily upon the manufacturer's invoice when determining the maximum loan amount. The manufacturer's invoice is not subject to

[122] Whereas appraisals of a land/home transaction are not always limited to the use of manufactured housing transactions as comparables, in transactions secured only by the home, the universe of comparables is generally limited to manufactured homes.

[123] *See* Enterprise Duty to Serve Underserved Markets, Proposed Rule, 75 FR 32099, 32014 (June 7, 2010) (FHFA finding that ''[i]nterest rates charged for chattel loans are typically higher than those for real estate-secured loans'' and that ''[d]elinquencies and defaults on chattel loans typically exceed rates on mortgage loans.'').

[124] *See, e.g.,* Consumers Union Southwest Regional Office, ''Manufactured Housing Appreciation: Stereotypes and Data'' (Aug. 2003), p. 4 (asserting that depreciation is but one factor leading to ''underwater'' homes and that ''many industry practices [ ] lead to very high loan-to-value ratios. Fees, points and overpriced, unneeded add-ons (such as vacations, cash rebates and single-premium credit life) raise the loan balance without adding value to the home. This can contribute to a deficiency balance by removing equity and placing the loan underwater.''). *See also id.* at 14 (''One contributing factor to an initial drop [in the value of a manufactured home] can be inflated retailer mark-ups embedded in the price of a home.'').

[125] *See, e.g.,* Bureau's 2013 HOEPA Final Rule, 78 FR 6856, 6876 (Jan. 31, 2013) (noting that Congress set a higher APR threshold for HOEPA coverage of loans secured by manufactured homes titled as personal property—8.5 percentage points—and that under this test, industry commenters estimated that between 32 and 48 percent of recent originations would be covered).

[126] *See, e.g.,* Howard Baker and Robin LeBaron, Fair Mortgage Collaborative, *Toward a Sustainable and Responsible Expansion of Affordable Mortgages for Manufactured Homes* (March 2013) at 9 (''In 2009, the median household income of households in manufactured homes was under $30,000—well below the national average of $49,777. More than one-fifth (22 percent) of manufactured housing residents have incomes at or below the Federal poverty level.''). This report is available at *http://cfed.org/assets/pdfs/IM_HOME_Loan_Data_Collection_Project_Report.pdf.*

[127] 75 CFR 77450, 77456 n.12 (Dec. 10, 2010) (noting that scope is for Federally-related transactions, which are real-estate related under 12 U.S.C. 3339 and 12 U.S.C. 3350(4)).

[128] Bureau: 12 CFR 1026.42; Board 12 CFR 226.42.

[129] Bureau: 12 CFR 1026.42(b)(1) and (2); Board 12 CFR 226.42(b)(1) and (2).

[130] *See id.; see also* 12 U.S.C. 2602(3) and 24 CFR 1024.2.

[131] 12 CFR 1024.2.

[132] *See* 12 CFR 1002.14.

disclosure under the 2013 ECOA Valuations Final Rule.[133] In addition, the maximum loan amount is not necessarily a valuation subject to disclosure under ECOA, and could well exceed caps defined under HUD regulations that serve to prevent over-financing, under-collateralization, and underwater loans.[134] Accordingly, even if that amount were disclosed to consumers under the 2013 ECOA Valuations Rule, it would not necessarily impart meaningful, independent information to the consumer about the value of the home.

The Agencies therefore are adopting a condition on the exemption to ensure that valuation information from an independent source is obtained and is transparent to the consumer. The condition requires the creditor to obtain and provide to the consumer, no later than three days before consummation, certain information related to the value of the manufactured home securing the covered HPML.[135]

The Agencies have identified three types of materials, any one of which can be provided, as further discussed below.

Providing a copy of a manufacturer's invoice used by a creditor for a transaction secured by a new manufactured home. Under § 1026.35(c)(2)(ii)(B)(*1*), a creditor on a loan secured by a new manufactured home and not land may be exempt from the HPML appraisal rules if the creditor gives the consumer a copy of the manufacturer's invoice, which is defined consistent with HUD manufactured home program regulations. *See* § 1026.35(c)(1)(iv) and accompanying section-by-section analysis.

Outreach and comments consistently indicated that in these transactions, creditors use the invoice as the primary source for calculating a maximum loan amount. For that reason, several commenters generally supported providing a copy of the invoice to consumers as a means of informing them of pertinent valuation information. A national manufactured housing trade association also asserted that it is standard practice for manufacturers to certify the authenticity and accuracy of the wholesale cost of the home at the point of manufacture.

The Agencies are adopting a limitation on the option to provide the manufacturer's invoice: the invoice may be provided to satisfy the condition only if the date of manufacture of the home was within 18 months of the creditor's receipt of the consumer's application for credit. This limitation is generally consistent with FHA Title I regulations, which incorporate the practice of using manufacturers' invoices as a reference point for determining safe and sound loan amounts for insuring transactions secured by new manufactured homes. Specifically, FHA Title I rules limit the use of this practice to homes manufactured within 18 months of purchase by the consumer.[136] The Agencies believe that this limitation will help prevent the use of invoices that are too dated to reflect reliably the current value of the manufactured home.

Creditors commonly obtain and rely on the manufacturer's invoice and consumer advocates, affordable housing organizations, and others, however, have asserted that consumers should have access to information that creditors use. If creditors have the invoice, providing a consumer with a copy imposes little burden.

The Agencies note that some commenters were concerned that the manufacturer's invoice contains sensitive wholesale pricing information and that the wholesale invoice from the manufacturer will not match the retail price paid by the consumer. The Agencies recognize that the retail price will include a markup for various costs. Commenters and industry participants in outreach indicated that in transactions secured by new manufactured homes, the maximum loan amount typically is determined by applying a percentage markup to the manufacturer's invoice. Outreach indicated that this markup can vary among creditors, in some cases significantly. The Agencies are not aware of any regulatory standards governing the extent of this markup other than limitations in the FHA Title I program, which only covers a small subset of these loans currently. The FHA Title I limitations do not permit a markup on the manufacturer's invoice of more than 130 percent when calculating the maximum insurable loan amount, and HUD has other detailed standards for determining what other charges can be factored into the maximum loan amount.[137] Most manufactured housing transactions are not subject to these restrictions, leaving the markup to be determined by the creditor's tolerance for risk, and thus subject to risk of inflated valuation.

The Agencies believe that providing the manufacturer's invoice to consumers will give them an opportunity to have a better understanding of the factors contributing to the loan amount and its relationship to the value of the home.[138] In transactions secured by a home and land under GSE and Federal agency programs, the appraiser is required to receive a copy of this invoice and must disclose in the appraisal report how it was considered.[139]

Under the final rule, creditors also may choose to communicate the nature or extent of this markup to consumers when providing the manufacturer's invoice. In this case, the manufacturer's invoice will provide an opportunity for questions from consumers to assess whether the markup leads the collateral to be over-valued. As noted above, HUD-certified counselors, required for HOEPA transactions and available for others, also can assist consumers in answering any questions. The Agencies have sought to accommodate remaining concerns over providing the manufacturer's invoice by providing other compliance options that could be used in new manufactured home transactions (including that the loan might qualify for another exemption under § 1026.35(c)(2)).[140]

Providing a cost estimate from an independent cost service provider.

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[133] *See* 12 CFR 1002.14, comment 14(b)(3)–3.iv.

[134] *See* 24 CFR 201.10(b)(1).

[135] ''Consummation'' would have the same meaning as in § 1026.35(c)(6)(ii), requiring that a copy of any appraisal obtained under § 1026.35(c)(6)(i) be given to the consumer no later than three business days prior to consummation of the covered HPML—namely, as defined elsewhere in Regulation Z at 12 CFR 1026.2(a)(13) and accompanying Official Staff Commentary. Under those provisions, ''consummation'' means ''the time that a consumer becomes contractually obligated on a credit transaction,'' which is determined by state law. § 1026.2(a)(13) and comment 2(a)(13)–1.

[136] 24 CFR 201.21(b)(2)(i) (defining a ''new manufactured home'' for which a manufacturer's invoice may be used as ''one that is purchased by the borrower within 18 months after the date of manufacture and has not been previously occupied.'' *See also* HUD TI–481, Appendix 2.

[137] *See* 24 CFR 201.10((b)(1).

[138] *See, e.g.,* Consumers Union Southwest Regional Office, ''Manufactured Housing Appreciation: Stereotypes and Data'' (Apr. 2003) at 14, available at *http://consumersunion.org/pdf/mh/Appreciation.pdf* (''One contributing factor to an initial drop can be inflated retailer mark-ups embedded in the price of a home. Consumers who pay too much for any home will find it harder to sell it later for a higher price. Retailer markups can be a quarter of the base price of the home. Consumers should question what value they get from this middleman, and take steps to minimize costs that don't add value to the home. Buying direct from the last owner in a used transaction may reduce this overhead, as can buying direct from manufacturers when possible.'').

[139] Fannie Mae Single-Family Selling Guide, B5–2.2–04 (4/1/09); Freddie Mac Single-Family Seller/Servicer Guide, H33.6 (2/10/12). *See also* 24 CFR 201.10(b)(1) (HUD regulations requiring that the loan amount be determined with reference to the invoice).

[140] *See, e.g.,* § 1026.35(c)(2)(i); *see also* 78 FR 59890, 59901 (Sept. 30, 2013) (HUD proposing that manufactured home loans insured under Title I would be qualified mortgages under HUD regulations, even if their points and fees exceed the cap under the Bureau's qualified mortgage definition, § 1026.43(c)(3)).

Section 1026.35(c)(2)(ii)(B)(*2*) gives the creditor the option of providing a cost estimate from an independent third-party cost service provider. Comment 35(c)(2)(ii)(B)(*2*)–1 clarifies that a cost service provider from which the creditor obtains a manufactured home unit cost estimate under § 1026.35(c)(2)(ii)(B)(*2*) is independent if that party is not affiliated with the creditor in the transaction, such as by common corporate ownership, and receives no direct or indirect financial benefits based on whether the transaction is consummated.

As noted above, the Agencies recognize that creditors may choose not to provide a copy of the manufacturer's invoice for new manufactured home transactions. In addition, appraisers or valuation providers may be unavailable for some transactions. Thus, including this additional option is important to ensure that the consumer can receive a unit cost estimate of the value of the home from an independent source. Commenters and outreach indicated that this type of estimate is the predominant method used for transactions secured by an existing manufactured home and not land. Based upon comments from a national cost service provider confirming that its cost guide reports values for the current model year, the Agencies also believe this type of cost service also could be used for many new manufactured home transactions. The Agencies learned from one cost service that an adjustment for ''new or like new'' is available through its cost guide, and that this guide is updated multiple times per year.

The information provided by an independent cost service provider can provide a useful outside check against inflated valuations. At the same time, the check will not prohibit transactions above the value reflected in the cost service. Rather, the check will make sure that if transactions occur above those values, creditors and consumers have the opportunity to know that fact and evaluate the transaction accordingly.

Interior inspections and adjustments. The Agencies are not requiring physical inspections of the interior or condition or location adjustments to the cost service values. In this way, the condition ensures that the creditor can readily identify the information to be provided to the consumer (based upon the make and model and year of the manufactured home unit) from an independent source, without being asked to interject subjective or discretionary considerations.

Interior inspections by an appraiser for new manufactured homes may often be of limited value, given the associated expense. For transactions secured by new manufactured homes, as indicated by industry commenters, HUD and State inspectors conduct inspections to ensure the proper construction and installation of the home.[141] Some commenters asserted that an interior inspection could confirm the existence of extras or options that were promised. The Agencies believe, however, that consumers themselves can confirm that they received extras or options ordered. Regarding adjustments, the Agencies understand that cost services may offer adjustments of standard estimates to reflect that the unit is in ''new or like new'' condition.

For existing manufactured homes, information about the condition of the interior can be an important factor affecting the valuation. Due to concerns with burden, complexity, and reliability of such adjustments, though, the Agencies are not mandating that adjustments be made. At the same time, the rule does not prohibit creditors from making this adjustment to the unit-cost estimate of an existing manufactured home.

Accordingly, comment 35(c)(2)(viii)(B)(*2*)–2 clarifies that the requirement that the cost estimate be from an independent cost service provider does not prohibit a creditor from providing a cost estimate that reflects adjustments to factors such as special features, condition or location. The comment explains, however, that the requirement that the estimate be obtained from an independent cost service provider means that any adjustments to the estimate must be based on adjustment factors available as part of the independent cost service used, with associated values that are determined by the independent cost service.

For both new and existing manufactured homes, the location can enhance or, in some cases, reduce the value of the home. A consumer advocate group, affordable housing organizations, and others emphasized that cost service data does not adequately account for the contribution of location to the value of the home. The manufactured home can be resold as a trade-in or repossessed, however, in which case its value-in-place is not what is relevant to the consumer. Further, as noted above, location adjustments can introduce greater subjectivity into the information provided. Therefore, the rule does not mandate that a location adjustment be made. Providing the unit value will enable consumers to compare the cost estimate from the published cost service to the line item charge in the sales contract for the base unit.

Finally, some commenters expressed concerns over accuracy or undervaluation in the unit cost estimates published by third-party cost services. These commenters did not provide data to support their views, however. In addition, while some comments noted that the unit cost estimate is not the same as an estimate of the retail market value, the Agencies recognize that this type of estimate nonetheless is widely used by creditors currently as a guideline for the value of an existing manufactured home. In some cases, it therefore may represent the best available, most cost-effective estimate of the value of the home. Further, the Agencies are structuring the exemption condition so that the creditor has the discretion to choose which of the specified types of valuation materials it finds most suitable for informing the consumer of the estimated value of the home. Thus, if a creditor believes an independent cost service generally undervalues manufactured homes, the creditor can provide other forms of valuation information as described below, as well as its own accompanying explanatory information.

Providing a valuation by a trained manufactured home valuation provider. Section 1026.35(c)(2)(ii)(B)(*3*) allows a creditor to provide an appraisal conducted by a person who has no direct or indirect interest, financial or otherwise, in the property for which the valuation is performed and has training or experience in valuing manufactured homes. ''Valuation'' is defined as in § 1026.42(b)(3) of the Bureau's Valuation Independence Rule, which defines ''valuation'' to mean ''an estimate of the value of the consumer's principal dwelling in written or electronic form, other than one produced solely by an automated model or system.'' [142]

Comment 35(c)(2)(ii)(B)(*3*)–1 provides that the manufactured home valuation provider would have a direct or indirect interest in the property if, for example, the person had any ownership or reasonably foreseeable ownership interest in the manufactured home. To illustrate, the comment states that a person who seeks a loan to purchase the manufactured home to be valued has a reasonably foreseeable ownership interest in the property.

[141] *See generally,* 24 CFR parts 3280, 3282, and 3286.

[142] *See* 12 CFR 226.42(b)(3) for the definition of ''valuation'' in the Board's substantially similar version of the valuation independence rule.

Comment 35(c)(2)(ii)(B)(*3*)–2 clarifies that the valuation provider would have a direct or indirect interest in the transaction if, for example, the manufactured home valuation provider or an affiliate of that person also served as a loan officer of the creditor or otherwise arranges the credit transaction, or is the retail dealer of the manufactured home. The comment further states that a person also has a prohibited interest in the transaction if the person is compensated or otherwise receives financial or other benefits based on whether the transaction is consummated.

Comments 35(c)(2)(ii)(B)(*3*)–1 and –2 are generally based on comments 42(d)(1)(i)–1 and –2 of Regulation Z's Valuation Independence Rule.[143] As discussed previously, the Valuation Independence Rule applies to all creditors of transactions secured by a consumer's principal dwelling, but applies to ''settlement service'' providers only for transactions secured by real property.[144] However, the Agencies believe it prudent to apply the principles of Regulation Z's Valuation Independence Rule to valuations that may be used in lieu of complying with the general HPML appraisal requirements for transactions secured by manufactured homes and not land, which might not be titled as real property.

Comment 35(c)(2)(viii)(B)(*3*)–3 clarifies that ''training'' referenced in § 1026.35(c)(2)(viii)(B)(*3*) includes, for example, successfully completing a course in valuing manufactured homes offered by a State or national appraiser association or receiving job training from an employer in the business of valuing manufactured homes.

Comment 35(c)(2)(viii)(B)(*3*)–4 provides an example of a manufactured home valuation that would satisfy the requirements of the condition in § 1026.35(c)(2)(viii)(B)(*3*). Specifically, the comment states that a valuation in compliance with § 1026.35(c)(2)(viii)(B)(*3*) would include, for example, an appraisal of the manufactured home in accordance with the appraisal requirements for a manufactured home classified as personal property under the Title I Manufactured Home Loan Insurance Program of HUD (administered by FHA), pursuant to section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

[143] Bureau: 12 CFR 1026.42; Board: 12 CFR 226.42.

[144] Bureau: § 1026.42(b)(1) and (2); Board § 226.42(b)(1) and (2).

The Agencies included this comment in recognition that one of the more well-developed standards for the valuation of manufactured homes and not land is found in the FHA Title I program.[145] When an existing manufactured home is classified as personal property, FHA Title I requires creditors to, among other things: (1) Use an appraiser certified to use the NAS or, if the lender is unable to locate an NAS-certified appraiser, an appraiser from the FHA Title II mortgage program who certifies having experience appraising manufactured homes; [146] (2) obtain an appraisal performed on the home site where possible and that reflects the retail value of comparable manufactured homes in similar condition and in the same geographic area; and (3) review the appraisal to verify, among other things, that the correct cost service unit value was used and proper condition adjustment was made.[147]

As noted in the 2013 Supplemental Proposed Rule, the Agencies are aware that fewer than 100 individuals are currently certified to use this system, although many more have been certified in the past and may have incentives to obtain the certification in the future. This factor provides further support for the Agencies' decision to allow creditors multiple options to comply with the condition.

Consumer and affordable housing advocate commenters supported the long-term goal of applying an appraisal standard to transactions secured by a manufactured home and not land. At the same time, manufacturer housing industry commenters generally supported a long-term effort to further refine and develop valuation methods for manufactured homes. The Agencies believe that adopting a condition that furthers these goals is in the public interest. To allow flexibility for these and other valuation methods to evolve, the Agencies seek to avoid prescriptive, detailed requirements on the valuation method. Rather, the Agencies seek generally to define who is eligible to perform the valuation, and leave the method to that person's judgment and expertise as appropriate for the scope of work required. As noted above, two national appraisal trade associations noted that state-certified or -licensed appraisers are not the only persons who could value manufactured homes. For example, some commenters identified an existing product prepared by a company who hires individuals trained in the valuation of manufactured homes. The company generates a report that estimates the value of a given manufactured home using local data on comparable sales.

Accordingly, under this alternative, the creditor must provide the consumer with a valuation prepared by one or more individuals who do not have a direct or indirect financial interest in the property or the transaction, and who have training in the valuation of manufactured homes. The Agencies are adopting comments to provide further guidance on how creditors can satisfy these criteria. Finally, it may follow from the exercise of independent judgment and application of this training that the individual will conduct a physical inspection of the interior, or assess the condition or value of the location of the home. But as noted, at this time, the Agencies are not specifying these steps as necessary elements of a valuation that satisfies the condition.

Several industry commenters indicated that HUD appraisal requirements in transactions secured by manufactured homes have led to higher frequency of appraisals where the value of the home is below the purchase price. At least one commenter indicated this occurred in Title I transactions secured by existing manufactured homes. Some commenters and outreach participants attributed high numbers of appraised values that are lower than the purchase price to an over-emphasis on the use of manufactured homes as comparables in FHA and other manufactured home credit programs. They suggested, for example, that manufactured homes comparables in the geographic area might be much older than the home being appraised. The Agencies are concerned, however, that other factors can contribute to higher rates of appraised values lower than the purchase price, such as inflated purchase prices and corresponding loan amounts.

The Agencies believe that, on balance, appraising manufactured homes in transactions that are not also secured by land can be an effective way to account for the many factors that contribute to the value of the home, including home condition, location, re-sale conditions, and lease terms, among others.

[145] *See* HUD TI–481, Appendix 2–1, D (General Program Requirements—Eligible Homes).

[146] When the home is classified as real property, the appraisal must be completed by a real estate appraiser on the FHA Title II roster who can certify prior experience appraising manufactured homes as real property. The Agencies believe it is useful to incorporate the general standard, in case states adopt model laws treating manufactured homes as real property even when they are not affixed to land and the land does not provide security for a loan. *See* HUD TI–481, Appendices 8–9, C, and 10–5.

[147] *See* HUD TI–481, Appendices 8–9, C, and 10–5.

Other Issues

Delay in issuing rules on manufactured home loans. As discussed under ''Public Comments,'' commenters on behalf of consumers and industry generally expressed support in principle for ensuring that consumers receive valuation information in exempt transactions. Industry commenters raised a number of concerns over the utility to consumers of information generated through current valuation practices, however. Several consumer and affordable housing groups expressed a similar concern over the quality of current valuation methods (citing, for example, concerns over the reliability of a cost estimate of the unit from a third-party source). They nonetheless stated that creditors should still be required to provide a copy of the collateral valuation information that is used by the creditor (*i.e.,* manufacturer's invoice in new manufactured home transactions). These commenters also suggested that the Agencies engage in further study of manufactured housing valuation issues before adopting further conditions.

The Agencies note, however, that manufactured housing valuation practices and issues have been the subject of significant requests for comment and outreach in two separate proposals, and have generated detailed comment from representatives of industry, consumer advocates, and appraisers alike. The Agencies believe that the current public record sufficiently supports adopting conditions in this final rule. While the Agencies are allowing additional 18 months for conditions to be implemented, deferring their adoption pending further study would not promote safety and soundness and be in the public interest. Thousands of consumers would be without the protections during any further study. It also is unclear that further study, beyond the two years of study already undertaken, would generate material improvements to the approach taken here.

Steering. Some consumer group and affordable housing commenters also expressed concern that consumers might be steered into higher-rate chattel transactions with fewer consumer protections if the final rule provided an unconditional exemption for transactions secured by a manufactured home and not land. For example, consumers could be steered away from an HPML transaction secured by both the home and land to avoid the HPML appraisal requirements (*see* § 1026.35(c)(2)(viii), effective July 18, 2015). Creditors might also structure what otherwise would be a packaged land/home transactions into two transactions—one secured solely by the home and one by land. The Agencies believe that some of these concerns are mitigated by other laws and regulations. Such practices might be subject to scrutiny under consumer protection laws at the State and Federal level. For example, regulations may apply that generally prohibit a loan originator from steering a consumer to a transaction based on the fact that the originator will receive greater compensation (which could result from an over-valuation of the home, leading to a higher loan amount).[148] The Agencies believe that some of the concerns about steering may be mitigated by conditioning the exemption for manufactured home-only transactions on the creditor having to provide alternative valuation information to the consumer.

Effective date. The Agencies recognize creditors will need time to make necessary adjustments to their compliance systems to be able to comply with the condition. For example, creditors will need to adjust their systems to identify transactions that would need to rely on the exemption (*e.g.,* HPMLs that are not eligible for exemptions for loans that satisfy the criteria of a qualified mortgage, transactions in an amount of $25,000 or less, or other exemption types (*see* § 1026.35(c)(2)),[149] to determine which types of valuation materials to obtain for these transactions, and to develop a mechanism for providing these to the consumer no later than three days prior to consummation. Creditors also will need to ensure that they have access to the valuation materials they choose to use. To ensure adequate time to implement these and any other necessary steps, and that these transactions remain available to consumers in the interim period, the Agencies are delaying implementation of the condition for 18 months after the effective date of the HPML Appraisals Rules, until July 18, 2015.

Sunset. Finally, the Agencies are not adopting an expiration date for the conditional exemption for transactions secured by a manufactured home and not land. Some commenters suggested that a ''sunset'' date would provide an incentive for the appraiser and manufactured home lending industries to improve capacity and methods for conducting appraisals that would comply with USPAP and FIRREA. However, it is unclear that a sunset date would promote this outcome. At the same time, a sunset date would create risk for this important source of affordable housing if capacity and methods are not developed by that date. The Agencies believe that a better way to promote improved capacity and methods is to allow the condition to be satisfied through the use of existing methods. This is therefore another reason why the Agencies are allowing the third option for satisfying the condition—appraisals performed by independent and trained individuals.

35(c)(6) Copy of Appraisals

35(c)(6)(ii) Timing

In the January 2013 Final Rule, § 1026.35(c)(6)(ii) requires that a creditor provide a copy of any appraisal obtained in compliance with the HPML appraisal rules to the consumer ''no later than three business days prior to consummation of the loan.'' Comment 35(c)(6)(ii)–2 provides that, for appraisals prepared by the creditor's internal appraisal staff, the date that a consumer receives a copy of an appraisal as required under § 1026.35(c)(6) is the date on which the appraisal is completed. In the 2013 Supplemental Proposed Rule, the Agencies proposed to delete this comment as unnecessary, because the relevant timing requirement is based on when the creditor provides the appraisal, not when the consumer receives it. *See* § 1026.35(c)(6)(i).

Public Comments

A State credit union association commenter requested that the Agencies allow flexibility in providing a copy of the appraisal three days before closing because it is difficult to obtain an appraisal in time to do so, requiring closing to be rescheduled, which can be difficult. The commenter requested that consumers be permitted to waive the requirement if it is in their best interest to do so.

The Final Rule

The Agencies are adopting the proposal to delete comment 35(c)(6)(ii)–2 without change, and re-numbering comment 35(c)(6)(ii)–3 as 35(c)(6)(ii)–2. The Agencies are not adding a waiver option to the timing requirement for providing a copy of the appraisal to the

[148] *See, e.g.,* § 1026.36(e)(1) (prohibiting steering consumers to earn greater compensation). The Agencies will monitor application of the rule in this regard.

[149] Transactions secured by a manufactured home would not typically be eligible for the exemption for initial construction loans, 12 CFR 1026.35(c)(2)(iv), because that exemption is designed for temporary initial financing that is replaced with permanent financing when the construction phase is complete. *See* comment 35(c)(2)(iv)–1.

consumer. Re-numbered comment 35(c)(6)(ii)–2 clarifies that the ECOA provision allowing a consumer to waive the requirement that the appraisal copy be provided three business days before consummation, does not apply to HPMLs subject to § 1026.35(c).[150] The comment further clarifies that a consumer of an HPML subject to § 1026.35(c) may not waive the timing requirement to receive a copy of the appraisal under § 1026.35(c)(6)(i).

The Agencies believe that allowing the consumer to waive the timing requirement for providing a copy of the appraisal would be inconsistent with the statute. ECOA expressly provides that the consumer may waive the three day timing requirement for the creditor to provide a copy of the appraisal to the consumer under ECOA.[151] By contrast, Congress did not amend TILA to include a parallel waiver provision regarding the same requirement in the context of appraisals for HPMLs. *See* TILA section 129H(c), 15 U.S.C. 1639h(c). The Agencies interpret TILA's lack of a waiver provision to indicate that Congress did not intend to allow consumers of loans covered by the HPML appraisal rules to waive the timing requirement.

VI. Bureau's Dodd-Frank Act Section 1022(b)(2) Analysis [152]

In developing this supplemental rule, the Bureau has considered potential benefits, costs, and impacts to consumers and covered persons.[153] In addition, the Bureau has consulted, or offered to consult with HUD and the Federal Trade Commission, including regarding consistency with any prudential, market, or systemic objectives administered by those agencies. The Bureau also held discussions with or solicited feedback from the USDA, RHS, and VA regarding the potential impacts of this supplemental rule on their loan programs.

In this supplemental final rule, the Agencies are exempting the following three additional classes of higher-priced mortgage loans (HPMLs) from the January 2013 Final Rule: (1) HPMLs whose proceeds are used exclusively to satisfy (*i.e.,* refinance) an existing first lien loan and to pay for closing costs, provided that the credit risk holder is the same on both loans (or that the same government agency insures or guarantees both loans) and the new loan does not have negative amortization, interest-only, or balloon features; (2) HPMLs that have a principal amount of $25,000 or less (indexed to inflation); and (3) certain HPMLs secured by manufactured homes.

As revised in this final rule, the manufactured home exemption covers all HPMLs secured by manufactured homes for which an application is received before July 18, 2015. Thereafter, (1) for transactions secured by a new manufactured home and land, creditors will only be exempt only from the requirement that the appraiser conduct a physical visit of the interior; and (2) for transactions secured by a manufactured home and not land, the exemption applies only if certain alternative valuation information is provided to the consumer no later than three days before consummation.

The Agencies are also broadening the exemption for qualified mortgages adopted in the January 2013 Final Rule beyond the Bureau's qualified mortgage definition in 12 CFR 1026.43(e) to include any transaction that meets the criteria of a qualified mortgage established by agencies with authority to do so under TILA section 129c—the Bureau, HUD, VA, USDA, and RHS. *See* 15 U.S.C. 1693c. As revised, this exemption will include transactions that are qualified mortgages as defined under any final rule that the Bureau, HUD, VA, USDA, or RHS has adopted or will adopt under authority at TILA section 129c. *See* 15 U.S.C. 1693c. In addition, transactions that meet criteria for a qualified mortgage established under rules prescribed by the Bureau, HUD, VA, USDA, or RHS are eligible for the exemption even if they are not ''covered transactions'' under the Bureau's ability-to-repay rules (and thus not technically defined as ''qualified mortgages'' under each of the respective rules).[154] For further discussion, see the section-by-section analysis of § 1026.35(c)(2)(i).

A. Potential Benefits and Costs to Consumers and Covered Persons

This analysis considers the benefits, costs, and impacts of the key provisions of the supplemental rule relative to the baseline provided by existing law, including the January 2013 Final Rule and the Bureau's previously issued ATR Rules.[155] The Bureau considered comments received on issues related to this analysis. These comments are addressed below and in the section-by-section analyses.

1. Economic Overview

This rulemaking consists of the adoption of an expanded qualified mortgage exemption and five separate provisions regarding HPMLs that do not qualify for the qualified mortgage status (non-QM). The January 2013 Final Rule demarcated which of those non-QM loans are subject to requirement for an appraisal in conformity with USPAP and FIRREA with an interior property visit (the full appraisal) and related notice and additional appraisal requirements for loans used to purchase certain flipped properties. The overall impact of these five provisions is limited to specific segments of the mortgage market, with arguably the largest impact on transactions secured by a used manufactured home and not land (provision (3) below). The five provisions for non-QM HPMLs are:

1. Certain refinances, commonly referred to as ''streamlined,'' are now exempt from the January 2013 Final Rule;

2. Smaller dollar loans (up to $25,000, indexed to inflation) are now exempt from the January 2013 Final Rule;

3. Used manufactured housing transactions that are not secured by land (chattel) are now exempt from the January 2013 Final Rule and, for applications received on or after July 18, 2015, subject to a condition that the creditor must give the consumer alternative valuation information; [156]

4. New manufactured housing transactions that are not secured by land (chattel) remain exempt from the January 2013 Final Rule; however, for applications received on or after July 18, 2015, this exemption will be subject to

[150] ECOA section 701(e)(2), 15 U.S.C. 1691(e)(2), implemented in the 2013 ECOA Valuations Final Rule, Regulation B § 1002.14(a)(1), effective January 18, 2014.

[151] ECOA section 701(e)(2), 15 U.S.C. 1691(e)(2), implemented in 12 CFR 1002.14(a)(1), effective January 18, 2014.

[152] The analysis and views in this Part VI reflect those of the Bureau only, and not necessarily those of all of the Agencies.

[153] Specifically, Section 1022(b)(2)(A) calls for the Bureau to consider the potential benefits and costs of a regulation to consumers and covered persons, including the potential reduction of access by consumers to consumer financial products or services; the impact on depository institutions and credit unions with $10 billion or less in total assets as described in section 1026 of the Act; and the impact on consumers in rural areas.

[154] Only transactions that are actually insured, guaranteed, or administered under programs of HUD, VA, USDA, or RHS could be eligible for the exemption under § 1026.35(c)(2)(i) by being defined as or meeting the criteria of a qualified mortgage under rules of those agencies; the authority of those agencies to determine the features of a qualified mortgage does not extend to loans that they do not insure, guarantee, or administer. *See* TILA section 129c(b)(3)(B)(ii), 15 U.S.C. 1639c(b)(3)(B)(ii).

[155] The Bureau has discretion in future rulemakings to choose the most appropriate baseline for that particular rulemaking.

[156] Used manufactured housing transactions that are secured by land remain covered by the January 2013 Final Rule, starting with applications received on or after July 18, 2015. All loans secured in whole or in part by manufactured home are exempt if the application is received before July 18, 2015.

a condition that the creditor must give the consumer alternative valuation information; and

5. New manufactured housing transactions secured by land (new land/home) remain exempt until July 18, 2015; for applications received on or after July 18, 2015, these transactions will be exempted only from the physical interior visit part of the January 2013 Final Rule.

In adopting each of these provisions, the Agencies considered mandating that consumers receive information about the value of their house at the time of the loan. The Bureau discusses the general benefits and costs of this type of mandatory information provision, and then applies this discussion to each of the provisions.

Consumers benefit from knowing the value of the home on which they are planning to take out a loan. Consumers are able to make decisions that will better fit their situation if they have a more precise estimate of what their home is worth. For example, a consumer might decide, given a home's value, that he or she should not take out the loan or should consider purchasing a different home whose value in relation to the loan amount is lower; that they should sell instead of refinancing; that they should postpone a particular home improvement and not overinvest in a home that might be worth less than they thought. Affording consumers a better opportunity to get this decision right is particularly valuable in home loans because these transaction sizes are significant relative to income; the large size of the transaction relative to income may be especially significant in non-QM HPMLs, which are more costly and may pose greater repayment risk than other mortgage loans.

No valuation method will give the consumer perfect information about the home's value. Thus, a consumer might receive a valuation that overestimates the value and leads to a purchase that should not have been made; similarly, a valuation that underestimates the value might lead to no purchase when one should have been made. However, the Bureau believes that imparting unbiased valuation information to the consumer is better than the consumer receiving no information, and that consumer benefits increase with more precise information, whether it's moving from no information to a manufacturer's invoice, an AVM or similar estimate, a full appraisal, or some other type of valuation prepared by an independent trained person.

The cost of providing any additional information on the home value is directly imposed on the creditor—the creditor has to perform what is necessary to obtain the home valuation information and provide it to the consumer. However, since this is mostly a marginal cost and most of the mortgage markets are relatively competitive, this cost is likely to be almost fully passed through to the consumer.[157] The fixed costs, which are unlikely to be passed through to the consumer in a relatively competitive market, include developing training materials and providing training. However, the Bureau believes that the marginal training and training development costs for the provisions of this supplemental final rule are non-significant. Creditors will have already developed and provided training in preparation for complying with the various requirements of the January 2013 Final Rule, which goes into effect on January 18, 2014; this supplemental final rule is considerably less complex, establishing exemptions from those requirements.

In the world of informed consumers exhibiting fully rational economic behavior, mandatory information provisions might be unnecessary—consumers would have decided for themselves whether they need this information enough to pay for it. However, the Bureau believes that this is not the best assumption, especially for a market with many product characteristics, intertemporal investment decisions, and projections into the distant future. Moreover, even under that assumption, creditors might have some specialized knowledge making them able to obtain better information than the consumer could access on their own.[158]

A range of possibilities for a home value information requirement exists in the non-QM HPML mortgage market. This range has, at one end of the spectrum, no information provision requirement, and a full appraisal on the other. Generally, the more precise the information is, the more expensive the method is. In particular, the Bureau believes that a full appraisal costs $350 on average as discussed in the Section 1022 analysis in the January 2013 Final Rule.[159] Not providing any information is, of course, free to the creditor. An intermediate solution like an automated valuation estimate (an AVM estimate) would result in a cost of under $20, as estimated in the 2013 Supplemental Proposed Rule;[160] however, an AVM estimate is arguably less precise than a USPAP appraisal, especially in rural areas. Providing a consumer with a copy of a manufacturer's invoice (one of the few conditions that a creditor might satisfy for a non-QM HPML to be exempted from a full appraisal on chattel manufactured housing) is estimated to cost less than $5. Moreover, the Bureau's January 2013 ECOA Valuations Rule already requires the creditor to give the consumer a copy of valuations performed for the transaction; the Bureau estimates that full appraisals that are performed 95% of the time for purchases, 90% for refinances, and 5% for other loans generally in the mortgage market based upon outreach.[161]

2. Data Used

For all the estimates, both above and below, the data sources used are described in the 2013 Supplemental Proposed Rule (described in the next paragraph below). Several commenters stated that for the completeness of analysis, the Bureau should also examine the impact of the points and fees criterion for a qualified mortgage under the Bureau's 2013 ATR Final Rule on the number of HPMLs that are non-QMs.[162] The Bureau does not possess any data and is not aware of any existing data to address this point directly. However, the effect of points and fees is described further below. The Bureau did not receive comments raising additional issues regarding the data and the methodology by which projections were originated.

The Bureau has relied on a variety of data sources to analyze the potential benefits, costs and impacts of the rule.[163] However, in some instances, the

[157] See, for example, E. Glen Weyl and Michael Fabinger, ''Pass-Through as an Economic Tool: Principles of Incidence under Imperfect Competition,'' Journal of Political Economy, Vol. 121, No. 3 (Feb. 24, 2013).

[158] For example, consumers generally cannot access the manufacturer's invoice for a manufactured house.

[159] 78 FR 10368, 10420 (Feb. 13, 2013).

[160] 78 FR 48548, 48568 n.91 (Aug. 13, 2013).

[161] 78 FR 10368, 10419 (Feb. 13, 2013).

[162] *See generally* 12 CFR 1026.43(e)–(f) (provisions identifying types of mortgages that are qualified mortgages under Bureau rules).

[163] The estimates in this analysis are based upon data and statistical analyses performed by the Bureau. To estimate counts and properties of mortgages for entities that do not report under the Home Mortgage Disclosure Act (HMDA), the Bureau has matched HMDA data to Call Report data and National Mortgage Licensing System (NMLS) and has statistically projected estimated loan counts for those depository institutions that do not report these data either under HMDA or on the NCUA call report. The Bureau has projected originations of HPMLs in a similar fashion for depositories that do not report HMDA. These projections use Poisson regressions that estimate loan volumes as a function of an institution's total assets, employment, mortgage holdings, and geographic presence. Neither HMDA nor the Call Report data have loan level estimates of debt-to-income (DTI) ratios that,

Continued

requisite data are not available or are quite limited. Data with which to quantify the benefits of the rule are particularly limited. As a result, portions of this analysis rely in part on general economic principles to provide a qualitative discussion of the benefits, costs, and impacts of the rule.

The primary source of data used in this analysis is data collected under HMDA. The empirical analysis generally uses 2011 data, including from the 4th quarter 2011 bank and thrift Call Reports [164] and 4th quarter 2011 credit union call reports from the NCUA. De-identified data from the National Mortgage Licensing System (NMLS) Mortgage Call Reports (MCR) [165] for the 4th quarter of 2011 also were used to identify financial institutions and their characteristics.

In addition, in analyzing alternatives for the exemption for certain refinances, the Bureau did consider data provided by FHFA and FHA regarding valuation practices under their streamlined refinance programs (and in particular regarding the frequency with which appraisals or automated valuations are conducted).

3. Smaller Dollar Loans

Estimate of the Number of Covered Loans

The Bureau estimates the number of transactions potentially eligible for the smaller dollar exemption as follows: HMDA data for 2011 indicates there were approximately 25,000 HPMLs at or below $25,000 that were not insured or guaranteed by government agencies or purchased by the GSEs (so, not qualified mortgages on that basis). Of these, the Bureau estimates that 4,800 were HPMLs with DTI ratios above 43 percent (so they would not meet the more general definition of a qualified mortgage at 12 CFR 1026.43(e)(2)). Accordingly, the Bureau estimates that approximately 4,800 covered loans are originated annually in an amount up to $25,000.[166] Of these estimated 4,800 covered loans, the Bureau estimates that the types most affected by this exemption, in that they would be unlikely to include appraisals if the exemption applies, would be home improvement loans, subordinate lien transactions not for home improvement purposes, and transactions secured by manufactured homes. Absent an exemption, the HPML appraisal rules could lead to significant changes in valuation methods used for these types of loans. For example, current practice includes appraisals for only an estimated five percent of subordinate lien transactions as explained in the January 2013 Final Rule.[167]

Covered Persons

Creditors originating smaller dollar HPMLs that are non-QMs would experience some reduced burden as a result of the exemption for HPMLs of $25,000 or less. As a result of the exemption, these loans will not be subject to the estimated per-loan costs described in the January 2013 Final Rule.[168] For these transactions, creditors do not need to spend time or resources on complying with the requirements in the HPML appraisal rules: Checking for applicability of the second appraisal requirement on a flipped property (in a purchase transaction) and paying for that appraisal when the requirement applies, obtaining and reviewing the appraisals conducted for conformity to this rule, providing a copy of the required disclosure, and providing copies of these appraisals to applicants. Creditors therefore may find it relatively easier to originate HPMLs that are eligible for this exemption. As noted above, the overall impact of this exemption on creditors is likely minimal for most creditors given that in 2011 only 4,800 loans were potentially eligible for the exemption.

Consumers

For consumers who seek to borrow smaller dollar loans, such as home improvement loans and other subordinate lien transactions, and who are not able to obtain a qualified mortgage, the exemption for smaller dollar HPMLs (at or less than $25,000) would provide some benefits. Industry practice prior to implementation of the January 2013 Final Rule suggests that appraisals are not otherwise frequently done for home improvement and subordinate lien transactions.[169] Thus, by not requiring an appraisal, the cost of which typically would be passed on to consumers, the exemption could facilitate access to smaller dollar HPMLs that are not otherwise exempt from the HPML appraisal rules. Otherwise, requiring an appraisal for these loans could create incentives that may not benefit consumers. These incentives can be more significant for smaller dollar loans, given that the cost of the appraisal relative to the amount of the loan is higher for smaller dollar loans. For example, some consumers could try to avoid the cost of an appraisal by either not entering into a smaller dollar HPML (unless it is otherwise exempt from the rules, such as a QM) or pursuing an alternative source of credit that is not subject to the rules, such as an open-end home equity line of credit or using other forms of credit that are not dwelling-secured such as a credit card. Finally, as a result of the exemption, consumers are likely to save around $350 per loan; if the appraisal requirement applied to these loans, the Bureau would have expected creditors to pass the cost of the appraisal on to consumers.

Regarding costs to consumers, under the exemption, consumers entering into smaller dollar HPMLs (that are not otherwise exempt) would lose the benefits of the Final Rule. As discussed in the Bureau's analysis under Section 1022 in the January 2013 Final Rule, in general, consumers who are borrowing HPMLs could benefit from an appraisal.

in some cases, determine whether a loan is a qualified mortgage. To estimate these figures, the Bureau has matched the HMDA data to data on the historic-loan-performance (HLP) dataset provided by the FHFA.

This allows estimation of coefficients in a probit model to predict DTI using loan amount, income, and other variables. This model is then used to estimate DTI for loans in HMDA.

[164] Every national bank, State member bank, and insured nonmember bank is required by its primary Federal regulator to file consolidated Reports of Condition and Income, also known as Call Report data, for each quarter as of the close of business on the last day of each calendar quarter (the report date). The specific reporting requirements depend upon the size of the bank and whether it has any foreign offices. For more information, see *http://www2.fdic.gov/call_tfr_rpts/*.

[165] The NMLS is a national registry of non-depository financial institutions including mortgage loan originators. Portions of the registration information are public. The Mortgage Call Report data are reported at the institution level and include information on the number and dollar amount of loans originated, and the number and dollar amount of loans brokered. The Bureau noted in its summer 2012 mortgage proposals that it sought to obtain additional data to supplement its consideration of the rulemakings, including additional data from the NMLS and the NMLS Mortgage Call Report, loan file extracts from various lenders, and data from the pilot phases of the National Mortgage Database. Each of these data sources was not necessarily relevant to each of the rulemakings. The Bureau used the additional data from NMLS and NMLS Mortgage Call Report data to better corroborate its estimate the contours of the non-depository segment of the mortgage market. The Bureau has received loan file extracts from three lenders, but at this point, the data from one lender is not usable and the data from the other two is not sufficiently standardized nor representative to inform consideration of the Final Rule or this supplemental proposal. Additionally, the Bureau has thus far not yet received data from the National Mortgage Database pilot phases.

[166] As discussed above, the Bureau does not believe that a significant number of smaller dollar HPMLs would exceed the points and fees threshold in the 2013 ATR Final Rule. The Bureau requested data on this issue in the supplemental proposal. None of the commenters on the smaller dollar exemption provided this data. If a significant number of smaller dollar HPMLs did exceed that threshold, then the number of loans eligible for the exemption would increase.

[167] *See* 78 FR 10368, 10419 (Feb. 13, 2013).

[168] *See* Section 1022(b) analysis, 78 FR at 10418–21.

[169] 78 FR at 10419.

For smaller dollar HPMLs that are not purchase transactions, the general benefits elsewhere may be relatively less valuable to the consumer in some cases, given the lower size of the loan and also the likelihood that the consumer already would have had an appraisal in the original purchase transaction.

Nonetheless, having an appraisal could provide a particularly significant benefit to those consumers who are informed by the appraisal that they have significantly less equity in their home than they realize. A smaller dollar mortgage could push these consumers even further toward or into negative equity, without the consumer realizing it. This effect is even more pronounced for consumers whose homes have lower value. All else equal, a $25,000 loan will pose greater risk to a consumer whose home is worth $20,000, than to a consumer whose house is worth $200,000. According to a periodic government survey, as of 2011 more than 2.75 million homes were worth less than $20,000, including a greater proportion of homes whose owners were below the poverty level or elderly.[170] In addition, according to a recent study, as of the end of 2012, 10.4 million properties with a residential mortgage were in ''negative equity'' and an additional 11.3 million had less than 20 percent equity.[171] In addition, some recent studies suggest that subordinate liens can increase the risk of default, as they reduce the amount of equity in the home.[172] Moreover, based upon HMDA data, more than half of subordinate liens originated in 2011 were at or below $25,000. Therefore, smaller dollar loans of $25,000 or less could still pose significant risks to consumers who own these lower-value homes or other homes that are highly leveraged, consuming most or all of any remaining equity.

4. Transactions Secured by Used Manufactured Homes and Not Land

Estimate of the Number of Covered Loans

To assess the impact of the rule's provisions concerning manufactured housing, it is necessary to estimate the volume of transactions potentially affected, by collateral type. The Bureau's analysis of 2011 HMDA data, matched with the historic loan performance (HLP) data from the FHFA, indicates that roughly eight percent of all manufactured home purchases were covered loans: HPMLs that were non-QMs because the DTI ratio exceeded 43 percent and the loan was not insured, guaranteed, or purchased by a federal government agency or GSE.[173] Because HMDA data does not differentiate between transactions with each of the relevant collateral types, including new versus used, the Bureau is applying this ratio to each of the transaction types to derive the estimated number of covered loans below. Manufactured home loans of $25,000 or less also would be exempt under the smaller dollar exemption discussed above. However, the estimates of affected manufactured home transactions discussed in this Section 1022 analysis do not exclude smaller dollar loans and therefore may be slightly overstated.

Census data also reports an estimated 369,000 move-ins to owner-occupied manufactured homes in 2011.[174] Census data reports shipment of approximately 51,000 new manufactured homes in 2011, with approximately 17 percent titled as real estate.[175] Therefore, the Bureau estimates that approximately 318,000 existing manufactured homes were purchased in 2011. The Bureau conservatively assumes that all of these purchases were financed. Further, based upon a review of nearly two decades of Census data on shipments of new manufactured homes, the Bureau estimates that approximately one third of the existing manufactured homes are titled as real property. Therefore, the Bureau, for the purposes of this 1022 analysis, conservatively estimates that approximately 105,000 purchases of existing manufactured homes also involved the acquisition of land which provided security for the purchase loan,[176] while approximately 213,000 purchases were secured only by the existing manufactured home (chattel loans). Applying the same eight percent factor for other purchases discussed above, of these, approximately 17,000 were chattel HPMLs that were non-QMs, and approximately 8,400 were land- and home-secured HPMLs that were non-QMs.[177]

The Bureau's analysis of 2011 HMDA data, matched with the HLP data from the FHFA, indicates that, approximately, for every four covered purchase manufactured housing loans, there is one manufactured housing refinance or home improvement loan (that is, out of every five manufactured housing loans, four are purchases). The Bureau believes that both refinance and home improvement loans in manufactured housing are exempt due to other exemptions in this rule. Therefore, the Bureau believes that there are approximately 13,600 covered used chattel manufactured housing loans.[178]

Several commenters noted that the proportion of non-QM loans will be higher in manufactured housing than what was estimated by the Bureau, particularly due to points and fees exceeding the qualified mortgage limit. These commenters did not provide supporting data or address non-QM proportions by collateral type. Nonetheless, if the proportion of non-QM loans secured by existing manufactured homes and not land is indeed higher, then the estimates of costs and benefits of this final rule might increase somewhat (while remaining constant on a per-loan basis). Moreover, while the commenters identified the points and fees cap for qualified mortgages in the Bureau's ATR

[170] See 2011 American Housing Survey, ''Value, Purchase Price, and Source of Down Payment—Owner Occupied Units (NATIONAL),'' C–13–OO, *available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=AHS_2011_C13OO&prodType=table*. In addition, in seven metropolitan statistical areas, as of the end 2012 the median home value was less than $100,000. See National Association of Realtors® Median Sales Price of Existing Single-Family Homes for Metropolitan Statistical Areas Q4 2012, *available at http://www.realtor.org/sites/default/files/reports/2013/embargoes/hai-metro-2-11-asdlp/metro-home-prices-q4-2012-single-family-2013-02-11.pdf*.

[171] Core Logic Press Release and Negative Equity Report Q4 2012 (Mar. 19, 2013), *available at http://www.corelogic.com*.

[172] *See* Steven Laufer, ''Equity Extraction and Mortgage Default,'' Financial and Economics Discussion Series Federal Reserve Board Division of Research & Statistics and Monetary Affairs (2013–30), *available at http://www.federalreserve.gov/pubs/feds/2013/201330/201330pap.pdf*. The study concludes, at 2, that ''through cash-out refinances, second mortgages and home equity lines of credit, . . . homeowners [in the sample studied] had extracted much of the equity created by the rising value of their homes. As a result, their loan-to-value (LTV) ratios were on average more than 50 percentage points higher than they would have been without this additional borrowing and the majority had mortgage balances that exceeded the value of their homes.''). *See also* Michael LaCour-Little, California State University-Fullerton, Eric Rosenblatt and Vincent Yao, Fannie Mae, ''A Close Look at Recent Southern California Foreclosures,'' (May 23, 2009) at 17 (finding that, based upon a sample of homes, the existence of a subordinate lien is correlated more strongly with default than whether the home was purchased in 2005–06 period), *available at http://www.areuea.org/conferences/papers/download.phtml?id=2133*.

[173] The Census report refers to these homes as ''manufactured/mobile homes'', but the Census definitions note that all of these homes are ''HUD Code homes'', which is the fundamental characteristic of what are currently referred to as manufactured homes.

[174] See Cost & Size Comparisons: New Manufactured Homes, *available at http://www.census.gov/construction/mhs/pdf/sitebuiltvsmh.pdf*.

[175] According to data provided by HUD for the fiscal year 2011, approximately 5,900 existing manufactured homes were purchased together with land under the FHA Title II program.

[176] As with new homes, this estimate would increase to the extent that any other manufactured home purchase HPMLs would not be qualified mortgages solely because they exceed caps on points and fees in the Bureau's 2013 ATR Rules.

[177] For further analysis of these assumptions, see the Bureau's RFA analysis at part VII.

Rules as the main reason for these loans not to qualify for qualified mortgage status, the Bureau believes that creditors will adjust many transactions, for example by shifting points and fees into the interest rate, so that these transactions are QMs.

Moreover, HUD recently issued a proposed rulemaking to effectively exempt Title I manufactured housing from the qualified mortgage points and fees requirement. If this provision of HUD's proposal is finalized substantially as proposed, the Bureau believes that some creditors will start originating more Title I mortgage loans that will also have the qualified mortgage status. Furthermore, the Bureau conservatively assumes that every manufactured home move-in reported in the Census (or in the American Housing Survey) had a mortgage loan associated with the move-in. Finally, given the analysis of HMDA data, the Bureau believes that the two creditors specialized in manufactured home lending that commented on the supplemental proposal are outliers on several dimensions relevant to the proportion of covered loans, and thus are not necessarily representative of the whole manufactured home market and that their claims regarding non-QM loan volume might overestimate the proportion of manufactured housing loans that are non-QMs for the overall market.

Covered Persons

Creditors originating covered transactions secured by existing manufactured homes but not land will experience some reduced burden as a result of the exemption. In particular, these loans are not subject to the estimated per-loan costs for an appraisal in conformity with USPAP described in the January 2013 Final Rule.[179] For these transactions, creditors also would not need to spend time or resources on complying with the requirements in the HPML appraisal rules: checking for applicability of the second appraisal requirement on a flipped property (in a purchase transaction) and paying for that appraisal when the requirement applies, obtaining and reviewing the appraisals conducted for conformity to this rule, and providing disclosures and appraisal report copies to applicants.

Appraisals in conformity with USPAP may currently be conducted for transactions secured by existing manufactured homes but not land much less frequently than in connection with HPMLs overall. For example, the Bureau believes that USPAP is a set of standards typically followed by appraisers who are state-certified or licensed, and that state laws generally do not require certifications or licenses to appraise personal property. Therefore, even though USPAP includes standards for the appraisal of personal property, it is unclear that these standards are applied when individuals who are not state-licensed or state-certified value manufactured homes. Indeed, the Bureau believes that currently, in some transactions, lenders may simply prepare their own estimates of the value of the home without engaging a licensed or certified appraiser. Thus, most, of the covered transactions might have been impossible to make. The impact of the hypothetical case in which creditors are not able to comply with a provision of this rule that has not yet taken effect is impossible to estimate with any reasonable degree of confidence. As a result, for purposes of analyzing the benefits of the exemption, the Bureau cannot evaluate the burden reduced as a result of the exemption.

The Bureau believes that whatever method of satisfying conditions for the exemption the creditors choose, the cost is likely to be relatively low, and all the manufactured housing creditors would incur it, likely resulting in the majority of this cost passed on to the consumers. The Bureau believes that many creditors will opt to use an independent cost service to qualify for the exemption. The prevalent option currently on the market is the NADAguides. This guide contains an estimate of a manufactured home's cost of replacement value based on the exact make, model, and the year that the manufactured home was built. Since many creditors use this guide or a competitor's guide already in these transactions, and that estimate is a valuation under the ECOA Valuations Rule and would have had to be provided to the consumer in either case, this additional requirement is not an extra cost on either the creditors or the consumers.[180]

Consumers

The exemption likely results in creditors being able to consummate these transactions while staying in compliance, and thus the benefit of the exemption to consumers is primarily that they will continue to have access to these loans.

Consumers will now receive one of the available options including, and most likely (since it is likely the most cost-effective option for used homes), a third-party cost estimate. As noted above, most creditors use an existing cost service to produce an estimate that already would be provided to the consumer under the ECOA Valuations Rule. This will provide consumers with some information about the value of their manufactured home, and will allow them to decide whether they should indeed purchase this home. If the consumers deem the value too low, they might decide to look at other models of manufactured homes, choose a non-manufactured home instead, or decide to exit the housing market, most likely by renting. The Bureau believes that creditors will pass through most of their costs onto consumers. The Bureau is unaware of any estimates of the cost of a third-party cost evaluation for a used chattel manufactured home, but believes that it is significantly less than $350 required for a full appraisal for a non-manufactured home. For example, the cost of using the third-party cost service may be more akin to the cost of using an automated valuation model, which, as discussed in this Section 1022 analysis, may be approximately $20.[181]

5. Transactions Secured by New Manufactured Homes and Not Land

Estimate of the Number of Covered Loans

As noted above, approximately 51,000 new manufactured homes were shipped according to recent annual Census data. For this analysis, the Bureau conservatively assumes that all of these homes were used as principal dwellings for consumers and that all of these purchases were financed. In addition, the Bureau believes that the proportion of homes titled as real estate is a reasonable estimate of the number of

[179] *See* Section 1022(b) analysis, 78 FR at 10418–21.

[180] The Agencies received a comment that implementing a process to ensure compliance with the new provisions regarding chattel manufactured homes will take at least 1,600 hours of labor time. The Bureau disagrees. As discussed above, the requirements can be satisfied not only by obtaining an independent valuation, but also by copying a manufacturer's invoice for new chattel, or following a guide, like the one provided by NADA, for new or used chattel. Following the guide involves looking up the model, make, and the year that the home was built in, akin to Yellow Pages or, more appropriately, Kelley's Bluebook. The Bureau believes that most loan officers should be able to perform that task in, at most, minutes given either a hardcopy of the guide or an electronic version. If a creditor chooses to invest additional labor to tailor its output to consumers to go beyond the limited conditions in this rule, that is not a cost of this rule.

[181] *See also* 78 CFR 48548, 48573, n.123 (Aug. 13, 2013) (''The Bureau has received information in outreach indicating that annual subscriptions to the NADA Guide may cost between $100 and $200 for an unlimited number of value reports . . . The average cost per-loan would therefore depending on the covered person's total level of lending activity.'').

new manufactured home purchase transactions that are secured in part by land.[182] The Bureau therefore, for this 1022 analysis, conservatively estimates that based upon 2011 data approximately 42,400 new manufactured home sales were financed by chattel loans (which can include homes located on leased land such as in trailer parks and other land-lease communities) and 8,600 transactions were secured by new manufactured homes and land. Applying a factor of approximately eight percent, the Bureau estimates that, of these, almost 3,400 were chattel HPMLs that were non-QMs, and almost 700 were land and home-secured HPMLs that were non-QMs.[183]

Covered Persons

The Bureau believes that the vast majority of creditors receive a copy of the manufacturer's invoice as a matter of standard business practice, and thus they could simply provide consumers a copy. Consistent with the January 2013 ECOA Valuations Rule,[184] the Bureau estimates that this will cost creditors around $5 per loan, including training costs. A few commenters have suggested that releasing invoices would upset industry's pricing model. The Bureau does not possess any data and is not aware of any studies to help it evaluate this claim. Moreover, in some industries, such as the car market, a high volume of transactions occur and firms profit even though some consumers are able to discover the invoice value of the product. Moreover, the rule allows the creditor to choose to avoid disclosing the invoice and thereby avoid any issues a creditor believes disclosure of the invoice could entail; in lieu of the invoice, the rule allows covered persons to provide a valuation from an independent person or based on an independent cost service, as described above.

Consumers

Consumers will benefit from this rule by receiving at least some kind of valuation information. The Bureau believes that while consumers getting a mortgage loan on a non-manufactured home would generally receive a valuation based on the ECOA Valuations Rule, this is not the case for new manufactured homes since the manufacturer's invoice is exempt from the ECOA requirements. Thus, this provision arguably has a particularly large effect per transaction affected: consumers go from not knowing anything about the value of their home to at least having some information. This is particularly valuable considering that these are likely to be LMI consumers who would be particularly vulnerable and adversely affected by entering into a transaction that might leave them underwater from the very first day, as discussed in more detail in the section-by-section analysis. The Agencies further discuss this provision in the section-by-section analysis.

6. Transactions Secured by New Manufactured Homes and Land

The Bureau believes that there were approximately 700 new land/home HPML non-QM transactions. One commenter noted that few if any of the transactions outside of those programs include appraisals currently. While the Bureau does not have data on this point, even if few transactions outside of these programs did have appraisals currently, the number of new appraisals that would result from the modified exemption still is quite low.

Covered Persons

This rule will result in approximately a $350 dollar cost increase (the average price of a full appraisal) per transaction, which is likely to be passed through to the consumer. While the rule exempts these appraisals from the requirement of the interior inspections, various commenters suggested that full appraisals (including interior inspections) of manufactured houses cost more than $350. Thus, it is possible that the actual cost per appraisal is slightly higher or slightly lower.[185]

Consumers

Consumers will receive the benefits of the appraisal discussed elsewhere, and will not be vulnerable to weaker valuation practices when their transactions are occurring outside of GSE or federal agency programs. However, consumers will pay any cost of the required appraisal to the extent that creditors pass it through. The Bureau believes that many of the consumers using non-QM HPMLs to purchase a new manufactured home and land currently do not receive any valuation before buying it, magnifying the potential benefit for consumers.

Finally, the Agencies do not believe that a requirement of a full appraisal (*i.e.,* with a physical inspection of the interior) on new manufactured housing secured by land is appropriate given the fact that many of these houses are not physically on land when the loan is consummated and other inspections occur under HUD and other safety standards. Aside from that, these transactions are not systematically different from construction of site-built homes, and thus should be treated the same to the extent possible.

Again, the Bureau believes that there were approximately 700 new land/home HPML non-QM transactions. This will result in approximately a $350 dollar cost increase (the average price of a full appraisal) that is likely to be passed through to the consumer. This cost might be lower because the rule exempts these appraisals from the requirement of the interior exemptions; however, some commenters suggested that full manufactured home appraisals (which would typically include an interior inspection) might sometimes cost more than appraisals of site-built homes. Thus, it is possible that the actual cost per appraisal is slightly higher or slightly lower.

7. Streamlined Refinances

Estimate of the Number of Covered Loans

The Bureau anticipates that the refinance provision overwhelmingly affects private streamline refinances until 2021 because qualified mortgages are separately exempt from this rule and, under the Bureau's 2013 ATR Final Rule, GSE and federal government agency refinances are generally deemed

[182] Only a few states provide for treating manufactured homes sited on leased land as real property.

[183] See the discussion in the beginning of this section on data used and comments received. If the Bureau's estimate is off, for example by a factor as great as three, the estimate would increase from 4,100 to slightly more than 12,000 loans per year (indicating that close to a quarter of the transactions would be non-QM HPMLs after the rule is implemented and that a significant proportion of the manufactured home transactions are not reported to HMDA despite these transactions covered by HMDA).

[184] 78 FR 7216, 7244 (Jan. 31, 2013).

[185] Some commenters claimed that requiring appraisals for manufactured housing, in particular in land/home transactions, is problematic, in part because they asserted that the appraised value comes in lower than the sale price in a high proportion of FHA manufactured home program transactions. Some comments suggested that the appraisals were not valid in part because they relied upon too many manufactured homes as comparables or the opposite—they relied too heavily on site-built homes as comparables with adjustments which are too subjective. The commenters' views, however, were presented only in theoretical form and did not include data to support the contents. In the context of an individual transaction, if the lender views the appraisal to be inaccurate and can demonstrate that fact, appraisal review and dispute processes exist, and lenders can get a second appraisal or opinion as well. On the other hand, if a portfolio lender accepts an appraisal that indicates insufficient collateral value and does not proceed with the transactions, the fact that the creditor voluntarily decided not to originate the loan based on the appraisal is a benefit to the creditor, and likely to the consumer as well. In addition, FHA appraisal requirements indicate that this agency considers these appraisals sufficiently valid to use, and thus not everyone views these appraisals as problematic.

qualified mortgages until 2021.[186] In addition, as discussed in the section-by-section analysis above, only refinances in which the holder of the credit risk on the existing obligation and the refinancing remain the same would be eligible, and the loan cannot have interest-only, negative amortization, or balloon features.

The Bureau estimates that at most 12,000 private no cash-out refinance transactions were originated in 2011. The Bureau believes that some of these were refinances of existing loans where the credit risk holder changed and thus would not be eligible for the exemption, and that a small number of these refinances had interest-only, negative amortization, or balloon features and also would not be eligible for the exemption. The Bureau believes that for about 90% of refinance transactions, the creditor would have provided an appraisal to the consumer; starting in January 2014, the ECOA Valuations Rule will require creditors to do so. Thus, this exemption is likely to affect under 1,000 loans a year (10% of 12,000).

Covered Persons

Any creditors originating covered refinances that meet the criteria of the exemption can choose to make use of the exemption, which reduces burden. In particular, these loans will not be subject to the estimated per-loan costs described in the January 2013 Final Rule.[187] For these transactions, the creditor is not required to spend time providing a notice, obtaining an appraisal, reviewing the appraisals conducted for conformity to this rule, and providing copies of those appraisals to applicants.

Consumers

Regarding benefits, consumers whose HPML streamlined refinance are newly exempt will save an average of $350 per loan. In addition, streamlined refinance transactions may close more quickly without an appraisal, reducing the time in which a consumer may be in a worse loan, which can result in further cost savings to the consumer. For example, if the consumer can close a refinance transaction two weeks earlier because a full appraisal is not performed, and the refinance loan has a lower interest rate, that will provide the consumer with an additional two weeks of payments at the reduced interest rate of the refinance loan.

As discussed above and in the Bureau's analysis under Section 1022 in the January 2013 Final Rule, in general, consumers who are borrowing HPMLs that are covered loans benefit from having an appraisal. The cost to consumers of the proposed exemption therefore is the loss of these potential benefits for the number of covered loans that would be newly-exempted by the proposed exemption and which would not have otherwise included an appraisal. As noted above, the Bureau estimates this would be very few transactions.

8. Significant Alternatives

The Agencies discussed various conditions on exemptions for smaller dollar loans and streamline refinances. Placing conditions on these exemptions—for example, requiring that an automated valuation be obtained and provided to the consumer—would provide many of the same benefits to consumer as a full appraisal. However, the Bureau believes that the benefits of an appraisal would likely be lower for these two particular types of transactions than for other types of transactions that will not be exempt from the January 2013 Final Rule.

The cost of these conditions would be directly levied on the creditors; however, the Bureau believes that it would be almost fully passed on to consumers. The Bureau did not view the cost of these alternatives to be significant. The Agencies determined, however, not to adopt this alternative. A significant factor was that streamline refinances and smaller dollar loans were viewed as classes of transactions that were significantly lower risk and therefore not necessitating alternative valuation conditions in this rule.

The Agencies also discussed a provision mandating the creditors to provide chattel manufactured home valuations with adjustments for condition (used chattel) and location (used or new chattel). The Agencies decided that this provision would introduce additional implementation burden and subjectivity with respect to the compliance processes, and that practices with regard to these adjustments had not sufficiently evolved to codify a uniform set of standards in regulations. From the perspective of potential benefits of this provision, creditors can still provide whatever adjustments are specified in the cost service guide.

The Agencies discussed raising the loan amount requirement for the smaller dollar exemption to $50,000. However, the Agencies decided that the range of $25,000 to $50,000 captures too great a proportion of the remaining non-QM subordinate lien HPMLs. The Bureau also noted that such an increase would wholly exempt many manufactured home purchases that deserve the protection provided by the new provisions in this rule. The Agencies also believe that at these higher loan amounts the cost of the appraisal provides less of an incentive to switch to another kind of financing, for example an open-credit loan.

B. Potential Specific Impacts of the Supplemental Final Rule

1. Potential Reduction in Access of Consumers to Consumer Financial Products or Services

The rule includes only exemptions and provisions that have limited impact on a small amount of loans. Thus, the Bureau does not believe that any reduction in access to credit will result. If anything, the Bureau believes that the exemption for used chattel manufactured housing will make many loans possible to originate while complying with the January 2013 Final Rule, thus improving access to credit.

Manufactured housing industry commenters suggested that access to credit in chattel loans, including new chattel loans, would be reduced if valuation information must be provided to the consumer. These comments may be read as potentially suggesting that: (1) Consumers, if informed of the estimated value of the home by currently available means, might elect not to proceed with the transaction, or (2) creditors, if required to provide such information to the consumers, also might not proceed with the transaction, particularly where the loan amount exceeds the estimated value of the home.

If these comments are based upon the assumption that valuation information provided will be inaccurate or misleading, commenters did not provide data in support of this point with respect to any of the three valuation information options specified in the condition to the exemption for chattel manufactured home loans. In this regard, the Bureau notes that a leading independent cost service provided data in its comments indicating the accuracy of its method compared to personal property appraisals. Otherwise, the Bureau does not consider access to credit to be reduced where consumers voluntarily choose not to continue with a transaction after receiving valuation information; in this case, the information has benefited the consumer by enabling the consumer to make better informed credit choices. Similarly,

[186] *See* 12 CFR 1026.43(e)(4).

[187] *See* Section 1022(b) analysis, 78 FR at 10418–21.

access to credit is not necessarily compromised if the creditor chooses not to continue with the transaction, particularly if the loan amount exceeds the estimated value of the home. In purchase transactions, the Bureau believes that consumers typically have the option of purchasing other manufactured and non-manufactured homes that would not have the consumer starting off in their mortgage by effectively being underwater.

2. Impact of the Rule on Depository Institutions and Credit Unions With $10 Billion or Less in Total Assets

Small depository banks and credit unions may originate loans of $25,000 or less more often, relative to their overall origination business, than other depository institutions (DIs) and credit unions. Therefore, relative to their overall origination business, these small depository banks and credit unions may experience relatively more benefits from the exemption for smaller dollar loans. These benefits would not be high in absolute dollar terms, however, because the number of covered transactions across all creditors that would be exempted by the smaller dollar loan exemption is still relatively low—less than 5,000, as discussed above.

Otherwise, the Bureau does not believe that the impact of the supplemental rule would be substantially different for the DIs and credit unions with total assets below $10 billion than for larger DIs and credit unions. The Bureau has not identified data indicating that small depository institutions or small credit unions disproportionately engage in lending secured by manufactured homes. Finally, the Bureau has not identified data indicating that these institutions engage in covered streamlined refinances that would be exempted by the exemption for certain refinances at a greater rate than would other financial institutions.

3. Impact of the Rule on Consumers in Rural Areas

The Bureau understands that a significantly greater proportion of homes in rural areas are existing manufactured homes than in non-rural areas.[188] Therefore, any impacts of the exemption for transactions secured by these homes (but not land) would proportionally accrue more often to rural consumers. With respect to streamlined refinances, the Bureau does not believe that streamlined refinances are more or less common in rural areas. Accordingly, the Bureau currently believes that the exemption for streamlined refinances would generate a similar benefit for consumers in rural areas as for consumers in non-rural areas. Finally, setting aside the increased incidence of manufactured housing loans in rural areas, the Bureau does not believe that the difference in the number of smaller dollar loans originated for consumers in rural areas and non-rural areas is significant.

VII. Regulatory Flexibility Act

OCC

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under section 603 of the RFA is not required if the agency certifies that the final rule will not have a significant economic impact on a substantial number of small entities (defined for purposes of the RFA to include banks, savings institutions and other depository credit intermediaries with assets less than or equal to $500 million [189] and trust companies with total assets of $35.5 million or less) and publishes its certification and a short, explanatory statement in the **Federal Register** along with its final rule.

As described previously in this preamble, section 1471 of the Dodd-Frank Act establishes a new TILA section 129H, which sets forth appraisal requirements applicable to HPMLs. The statute expressly excludes from these appraisal requirements coverage of ''qualified mortgages as defined by section 129C.'' In addition, the Agencies may jointly exempt a class of loans from the requirements of the statute if the Agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors.

The Agencies issued the January 2013 Final Rule on January 18, 2013, which will be effective on January 18, 2014. Pursuant to the general exemption authority in the statute, the January 2013 Final Rule excluded the following consumer credit transactions from the definition of HPML: Transactions secured by new manufactured homes; transactions secured by a mobile homes, boats, or trailers; transactions to finance the initial construction of a dwelling; temporary or ''bridge'' loans with a term of twelve months or less, such as a loan to purchase a new dwelling where the consumer plans to sell a current dwelling within twelve months; and reverse mortgage loans. The Agencies are issuing this supplemental final rule to include additional exemptions from the higher risk mortgage loan appraisal requirements of section 129H of TILA: Certain ''streamlined'' refinancings and extensions of credit of $25,000 or less, indexed every year for inflation. In addition, this supplemental final rule amends and adds exemptions for transactions secured by manufactured homes.

The OCC currently supervises 1,797 banks (1,179 commercial banks, 61 trust companies, 509 federal savings associations, and 48 branches or agencies of foreign banks). We estimate that less than 1,309 of the banks supervised by the OCC are currently originating one- to four-family residential mortgage loans that could be HPMLs. Approximately 1,291 of OCC-supervised banks are small entities based on the Small Business Administration's (SBA's) definition of small entities for RFA purposes. Of these, the OCC estimates that 867 banks originate mortgages and therefore may be impacted by this final rule.

The OCC classifies the economic impact of total costs on a bank as significant if the total costs in a single year are greater than 5 percent of total salaries and benefits, or greater than 2.5 percent of total non-interest expense. The OCC estimates that the average cost per small bank will be zero. The supplemental final rule does not impose new requirements on banks or include new mandates. The OCC assumes any costs (e.g., alternative valuations) or requirements that may be associated with the exemptions in the supplemental final rule will be less than the cost of compliance for a comparable loan under the final rule.

Therefore, the OCC believes the supplemental final rule will not have a significant economic impact on a substantial number of small entities. The OCC certifies that the supplemental final rule will not have a significant

[188] Census data from 2011 indicates that approximately 45 percent of owner-occupied manufactured homes are located outside of metropolitan statistical areas, compared with 21 percent of owner-occupied single-family homes. *See* U.S. Census Bureau, 2011 American Housing Survey, General Housing Data—Owner-Occupied Units (National), *available at http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=AHS_2011_C01OO&prodType=table. See also* Housing Assistance Council Rural Housing Research Note, ''Improving HMDA: A Need to Better Understand Rural Mortgage Markets,'' (Oct. 2010), *available at http://www.ruralhome.org/storage/documents/notehmdasm.pdf.* Industry comments on the 2012 Interagency Appraisals Proposed Rule noted that manufactured homes sited on land owned by the buyer are predominantly located in rural areas; one commenter estimated that 60 percent of manufactured homes are located in rural areas.

[189] ''A financial institution's assets are determined by averaging assets reported on its four quarterly financial statements for the preceding year.'' *See* footnote 8 of the U.S. Small Business Administration's Table of Size Standards.

economic impact on a substantial number of small entities.

OCC Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532), requires the OCC to prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year (adjusted annually for inflation). The OCC has determined that this supplemental final rule will not result in expenditures by state, local, and tribal governments, or the private sector, of $100 million or more in any one year. Accordingly, the OCC has not prepared a budgetary impact statement.

Board

The RFA (5 U.S.C. 601 et seq.) requires an agency either to provide a final regulatory flexibility analysis (FRFA) with a final rule or certify that the final rule will not have a significant economic impact on a substantial number of small entities. This supplemental final rule applies to certain banks, other depository institutions, and non-bank entities that extend HPMLs to consumers.[190] The SBA establishes size standards that define which entities are small businesses for purposes of the RFA.[191] The size standard to be considered a small business is: $500 million or less in assets for banks and other depository institutions; and $35.5 million or less in annual revenues for the majority of nonbank entities that are likely to be subject to the regulations. Based on its analysis, and for the reasons stated below, the Board believes that the supplemental final rule will not have a significant economic impact on a substantial number of small entities. Nevertheless, the Board is publishing a FRFA.

A. Reasons for the Final Rule

This supplemental final rule relates to the January 2013 Final Rule issued by the Agencies on January 18, 2013, which goes into effect on January 18, 2014. *See* 78 FR 10368 (Feb. 13, 2013). The January 2013 Final Rule implements a provision added to TILA by the Dodd-Frank Act requiring appraisals for ''higher-risk mortgages.'' For certain mortgages with an annual percentage rate that exceeds the average prime offer rate by a specified percentage, the January 2013 Final Rule requires creditors to obtain an appraisal or appraisals meeting certain specified standards, provide applicants with a notification regarding the use of the appraisals, and give applicants a copy of the written appraisals used. The definition of higher-risk mortgage in new TILA section 129H expressly excludes qualified mortgages, as defined in TILA section 129C, as well as reverse mortgage loans that are qualified mortgages as defined in TILA section 129C.

The Agencies are now finalizing two additional exemptions to the 2013 Final Rule appraisal requirements and adopting certain provisions for manufactured homes. As described in the **SUPPLEMENTARY INFORMATION**, the supplemental final rule exempts ''streamlined'' refinancings and transactions of $25,000 or less. The supplemental final rule also exempts loans secured by manufactured homes from the January 2013 Final Rule's appraisal requirements for 18 months, until July 18, 2015. Subsequent to that date:

- A loan secured by a new manufactured home and land must comply with the January 2013 Final Rule's appraisal requirements except for the requirement to conduct a physical visit to the interior of the property;
- A loan secured by an existing (used) manufactured home and land will be subject to all of the January 2013 Final Rule's appraisal requirements; and
- A loan secured by manufactured homes (new or used) and not land will be exempt from the January 2013 Final Rule's appraisal requirements if the consumer is provided with a specified alternative cost estimate or valuation.

B. Statement of Objectives and Legal Basis

The Board believes that the additional exemptions and amendments established by the supplemental final rule are appropriate to carry out the purposes of the statute, as discussed above in the **SUPPLEMENTARY INFORMATION**. The legal basis for the proposed rule is TILA section 129H(b)(4). 15 U.S.C. 1639h(b)(4). TILA section 129H(b)(4)(A), added by the Dodd-Frank Act, authorizes the Agencies jointly to prescribe regulations implementing section 129H. 15 U.S.C. 1639h(b)(4)(A). In addition, TILA section 129H(b)(4)(B) grants the Agencies the authority jointly to exempt, by rule, a class of loans from the requirements of TILA section 129H(a) or section 129H(b) if the Agencies determine that the exemption is in the public interest and promotes the safety and soundness of creditors. 15 U.S.C. 1639h(b)(4)(B).

C. Description of Small Entities to Which the Regulation Applies

The January 2013 Final Rule applies to creditors that make HPMLs subject to 12 CFR 1026.35(c). In the Board's regulatory flexibility analysis for the January 2013 Final Rule, the Board relied primarily on data provided by the Bureau to estimate the number of small entities that would be subject to the requirements of the rule.[192] According to the data provided by the Bureau in connection with promulgation of the supplemental final rule, approximately 5,913 commercial banks and savings institutions, 3,784 credit unions, and 2,672 non-depository institutions are considered small entities and extend mortgages, and therefore are potentially subject to the January 2013 Final Rule and the supplemental final rule.

Data currently available to the Board are not sufficient to estimate how many small entities that extend mortgages will be subject to 12 CFR 226.43, given the range of exemptions provided in the January 2013 Final Rule and the supplemental final rule, including the exemption for loans that satisfy the criteria of a qualified mortgage. Further, the number of these small entities that will make HPMLs subject to the supplemental final rule's exemptions is unknown.

D. Projected Reporting, Recordkeeping and Other Compliance Requirements

The supplemental final rule does not impose any significant new recordkeeping, reporting, or compliance requirements on small entities. The supplemental final rule reduces the number of transactions that are subject to the requirements of the January 2013 Final Rule. As noted above, the January 2013 Final Rule generally applies to creditors that make HPMLs subject to 12 CFR 1026.35(c), which are generally mortgages with an APR that exceeds the APOR by a specified percentage, subject to certain exemptions. The supplemental final rule exempts two additional classes of HPMLs from the January 2013 Final Rule: Certain streamlined refinance HPMLs whose proceeds are used exclusively to satisfy

[190] The Board notes that for purposes of its analysis, the Board considered all creditors to which the supplemental final rule applies. The Board's Regulation Z at 12 CFR 226.43 applies to a subset of these creditors. *See* 12 CFR 226.43(g).

[191] U.S. SBA, Table of Small Business Size Standards Matched to North American Industry Classification System Codes, available at *http://www.sba.gov/sites/default/files/files/size_table_07222013.pdf.*

[192] *See* the Bureau's regulatory flexibility analysis in the 2013 Final Rule (78 FR 10368, 10424 (Feb. 13, 2013)).

an existing first lien loan and to pay for closing costs, and new HPMLs that have a principal amount of $25,000 or less (indexed to inflation). In addition, the supplemental final rule exempts until July 2015 HPMLs secured by manufactured homes. Accordingly, the supplemental final rule decreases the burden on creditors by reducing the number of loan transactions that are subject to the January 2013 Final Rule. For applications submitted on or after July 18, 2015, burden increases slightly for transactions secured by new manufactured homes and land because such transactions will be required to comply with the January 2013 Final Rule's appraisal requirements except for the requirement to conduct a physical visit to the interior of the property. In addition, burden also increases with respect to transactions secured by a new manufactured home and not land. These transactions will be exempt from the January 2013 Final Rule's appraisal requirements only if the borrower is provided with a specified alternative cost estimate or valuation to the borrower.

F. Identification of Duplicative, Overlapping, or Conflicting Federal Regulations

The Board has not identified any Federal statutes or regulations that duplicate, overlap, or conflict with the proposed revisions.

G. Discussion of Significant Alternatives

The Board is not aware of any significant alternatives that would further minimize the economic impact of the supplemental final rule on small entities. With respect to transactions secured by ''streamlined'' refinances or smaller-dollar HPMLs, the supplemental final rule exempts these transactions from the January 2013 Final Rule and therefore reduces economic burden for small entities. With respect to loans secured by new manufactured homes and land, the Board recognizes that the supplemental final rule imposes new burden by requiring such transactions to comply with the January 2013 Final Rule's appraisal requirements except for the requirement to conduct a physical visit to the interior of the property. With respect to loans secured by new manufactured homes and not land, the Board also recognizes that the supplemental final rule imposes new burden by requiring that such transactions are exempt from the January 2013 Final Rule only if the borrower is provided with a specified alternative cost estimate or valuation. Although maintaining the January 2013 Final Rule exemption for new manufactured homes would lower the economic impact on small entities, the Board does not believe doing so is appropriate in carrying out the purposes of the statute.

FDIC

The RFA generally requires that, in connection with a rulemaking, an agency prepare and make available for public comment a regulatory flexibility analysis that describes the impact of the rule on small entities.[193] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities (defined in regulations promulgated by the SBA to include banking organizations with total assets of $500 million or less) and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

As of June 30, 2013, there were about 3,673 small FDIC-supervised institutions, which include 3,363 state nonmember banks and 310 state-chartered savings banks. The FDIC analyzed the 2011 HMDA[194] dataset to determine how many loans by all FDIC-supervised institutions might qualify as HPMLs under section 129H of the TILA as added by section 1471 of the Dodd-Frank Act. This analysis reflects that only 70 FDIC-supervised institutions originated at least 100 HPMLs, with only four institutions originating more than 500 HPMLs. Further, the FDIC-supervised institutions that met the definition of a small entity originated on average less than 11 HPMLs of $250,000[195] or less each in 2011.

The supplemental final rule relates to the January 2013 Final Rule issued by the Agencies on January 18, 2013, which goes into effect on January 18, 2014. The January 2013 Final Rule requires that creditors satisfy the following requirements for each HPML they originate that is not exempt from the rule:

- The creditor must obtain a written appraisal; the appraisal must be performed by a certified or licensed appraiser; and the appraiser must conduct a physical property visit of the interior of the property.
- At application, the consumer must be provided with a statement regarding the purpose of the appraisal, that the creditor will provide the applicant a copy of any written appraisal, and that the applicant may choose to have a separate appraisal conducted for the applicant's own use at his or her own expense.
- The consumer must be provided with a free copy of any written appraisals obtained for the transaction at least three business days before consummation.
- The creditor of an HPML must obtain an additional written appraisal, at no cost to the borrower, when the loan will finance the purchase of a consumer's principal dwelling and there has been an increase in the purchase price from a prior acquisition that took place within 180 days of the current purchase.

The supplemental final rule amends one existing exemption and establishes additional exemptions to the appraisal requirements in the January 2013 Final Rule. The supplemental final rule exempts:

- *''Streamlined'' refinancings.* A ''streamlined'' refinancing results if the holder of the successor credit risk also held the risk of the original credit obligation. The supplemental final rule does not exempt refinancing transactions involving cash out, negative amortization, interest only payments or balloon payments.
- *''Smaller Dollar'' Residential Loans.* A ''smaller dollar'' residential loan is an extension of credit of $25,000 or less, with the amount indexed annually for inflation, secured by the borrower's principal dwelling.
- *Manufactured Home Loans.* Loans secured by manufactured homes are exempt from the appraisal requirements for 18 months, until July 18, 2015. Subsequent to that date:
  - A loan secured by a new manufactured home and land must comply with the appraisal requirements except for the requirement to conduct a physical visit to the interior of the property;
  - A loan secured by an existing (used) manufactured home and land will be subject to all appraisal requirements; and
  - A loan secured by a manufactured home (new or used) and not land will be exempt from the appraisal requirements if the buyer is provided with a specified alternative cost estimate or valuation.

[193] *See* 5 U.S.C. 601 *et seq.*

[194] The FDIC based its analysis on the HMDA data, as it provided a proxy for the characteristics of HPMLs. While the FDIC recognizes that fewer higher-price loans were generated in 2011, a more historical review is not possible because the average offer price (a key data element for this review) was not added until the fourth quarter of 2009. The FDIC also recognizes that the HMDA data provides information relative to mortgage lending in metropolitan statistical areas, but not in rural areas.

[195] HPML transactions over $250,000 were excluded from this analysis as 12 CFR Part 323 of the FDIC Rules and Regulations requires an appraisal for real estate loans over $250,000 unless another exemption applies.

The supplemental final rule amends the exemption for a loan secured by a new manufactured home in the January 2013 Final Rule by requiring an appraisal without a physical visit to the interior of the property for loans secured by a new manufactured home and land after July 18, 2015. This amendment will increase burden as such loans will no longer be exempt from all of the appraisal requirements. While data is not available to estimate the number of such transactions, the previously cited HMDA data reflects that FDIC-supervised institutions that met the definition of a small entity each engaged in a relatively small number of HPML transactions in 2011. In addition, the supplemental final rule exempts additional transactions, including certain ''streamlined'' refinancings, ''smaller dollar'' residential loans, and some manufactured home loans, from the appraisal requirements of the January 2013 Final Rule, resulting in reduced regulatory burden to FDIC-supervised institutions that would have otherwise been required to obtain an appraisal and comply with the requirements for such HPML transactions.

It is the opinion of the FDIC that the supplemental final rule will not have a significant economic impact on a substantial number of small entities that it regulates in light of the following facts: (1) The supplemental final rule reduces regulatory burden on small institutions by exempting certain transactions from the appraisal requirements of the January 2013 Final Rule; and (2) the FDIC previously certified that the January 2013 Final Rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the FDIC certifies that the supplemental final rule would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

NCUA

The RFA generally requires that, in connection with a final rule, an agency prepare and make available for public comment a FRFA that describes the impact of the final rule on small entities.[196] A regulatory flexibility analysis is not required, however, if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** together with the rule.

[196] *See* 5 U.S.C. 601 *et seq.*

NCUA defines small entities as small federally insured credit unions (FICU) having less than 50 million dollars in assets.[197]

In 2012, there were approximately 4,600 small FICUs. The NCUA analyzed the 2012 HMDA [198] dataset to determine how many loans by all FICUs might qualify as HPMLs under section 129H of the TILA as added by section 1471 of the Dodd-Frank Act. This analysis reflects that 918 FICUs originated HPMLs, with only 24 institutions originating more than 100 HPMLs. Further, the FICUs that met the definition of a small entity originated on average less than 2 HPMLs in 2012.

The supplemental final rule relates to the January 2013 Final Rule issued by the Agencies on January 18, 2013, which goes into effect on January 18, 2014. The January 2013 Final Rule requires that creditors satisfy the following requirements for each HPML they originate that is not exempt from the rule:

- The creditor must obtain a written appraisal; the appraisal must be performed by a certified or licensed appraiser; and the appraiser must conduct a physical property visit of the interior of the property.
- At application, the consumer must be provided with a statement regarding the purpose of the appraisal, that the creditor will provide the applicant a copy of any written appraisal, and that the applicant may choose to have a separate appraisal conducted for the applicant's own use at his or her own expense.
- The consumer must be provided with a free copy of any written appraisals obtained for the transaction at least three business days before consummation.
- The creditor of an HPML must obtain an additional written appraisal, at no cost to the borrower, when the loan will finance the purchase of a consumer's principal dwelling and there has been an increase in the purchase price from a prior acquisition that took place within 180 days of the current purchase.

[197] NCUA Interpretative Ruling and Policy Statement (IRPS) 87–2, 52 FR 35231 (Sept. 18, 1987); *as amended by* IRPS 03–2, 68 FR 31951 (May 29, 2003); *and* IRPS 13–1, 78 FR 4032, 4037 (Jan. 18, 2013).

[198] The NCUA based its analysis on the HMDA data, as it provided a proxy for the characteristics of HPMLs. While the NCUA recognizes that fewer higher-price loans were generated in 2011, a more historical review is not possible because the average offer price (a key data element for this review) was not added until the fourth quarter of 2009. The NCUA also recognizes that the HMDA data provides information relative to mortgage lending in metropolitan statistical areas, but not in rural areas.

The supplemental final rule amends one existing exemption and establishes additional exemptions to the appraisal requirements in the January 2013 Final Rule. The supplemental final rule exempts:

- *''Streamlined'' refinancings.* A ''streamlined'' refinancing if the holder of the successor credit risk also held the risk of the original credit obligation. The supplemental final rule does not exempt refinancing transactions involving cash out, negative amortization, interest only payments or balloon payments.
- *Extensions of credit of $25,000 or less.* Extension of credit of $25,000 or less, with the amount indexed annually for inflation, secured by the borrower's principal dwelling.
- *Manufactured Home Loans.* Loans secured by a manufactured home are exempt from the appraisal requirements for 18 months, until July 18, 2015. Subsequent to that date:
  - A loan secured by a new manufactured home and land must comply with the appraisal requirements except for the requirement to conduct a physical visit to the interior of the property;
  - A loan secured by an existing (used) manufactured home and land will be subject to all appraisal requirements; and
  - A loan secured by a manufactured home (new or used) and not land will be exempt from the appraisal requirements if the consumer is provided with a specified alternative cost estimate or valuation.

The supplemental final rule amends the exemption for loans secured by a new manufactured home in the January 2013 Final Rule by requiring an appraisal without a physical visit to the interior of the property for loans secured by a new manufactured home and land after July 18, 2015. This amendment will increase burden as such loans will no longer be exempt from all of the appraisal requirements. While data is not available to estimate the number of such transactions, the previously cited HMDA data reflects that FICUs that met the definition of a small entity each engaged in a relatively small number of HPML transactions in 2011. In addition, the supplemental final rule exempts additional transactions, including certain ''streamlined'' refinancings, ''smaller dollar'' residential loans, and some manufactured home loans, from the appraisal requirements of the January 2013 Final Rule, resulting in reduced regulatory burden to FICUs that would have otherwise been required to obtain an appraisal and comply with the requirements for such HPML transactions.

It is the opinion of the NCUA that the supplemental final rule will not have a significant economic impact on a substantial number of small entities that it regulates in light of the following facts: (1) The supplemental final rule reduces regulatory burden on small institutions by exempting certain transactions from the appraisal requirements of the January 2013 Final Rule; and (2) the NCUA previously certified that the January 2013 Final Rule would not have a significant economic impact on a substantial number of small entities. Accordingly, the NCUA certifies that the supplemental final rule will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required.

Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. This supplemental final rule applies to FICUs and will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. NCUA has determined that this supplemental final rule does not constitute a policy that has federalism implications for purposes of the Executive Order.

The Treasury and General Government Appropriations Act, 1999—Assessment of Federal Regulations and Policies on Families

NCUA has determined this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 [199] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act.[200] NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. NCUA has submitted the rule to the Office of Management and Budget (OMB) for its determination.

Bureau

The RFA generally requires an agency to conduct an initial regulatory flexibility analysis (IRFA) and a FRFA of any rule subject to notice-and-comment rulemaking requirements.[201] These analyses must ''describe the impact of the proposed rule on small entities.'' [202] An IRFA or FRFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.[203] The Bureau also is subject to certain additional procedures under the RFA involving the convening of a panel to consult with small business representatives prior to proposing a rule for which an IRFA is required.[204]

An IRFA was not required for the proposal, and a FRFA is not required for the supplemental final rule, because it will not have a significant economic impact on a substantial number of small entities.

The analysis below evaluates the potential economic impact of the supplemental final rule on small entities as defined by the RFA. The analysis generally examines the regulatory impact of the provisions of the supplemental final rule against the baseline of the January 2013 Final Rule the Agencies issued on January 18, 2013.

No comments received were relevant specifically to smaller entities. The Agencies discuss more general comments in the section-by-section analyses and the Bureau discusses some of the more specific comments relating to benefits and costs of these provisions in its Section 1022(b) analysis.

A. Number and Classes of Affected Entities

The supplemental final rule applies to all creditors that extend closed-end credit secured by a consumer's principal dwelling. All small entities that extend these loans are potentially subject to at least some aspects of the supplemental final rule. This supplemental final rule may impact small businesses, small nonprofit organizations, and small government jurisdictions. A ''small business'' is determined by application of SBA regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards.[205] Under such standards, depository institutions with $500 million or less in assets are considered small; other financial businesses are considered small if such entities have average annual receipts (*i.e.,* annual revenues) that do not exceed $35.5 million. Thus, commercial banks, savings institutions, and credit unions with $500 million or less in assets are small businesses, while other creditors extending credit secured by real property or a dwelling are small businesses if average annual receipts do not exceed $35.5 million.

The Bureau can identify through data under the HMDA, Reports of Condition and Income (Call Reports), and data from the National Mortgage Licensing System (NMLS) the approximate numbers of small depository institutions that would be subject to the final rule. Origination data is available for entities that report in HMDA, NMLS or the credit union call reports; for other entities, the Bureau has estimated their origination activities using statistical projection methods.

The following table provides the Bureau's estimate of the number and types of entities to which the supplemental final rule would apply: [206]

[199] Public Law 104–121, 110 Stat. 857 (1996).

[200] 5 U.S.C. 551.

[201] 5 U.S.C. 601 *et. seq.*

[202] *Id.* at 603(a). For purposes of assessing the impacts of the proposed rule on small entities, ''small entities'' is defined in the RFA to include small businesses, small not-for-profit organizations, and small government jurisdictions. *Id.* at 601(6). A ''small business'' is determined by application of SBA regulations and reference to the North American Industry Classification System (NAICS) classifications and size standards. *Id.* at 601(3). A ''small organization'' is any ''not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' *Id.* at 601(4). A ''small governmental jurisdiction'' is the government of a city, county, town, township, village, school district, or special district with a population of less than 50,000. *Id.* at 601(5).

[203] *Id.* at 605(b).

[204] *Id.* at 609.

[205] 5 U.S.C. 601(3). The current SBA size standards are located on the SBA's Web site at *http://www.sba.gov/content/table-small-business-size-standards.*

[206] The Bureau assumes that creditors who originate chattel manufactured home loans are included in the sources described above, but to the extent commenters believe this is not the case, the Bureau seeks data from commenters on this point.

TABLE 1—COUNTS OF CREDITORS BY TYPE

[Estimated number of affected entities and small entities by NAICS code and engagement in closed-end mortgage transactions]

Category	NAICS	Small entity threshold	Entities engaged in closed-end mortgage transactions [b]	Small entities engaged in closed-end mortgage transactions
Commercial banks & savings institutions.	522110, 522120.	$500,000,000 assets	[a] 7230	[a] 5913
Credit unions [c]	522130	$500,000,000 assets	[a] 4178	[a] 3784
Real Estate credit [d e]	522310, 522292.	$35,500,000 revenues	2787	[a] 2672
Total			14,195	12,369

Source: 2011 HMDA, Dec. 31, 2011 Bank and Thrift Call Reports, Dec. 31, 2011 NCUA Call Reports, Dec. 31, 2011 NMLSR Mortgage Call Reports.

[a] For HMDA reporters, loan counts from HMDA 2011. For institutions that are not HMDA reporters, loan counts projected based on Call Report data fields and counts for HMDA reporters.

[b] Entities are characterized as originating loans if they make one or more loans.

[c] Does not include cooperatives operating in Puerto Rico. The Bureau has limited data about these institutions or their mortgage activity.

[d] NMLSR Mortgage Call Report for 2011. All MCR reporters that originate at least one loan or that have positive loan amounts are considered to be engaged in real estate credit (instead of purely mortgage brokers). For institutions with missing revenue values, the probability that the institution was a small entity is estimated based on the count and amount of originations and the count and amount of brokered loans.

[a] Data do not distinguish nonprofit from for-profit organizations, but Real Estate Credit presumptively includes nonprofit organizations.

B. Impact of Exemptions

The provisions of the supplemental final rule all provide or modify exemptions from the HPML appraisal requirements. Measured against the baseline of the burdens imposed by the January 2013 Final Rule the Agencies issued on January 18, 2013, the Bureau believes that these provisions impose either no or insignificant additional burdens on small entities. The Bureau believes that most of these provisions would reduce the burdens associated with implementation costs, additional valuation costs, and compliance costs stemming from the HPML appraisal requirements. The Bureau also notes that creditors voluntarily choose whether to avail themselves of the exemptions.

As discussed in the Bureau's Section 1022(b) analysis, the five provisions [207] for non-QM HPMLs are in this rule are:

1. Certain refinances, commonly referred to as ''streamlined'' are now exempt from the January 2013 Final Rule;

2. Smaller dollar loans (under $25,000) are now exempt from the January 2013 Final Rule;

3. Used manufactured housing transactions that are not secured by land (chattel) are now exempt from the January 2013 Final Rule and, for applications received on or after July 18, 2015, subject to some conditions to provide an alternative valuation; [208]

4. New manufactured housing transactions that are not secured by land (chattel) remain exempt from the January 2013 Final Rule; however, for applications received on or after July 18, 2015, these transactions are now subject to conditions; and

5. New manufactured housing transactions secured by land (new land/home) for which an application is received on or after July 18, 2015, now are subject to the January 2013 Final Rule; however, these transactions remain exempted from the physical interior visit part of the requirement.

1. Exemption for ''Streamlined'' Refinancing Programs

The supplemental final rule provides an exemption for any transaction that is a refinancing satisfying certain conditions.

This provision removes the burden to small entities extending any HPMLs covered by the final rule under ''streamlined'' refinance programs of providing a consumer notice and obtaining, reviewing, and disclosing to consumers USPAP- and FIRREA-compliant appraisals.

The regulatory burden reduction might be lower since a creditor would have to determine whether the refinancing loan is of the type that meets the exemption requirements. However, the Bureau believes that little if any additional time would be needed to make these determinations, as they depend upon basic information relating to the transaction that is typically already known to the creditor. Small entities will be able to choose whether to avail themselves of this exemption.

2. Exemption for Smaller Dollar Loans

The supplemental final rule exempts from the final rule loans equal to or less than $25,000, adjusted annually for inflation. This provision removes burden imposed by the final rule on small entities extending any HPMLs covered by the final rule up to $25,000. In any event, small entities will be able to choose whether to avail themselves of this exemption.

3. Exemption Subject to Alternative Valuation for Used Manufactured Housing Transactions Not Secured by Land (Used Chattel)

The supplemental final rule exempts from the HPML appraisal requirements a transaction secured by an existing manufactured home and not land. This provision removes certain burdens imposed by the January 2013 Final Rule on small entities extending HPMLs covered by the January 2013 Final Rule when they are secured solely by existing manufactured homes. The burdens removed would be those of providing a consumer notice, determining the applicability of the second appraisal requirement in purchase transactions, and obtaining, reviewing, and disclosing to consumers USPAP- and FIRREA-compliant appraisals. To be eligible for this burden-reducing exemption, the creditor is required to obtain an estimate of the value of the home, with the types of estimates allowed described in detail in the section-by-section analysis. For example, creditors can use an independent cost service to qualify for the exemption.

Taking the January 2013 Final Rule as the baseline, as discussed in the section-by-section and the Bureau's Section

[207] The Bureau believes that other provisions would have a *de minimis* impact on small entities.

[208] Used manufactured housing transactions that are secured by land remain covered by the January 2013 Final Rule. However, all loans are exempt if the application is received before July 18, 2015.

1022(b) analyses, this exemption might provide significant burden relief since, the Bureau believes that USPAP is a set of standards typically followed by appraisers who are state-certified or licensed, and that state laws generally do not require certifications or licenses to appraise personal property. Thus, many of these transactions might not have been made, but for this exemption. Finally, taking advantage of this exemption is voluntary for creditors, thus it imposes no additional burden.

4. Narrowed Exemption for Transactions Secured by New Chattel Manufactured Homes

As discussed in the Bureau's Section 1022(b) analysis and in the section-by-section analysis, the final rule requires the creditor to provide the consumer with one of several types of an alternative valuation of the new manufactured home in transactions that are secured by a new manufactured home but not land. This condition does not significantly increase the burden of the rule relative to the January 2013 Final Rule. The Bureau believes that the cost of obtaining an estimate of the value of the new manufactured home using a third-party cost source, for example, would be significantly less than the cost of obtaining a USPAP-complaint appraisal.

As noted in the Bureau's Section 1022(b) analysis, the Bureau believes that there might be as many as 3,400 such transactions. As shown in the table above, the Bureau believes that there were 12,369 small creditors in 2011. Thus, over 85 percent of small creditors face at most one such transaction per year. As noted in the 2013 January Final Rule, the Bureau believes that a USPAP appraisal costs on average $350. Even if we suppose that an alternative valuation would cost as must as a USPAP appraisal, that results in a burden of $350 for that creditor, an insignificant burden. Note that the Bureau believes that the cost imposed per transaction is considerably lower, arguably under $5 for some third-party cost sources. Moreover, HMDA data implies that over 85 percent of small creditors will not be subject to any transactions like that. Even if the Bureau misestimated the number of affected transactions by a factor of 10, the costs imposed on 85 percent of small creditors are still like to be well under $100 per creditor.[209]

5. Narrowed Exemption for Transactions Secured by New Manufactured Homes and Land

The Agencies finalized a provision that requires an appraisal for transactions secured by new manufactured homes and land, while exempting these appraisals from interior inspection. As noted in the Bureau's Section 1022(b) analysis, the Bureau believes that approximately 700 transactions are going to be affected. Thus, over 90 percent of small creditors are not going to be affected by this provision. Even if the Bureau misestimated the number of transactions affected by a factor of 10, over 85 percent of small creditors would be subject to at most one such transaction per year, resulting in a burden of around $350 per creditor, a negligible fraction of a creditor's revenue. This impact could be even lower, given that, as noted in the section-by-section analysis, these transactions already are subject to a full appraisal requirement when carried out under GSE or federal agency programs.

C. Conclusion

Each element of this supplemental final rule would reduce economic burden for small entities or impose a minor burden on a small amount of creditors (well less than $500 per creditor for 85 percent of small creditors even if the Bureau misestimated the number of covered manufactured home transactions by a factor of 10). The exemption for HPMLs secured by existing manufactured homes and not land would lessen any economic impact resulting from the HPML appraisal requirements. The exemption for ''streamlined'' refinance HPMLs also would lessen any economic impact on small entities extending credit pursuant to those programs, particularly those relating to the refinancing of existing loans held on portfolio. The exemption for smaller-dollar HPMLs similarly would lessen burden on small entities extending credit in the form of HPMLs up to the threshold amount. The narrowed exemptions for transactions secured by new manufactured homes, both land and chattel, would barely affect over 85 percent of creditors (at most one such transaction per year).

These impacts that would have been generated by the January 2013 Final Rule are reduced to the extent the transactions are not already exempt from the January 2013 Final Rule as qualified mortgages. While all of these exemptions may entail additional recordkeeping costs, the Bureau believes that these costs are minimal and outweighed by the cost reductions resulting from the proposal. Small entities for which such cost reductions are outweighed by additional record keeping costs may choose not to utilize the proposed exemptions.

Certification

Accordingly, the undersigned certifies that the supplemental final rule will not have a significant economic impact on a substantial number of small entities.

FHFA

The supplemental final rule applies only to institutions in the primary mortgage market that originate mortgage loans. FHFA's regulated entities—Fannie Mae, Freddie Mac, and the Federal Home Loan Banks—operate in the secondary mortgage markets. In addition, these entities do not come within the meaning of small entities as defined in the RFA. *See* 5 U.S.C. 601(6)).

VIII. Paperwork Reduction Act

OCC, Board, FDIC, NCUA, and Bureau

Certain provisions of the January 2013 Final Rule contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*). *See* 78 FR 10368, 10429 (Feb. 13, 2013). Under the PRA, and notwithstanding any other provision of law, the Agencies may not conduct or sponsor, and a person is not required to respond to, an information collection unless the information collection displays a valid OMB control number. The information collection requirements contained in this final rule to amend the January 2013 Final Rule have been submitted to OMB for review and approval by the Bureau, FDIC, NCUA, and OCC under section 3506 of the PRA and section 1320.11 of the OMB's implementing regulations (5 CFR part 1320). The Bureau, FDIC, NCUA, and OCC submitted these information collection requirements to OMB at the proposed rule stage, as well. OMB filed comments instructing the agencies to examine public comment in response to the NPRM and describe in the supporting statement of its collection any public comments received regarding the collection, as well as why it did or did not incorporate the commenter's recommendation. No comments were received concerning the proposed information collection requirements. The Board reviewed these final rules

[209] All mortgage lenders can participate in the manufactured housing market segment (which includes chattel transactions and transactions secured by a manufactured home and land; the handful of manufactured housing specialty lenders engaged in chattel lending are still not significant in number by themselves. Further, even if the chattel exemption conditions were significant to their revenue, that is not a substantial number for RFA purposes.

under the authority delegated to the Board by OMB.

Title of Information Collection: HPML Appraisals.

Frequency of Response: Event generated.

Affected Public: Businesses or other for-profit and not-for-profit organizations.[210]

Bureau: Insured depository institutions with more than $10 billion in assets, their depository institution affiliates, and certain non-depository mortgage institutions.[211]

FDIC: Insured state non-member banks, insured state branches of foreign banks, state savings associations, and certain subsidiaries of these entities.

OCC: National banks, Federal savings associations, Federal branches or agencies of foreign banks, or any operating subsidiary thereof.

Board: State member banks, uninsured state branches and agencies of foreign banks.

NCUA: Federally-insured credit unions.

Abstract:

The collection of information requirements in the January 2013 Final Rule are found in paragraphs (c)(3)(i), (c)(3)(ii), (c)(4), (c)(5), and (c)(6) of 12 CFR 1026.35.[212] This information is required to protect consumers and promote the safety and soundness of creditors making HPMLs subject to 12 CFR 1026.35(c). This information is used by creditors to evaluate real estate collateral securing HPMLs subject to 12 CFR 1026.35(c) and by consumers entering these transactions. The collections of information are mandatory for creditors making HPMLs subject to 12 CFR 1026.35(c).

The January 2013 Final Rule requires that, within three business days of application, a creditor provide a disclosure that informs consumers of the purpose of the appraisal, that the creditor will provide the consumer a copy of any appraisal, and that the consumer may choose to have a separate appraisal conducted at the expense of the consumer (Initial Appraisal Disclosure). *See* 12 CFR 1026.35(c)(5). If a loan is a HPML subject to 12 CFR 1026.35(c), then the creditor is required to obtain a written appraisal prepared by a certified or licensed appraiser who conducts a physical visit of the interior of the property that will secure the transaction (Written Appraisal), and provide a copy of the Written Appraisal to the consumer. *See* 12 CFR 1026.35(c)(3)(i) and (c)(6). To qualify for the safe harbor provided under the January 2013 Final Rule, a creditor is required to review the Written Appraisal as specified in the text of the rule and Appendix N. *See* 12 CFR 1026.35(c)(3)(ii).

A creditor is required to obtain an additional appraisal (Additional Written Appraisal) for a HPML that is subject to 12 CFR 1026.35(c) if (1) the seller acquired the property securing the loan 90 or fewer days prior to the date of the consumer's agreement to acquire the property and the resale price exceeds the seller's acquisition price by more than 10 percent; or (2) the seller acquired the property securing the loan 91 to 180 days prior to the date of the consumer's agreement to acquire the property and the resale price exceeds the seller's acquisition price by more than 20 percent. *See* 12 CFR 1026.35(c)(4). The Additional Written Appraisal must meet the requirements described above and also analyze: (1) The difference between the price at which the seller acquired the property and the price the consumer agreed to pay; (2) changes in market conditions between the date the seller acquired the property and the date the consumer agreed to acquire the property; and (3) any improvements made to the property between the date the seller acquired the property and the date on which the consumer agreed to acquire the property. *See* 12 CFR 1026.35(c)(4)(iv). A creditor is also required to provide a copy of the Additional Written Appraisal to the consumer. 12 CFR 1026.35(c)(6).

The requirements provided in the January 2013 Final Rule were described in the PRA section of that rule. *See* 78 FR 10368, 10429 (February 13, 2013). As described in the Bureau's section 1022 analysis in the January 2013 Final Rule and in Table 3 to that rule, the estimated burdens allocated to the Bureau reflected an institution count based upon data that had been updated from the proposed rule stage and reduced to reflect those exemptions in the January 2013 Final Rule for which the Bureau had identified data. As discussed in the January 2013 Final Rule, the other Agencies did not adjust the calculations to account for the exempted transactions provided in the January 2013 Final Rule. Accordingly, the estimated burden calculations in Table 3 in the January 2013 Final Rule were overstated.

Calculation of Estimated Burden

January 2013 Final Rule

As explained in the January 2013 Final Rule, for the Initial Appraisal Disclosure, the creditor is required to provide a short, written disclosure within three business days of application. Because this disclosure is supplied by the federal government for purposes of disclosure to the public, this is not classified as an information collection pursuant to 5 CFR 1320(c)(2), and the Agencies have assigned it no burden for purposes of this PRA analysis.

The estimated burden for the Written Appraisal requirements includes the creditor's burden of reviewing the Written Appraisal in order to satisfy the safe harbor criteria set forth in the rule and providing a copy of the Written Appraisal to the consumer. Additionally, as discussed above, an Additional Written Appraisal containing additional analyses is required in certain circumstances. The Additional Written Appraisal must meet the standards of the Written Appraisal. The Additional Written Appraisal is also required to be prepared by a certified or licensed appraiser different from the appraiser performing the Written Appraisal, and a copy of the Additional Written Appraisal must be provided to the consumer. The creditor must separately review the Additional Written Appraisal in order to qualify for the safe harbor provided in the January 2013 Final Rule.

The Agencies continue to estimate that respondents will take, on average, 15 minutes for each HPML that is subject to 12 CFR 1026.35(c) to review the Written Appraisal and to provide a copy of the Written Appraisal. The Agencies further continue to estimate that respondents will take, on average, 15 minutes for each HPML that is subject to 12 CFR 1026.35(c) to investigate and verify the need for an Additional Written Appraisal and, where necessary, an additional 15 minutes to review the Additional Written Appraisal and to provide a copy of the Additional Written Appraisal. For the small fraction of loans requiring an Additional Written Appraisal, the burden is similar to that of the Written Appraisal.

[210] The burdens on the affected public generally are divided in accordance with the Agencies' respective administrative enforcement authority under TILA section 108, 15 U.S.C. 1607.

[211] The Bureau and the Federal Trade Commission (FTC) generally both have enforcement authority over non-depository institutions for Regulation Z. Accordingly, for purposes of this PRA analysis, the Bureau has allocated to itself half of the Bureau's estimated burden for non-depository mortgage institutions. The FTC is responsible for estimating and reporting to OMB its share of burden under this final rule.

[212] As explained in the section-by-section analysis, these requirements are also published in regulations of the OCC (12 CFR 34.203(c)(1), (c)(2), (d), (e) and (f)) and the Board (12 CFR 226.43(c)(1), (c)(2), (d), (e), and (f)). For ease of reference, this PRA analysis refers to the section numbers of the requirements as published in the Bureau's Regulation Z at 12 CFR 1026.35(c).

Final Rule

The Agencies use the estimated burden from the PRA section of the January 2013 Final Rule as the baseline for analyzing the impact the three exemptions in the final rule. The estimated number of appraisals per respondent for the FDIC, Board, OCC, and NCUA respondents has been updated to account for the exemption for qualified mortgages adopted in the January 2013 Final Rule, which had not been accounted for in the table published at that time, as discussed in the PRA section of the Final Rule. *See* 78 FR 10368, 10430–31 (February 13, 2013). In addition, the impact of the final rule has been considered as follows:

First, the Agencies find that, currently, only a very small minority of refinances involve cash out beyond the levels permitted for the exemption for certain refinance loans. *See* § 1026.35(c)(2)(vii). Going forward, the Agencies believe that virtually all refinance loans will be either qualified mortgages or qualify for this exemption. The Agencies therefore assume that the exemption for certain refinances in this supplemental final rule affects all of the refinance loans analyzed under Section 1022(b)(2) of the January 2013 Final Rule.[213] In that analysis, the Bureau estimated that a total of 3,800 new Written Appraisals would occur as a result of the January 2013 Final Rule (including home purchase, home equity, and refinance loans). In the Supplemental Proposal, the Bureau estimated that refinances would account for approximately 1,200 of these 3,800 new Written Appraisals that would occur as a result of the January 2013 Final Rule.[214] Thus, the exemption for certain refinances in this supplemental final rule would eliminate approximately 32 percent of the new Written Appraisals that were estimated to occur as a result of the January 2013 Final Rule.

Second, based on the HMDA 2011 data, the Agencies find that 12 percent of all HPMLs are under $25,000. The Agencies believe that this implies that there will be, proportionately, 12 percent fewer appraisals based on the exemption for smaller dollar loans.

Third, the Agencies find that many of the transactions secured by manufactured homes involve either refinances (all of which are conservatively assumed to be covered by the exemption for certain refinances), or smaller dollar loans (which cover many types of manufactured housing transactions).[215] While covered HPMLs above smaller dollar levels that are secured by existing manufactured homes and not land may be newly-exempted, these transactions will need alternative valuations under the final rule. In addition, such loans secured by new manufactured homes and not land also will need alternative valuations. Further, such loans secured by new manufactured homes and land will need an appraisal. In the January 2013 Final Rule, the Agencies did not reduce the paperwork burden estimates to account for the exemption for new manufactured homes adopted at that time. The Agencies therefore conservatively make no adjustment to the data in the first panel of Table 3 in the January 2013 Final Rule as a result of that exemption.[216]

The numbers above affect only the first panel in Table 3 of the PRA section of the January 2013 Final Rule. Refinances are not subject to the requirement to obtain an Additional Written Appraisal under the January 2013 Final Rule, and it is assumed that none of the smaller dollar loans or the loans secured by manufactured homes and not land were used to purchase homes being resold within 180 days with the requisite price increases to trigger that requirement (and thus the exemptions for those loans will not reduce any burden associated with that requirement). Accordingly, only the first panel in Table 3 from the January 2013 Final Rule is being updated and the estimates in the second and third panels remain the same. The updated table is reproduced below. The one-time costs are not affected.

The following table summarizes the resulting burden estimates.

[213] *See* 78 FR 10368, 10419 (Feb. 13, 2013). As discussed in the Section 1022(b)(2) analysis in this rule, the Bureau believes that there were at most private 12,000 no cash-out refinance transactions in 2011, and that some number of these were refinances of existing loans where the credit risk holder changed and thus would not be eligible for the exemption, and that a small number of these refinances had interest-only, negative amortization, or balloon features and also would not be eligible for the exemption. Moreover, the Bureau believes that about 90 percent of refinance transactions would have an appraisal provided to consumers because the creditor chose to have an appraisal and provided a copy due to the ECOA Valuations Rule. Thus, this exemption is likely to affect under 1,000 loans a year. The Agencies do not possess reliable, representative data on how many refinances will qualify for this exemption. However, to the extent refinances previously would not have been eligible for exemptions to this rule, the Agencies believe that going forward most such refinances will be restructured as qualified mortgages or otherwise to satisfy the criteria of this exemption for certain refinances. The Agencies used the same assumption for the supplemental proposal and did not receive any comments indicating otherwise. Accordingly, the Table below reflects this assumption. If this assumption did not hold and these refinances were not restructured, the Agencies believe that based on the 2011 data the final rules will cause at most a minor number of new appraisals—for approximately 1,200 loans.

[214] As stated in the Bureau's Section 1022 analysis in the January 2013 Final Rule 1022, there were 12,000 refinances affected by the January 2013 Final Rule, and out of those the Bureau estimated that 10 percent did not have a full appraisal performed in the absence of the January 2013 Final Rule, resulting in 10 percent*12,000=1,200 of refinances that would be estimated to obtain an appraisal as a result of the January 2013 Final Rule (and which would not be obtained as a result of this supplemental final rule).

[215] In particular, the Bureau believes that a substantial proportion of the existing manufactured homes that are sold would be sold for less than $25,000. According to the Census Bureau 2011 American Housing Survey Table C–13–OO, the average value of existing manufactured homes is $30,000. See *http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=AHS_2011_C13OO&prodType=table.* The estimate includes not only the value of the home, but also appears to include the value of the lot where the lot is also owned. According to the AHS Survey, the term ''value'' is defined as ''the respondent's estimate of how much the property (house and lot) would sell for if it were for sale. Any nonresidential portions of the property, any rental units, and land cost of mobile homes, are excluded from the value. For vacant units, value represents the sales price asked for the property at the time of the interview, and may differ from the price at which the property is sold. In the publications, medians for value are rounded to the nearest dollar.'' See *http://www.census.gov/housing/ahs/files/Appendix%20A.pdf.*

[216] The Bureau assumes that manufactured housing loans secured solely by a manufactured home and not land are reflected in the data provided by the institutions to the datasets that are used by the Bureau (Call Reports for Banks and Thrifts, Call Reports for Credit Unions, and NMLS's Mortgage Call Reports), and thus are reflected in the Bureau's loan projections utilized for the table below.

The Agencies conservatively included all non-QM HPML MH loans reported in HMDA and projected based on the Call Reports data in its paperwork burden calculations for the January 2013 Final Rule. The Agencies did not possess sufficient information at the time to estimate the proportion of non-QM HPML MH affected by the January 2013 Final Rule. No new data is used in this rule, and the Agencies still do not possess sufficient information to estimate the proportion of non-QM HPML MH affected by this Supplemental final rule. Thus, the Agencies continue to conservatively assume that all non-QM HPML MH loans reported in HMDA and projected based on the Call Reports data are subject to the full appraisal requirement, resulting in no change in the Table of paperwork burden below.

Note that, while the Agencies assume that all non-QM HPML MH loans are affected, and thus the paperwork burden reported might be an overestimate, the Agencies are possibly underestimating the burden to the extent that there exists systematic underreporting or non-reporting of MH loans to HMDA by creditors who are subject to reporting. In its Section 1022(b) and RFA analyses, the Bureau stress-tested this possibility and very conservatively, in terms of calculating the magnitude of loans affected by provisions of this Supplemental final rule, assumed that this underreporting is occurring on a massive scale. For the purposes of the PRA analysis, the Agencies assume that there is no underreporting. Also, note that if the Bureau underestimated the proportion of non-QM loans among MH lending, the paperwork burden is also underestimated. See the Bureau's Section 1022(b) analysis above for a discussion of data used and comments received.

Estimated PRA Burden

TABLE 2—SUMMARY OF PRA BURDEN HOURS FOR INFORMATION COLLECTIONS IN HPML APPRAISALS FINAL RULE ONCE EXEMPTIONS IN THE SUPPLEMENTAL PROPOSAL ARE ADOPTED [217]

	Estimated number of respondents [a]	Estimated number of appraisals per respondent [218] [b]	Estimated burden hours per appraisal [c]	Estimated total annual burden hours [d] = (a*b*c)
Review and Provide a Copy of Written Appraisal				
Bureau [219,220,221,222], Depository Inst. > $10 B in total assets+ Depository Inst. Affiliates	132	3.73	0.25	123
Non-Depository Inst. and Credit Unions	2,853	0.23	0.25	[223] 82
FDIC	2,571	0.14	0.25	93
Board [224]	418	0.18	0.25	19
OCC	1,399	0.16	0.25	55
NCUA	2,437	0.07	0.25	44
Total	9,810			416
Investigate and Verify Requirement for Additional Written Appraisal				
Bureau Depository Inst. > $10 B in total assets+ Depository Inst. Affiliates	132	20.05	0.25	662
Non-Depository Inst. and Credit Unions	2,853	1.22	0.25	435
FDIC	2,571	0.78	0.25	502
Board	418	0.97	0.25	102
OCC	1,399	0.85	0.25	299
NCUA	2,437	0.38	0.25	232
Total	9,810			2,232
Review and Provide a Copy of Additional Written Appraisal				
Bureau Depository Inst. > $10 B in total assets+ Depository Inst. Affiliates	132	0.64	0.25	21
Non-Depository Inst. and Credit Unions	2,853	0.04	0.25	14
FDIC	2,571	0.02	0.25	15
Board	418	0.03	0.25	3
OCC	1,399	0.02	0.25	8
NCUA	2,437	0.01	0.25	5
Total	9,810			66

Notes:
(1) Respondents include all institutions estimated to originate HPMLs that are subject to 12 CFR 1026.35(c).
(2) There may be an additional ongoing burden of roughly 75 hours for privately-insured credit unions estimated to originate HPMLs that are subject to 12 CFR 1026.35(c). As discussed in the second footnote in this PRA section, the Bureau will assume half of the burden for non-depository institutions and the privately-insured credit unions.

[217] Some of the intermediate numbers are rounded, resulting in ''Estimated Total Annual Burden Hours'' not precisely matching up with columns a, b, and c.

[218] The ''Estimated Number of Appraisals Per Respondent'' reflects the estimated number of Written Appraisals and Additional Written Appraisals that will be performed solely to comply with the January 2013 Final Rule. It does not include the number of appraisals that will continue to be performed under current industry practice, without regard to the Final Rule's requirements.

[219] The information collection requirements (ICs) contained in the Bureau's Regulation Z are generally approved by OMB under OMB No. 3170–0015. The Bureau divided certain proposals to amend the Bureau's Regulation Z into separate Information Collection Requests in OMB's system (accessible at *www.reginfo.gov*) to ease the public's ability to view and understand the individual proposals. The ICs in the January 2013 Final Rule (and this final rule) will be incorporated with the Bureau's existing collection associated with Truth in Lending Act (Regulation Z) 12 CFR 1026 (OMB No. 3170–0026). In the future, the Bureau plans to reintegrate the ICs in this final rule back into OMB No. 3170–0015; therefore, OMB No. 3170–0015 should continue to be used when referencing the ICs contained in this final rule.

[220] The burden estimates allocated to the Bureau are updated using the data described in the Bureau's section 1022 analysis in the January 2013 Final Rule and in the Bureau's section 1022 analysis above, including significant burden reductions after accounting for qualified mortgages that are exempt from the January 2013 Final Rule, and burden reductions after accounting for loans in rural areas that are exempt from the Additional Written Appraisal requirement in the Final Rule.

[221] There are 153 depository institutions (and their depository affiliates) that are subject to the Bureau's administrative enforcement authority. In addition, there are 146 privately-insured credit unions that are subject to the Bureau's administrative enforcement authority. For purposes of this PRA analysis, the Bureau's respondents under Regulation Z are: 135 depository institutions that originate either open or closed-end mortgages; 77 privately-insured credit unions that originate either open or closed-end mortgages; and an estimated 2,787 non-depository institutions that are subject to the Bureau's administrative enforcement authority. Unless otherwise specified, all references to burden hours and costs for the Bureau respondents for the collection under Regulation Z are based on a calculation that includes half of the burden for the estimated 2,787 non-depository institutions and 77 privately-insured credit unions.

[222] The Bureau calculates its burden by including both HMDA reporting creditors and the HMDA non-

Finally, as explained in the PRA section of the January 2013 Final Rule, respondents must also review the instructions and legal guidance associated with the Final Rule and train loan officers regarding the requirements of the Final Rule. The Agencies continue to estimate that these one-time costs are as follows: Bureau: 36,383 hours; FDIC: 10,284 hours; Board 3,344 hours; OCC: 19,586 hours; NCUA: 7,311 hours.[225]

The Agencies have a continuing interest in the public opinion of our collections of information. At any time, comments regarding the burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden, may be sent to the OMB desk officer for the Agencies by mail to U.S. Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, or by the internet to *oira_submission@omb.eop.gov,* with copies to the Agencies at the addresses listed in the **ADDRESSES** section of this **SUPPLEMENTARY INFORMATION.**

FHFA

The January 2013 Final Rule and this final rule do not contain any collections of information applicable to the FHFA, requiring review by OMB under the PRA. Therefore, FHFA has not submitted any materials to OMB for review.

IX. Section 302 of the Riegle Community Development and Regulatory Improvement Act

Section 1400 of the Dodd Frank Act requires that the rule issued to implement Section 1471 take effect not later than 12 months after the date of issuance of the Final Rule. The January 2013 Final Rule was issued on January 18, 2013 and will become effective on January 18, 2014. This supplemental final rule is issued on December 10, 2013 and will be effective on January 18, 2014, except that modifications to the exemptions for loans secured by manufactured homes will be effective on July 18, 2015.

Section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (''RCDRIA'') requires that, subject to certain exceptions, regulations issued by the federal banking agencies that impose additional reporting, disclosure, or other requirements on insured depository institutions, take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form. This effective date requirement does not apply if the issuing agency finds for good cause that the regulation should become effective before such time. 12 U.S.C. 4802.

With respect to the provisions that are effective on January 18, 2014, the OCC, Board, and FDIC find that section 302 of the RCDRIA does not apply because these provisions do not impose additional reporting, disclosure, or other requirements on insured depository institutions.

With respect to the provisions that are effective July 18, 2015, the OCC, Board, and FDIC recognize that section 302 of the RCDRIA applies because these modifications to the exemption for loans secured by manufactured housing impose some additional disclosure requirements. The July 18, 2015 effective date will provide depository institutions engaged in manufactured housing lending the opportunity to develop appropriate policies and implement systems to ensure compliance with the new requirements. Although this date is not the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, the OCC, Board, and FDIC note that insured depository institutions wishing to comply at the beginning of a calendar quarter prior to the effective date retain the flexibility to do so.

List of Subjects

12 CFR Part 34

Appraisal, Appraiser, Banks, Banking, Consumer protection, Credit, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

12 CFR Part 226

Advertising, Appraisal, Appraiser, Consumer protection, Credit, Federal Reserve System, Mortgages, Reporting and recordkeeping requirements, Truth in lending.

12 CFR Part 1026

Advertising, Appraisal, Appraiser, Banking, Banks, Consumer protection, Credit, Credit unions, Mortgages, National banks, Reporting and recordkeeping requirements, Savings associations, Truth in lending.

Department of the Treasury

Office of the Comptroller of the Currency

Authority and Issuance

For the reasons set forth in the preamble, the OCC amends 12 CFR part 34 as amended on February 13, 2013 at 78 FR 10368, effective on January 18, 2014, as follows:

PART 34—REAL ESTATE LENDING AND APPRAISALS

■ 1. The authority citation for part 34 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.,* 25b, 29, 93a, 371, 1463, 1464, 1465, 1701j–3, 1828(o), 3331 *et seq.,* 5101 *et seq.,* 5412(b)(2)(B) and 15 U.S.C. 1639h.

Subpart G—Appraisals for Higher-Priced Mortgage Loans

■ 2. Section 34.202 is amended by redesignating paragraphs (a) through (c) as paragraphs (b) through (d), respectively, and adding a new paragraph (a) to read as follows:

§ 34.202 Definitions applicable to higher-priced mortgage loans.

(a) Consummation has the same meaning as in 12 CFR 1026.2(a)(13).

* * * * *

■ 3a. Section 34.203 is amended by:
■ a. Redesignating paragraphs (a)(2), (3), and (4) as paragraphs (a)(3), (5), and (7), respectively, and republishing them;
■ b. Adding new paragraphs (a)(2) and (4) and paragraph (a)(6);
■ c. Revising paragraphs (b) introductory text and (b)(1) and (2); and
■ d. Adding paragraphs (b)(7) and (8).

The additions and revisions read as follows:

§ 34.203 Appraisals for higher priced mortgage loans.

(a) *Definitions.* For purposes of this section:

* * * * *

(2) *Credit risk* means the financial risk that a consumer will default on a loan.

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reporting creditors, based on the 2011 data, and allocating burden as discussed in the second footnote in this PRA section. The other Agencies only report the burden for HMDA reporting creditors, based on the 2011 counts.

[223] The Bureau assumes half of the burden for the non-depository mortgage institutions and the credit unions supervised by the Bureau. The FTC assumes the burden for the other half.

[224] The ICs in the January 2013 Final Rule will be incorporated with the Board's Reporting, Recordkeeping, and Disclosure Requirements associated with Regulation Z (Truth in Lending), 12 CFR part 226 (OMB No. 7100–0199). The burden estimates provided in this final rule pertain only to the ICs associated with the Final Rule.

[225] As discussed in the PRA section of the January 2013 Final Rule, estimated one-time burden continues to be calculated assuming a fixed burden per institution to review the regulations and fixed burden per estimated loan officer in training costs. As a result of the different size and mortgage activities across institutions, the average per-institution one-time burdens vary across the Agencies. *See* 78 FR 10368, 10432 (Feb. 13, 2013).

(3) *Manufactured home* has the same meaning as in 24 CFR 3280.2.

(4) *Manufacturer's invoice* means a document issued by a manufacturer and provided with a manufactured home to a retail dealer that separately details the wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options (large appliances, built-in items and equipment), plus actual itemized charges for freight from the factory to the dealer's lot or the homesite (including any rental of wheels and axles) and for any sales taxes to be paid by the dealer. The invoice may recite such prices and charges on an itemized basis or by stating an aggregate price or charge, as appropriate, for each category.

(5) *National Registry* means the database of information about State certified and licensed appraisers maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(6) *New manufactured home* means a manufactured home that has not been previously occupied.

(7) *State agency* means a ''State appraiser certifying and licensing agency'' recognized in accordance with section 1118(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347(b)) and any implementing regulations.

(b) *Exemptions.* Unless otherwise specified, the requirements in paragraph (c) through (f) of this section do not apply to the following types of transactions:

(1) A loan that satisfies the criteria of a qualified mortgage as defined pursuant to 15 U.S.C. 1639c.

(2) An extension of credit for which the amount of credit extended is equal to or less than the applicable threshold amount, which is adjusted every year to reflect increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as applicable, and published in the OCC official interpretations to this paragraph (b)(2).

* * * * *

(7) An extension of credit that is a refinancing secured by a first lien, with refinancing defined as in 12 CFR 1026.20(a) (except that the creditor need not be the original creditor or a holder or servicer of the original obligation), provided that the refinancing meets the following criteria:

(i) Either—

(A) The credit risk of the refinancing is retained by the person that held the credit risk of the existing obligation and there is no commitment, at consummation, to transfer the credit risk to another person; or

(B) The refinancing is insured or guaranteed by the same Federal government agency that insured or guaranteed the existing obligation;

(ii) The regular periodic payments under the refinance loan do not—

(A) Cause the principal balance to increase;

(B) Allow the consumer to defer repayment of principal; or

(C) Result in a balloon payment, as defined in 12 CFR 1026.18(s)(5)(i); and

(iii) The proceeds from the refinancing are used solely to satisfy the existing obligation and to pay amounts attributed solely to the costs of the refinancing; and

(8) A transaction secured in whole or in part by a manufactured home.

■ 3b. Effective July 18, 2015, in § 34.203, newly added paragraph (b)(8) is revised to read as follows:

§ 34.203 Appraisals for higher priced mortgage loans.

* * * * *

(b) * * *

(8) A transaction secured by:

(i) A new manufactured home and land, but the exemption shall only apply to the requirement in paragraph (c)(1) of this section that the appraiser conduct a physical visit of the interior of the new manufactured home; or

(ii) A manufactured home and not land, for which the creditor obtains one of the following and provides a copy to the consumer no later than three business days prior to consummation of the transaction—

(A) For a new manufactured home, the manufacturer's invoice for the manufactured home securing the transaction, provided that the date of manufacture is no earlier than 18 months prior to the creditor's receipt of the consumer's application for credit;

(B) A cost estimate of the value of the manufactured home securing the transaction obtained from an independent cost service provider; or

(C) A valuation, as defined in 12 CFR 1026.42(b)(3), of the manufactured home performed by a person who has no direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is performed and has training in valuing manufactured homes.

* * * * *

■ 4. In Appendix A to Subpart G, republish the introductory text and revise paragraph 7 to read as follows:

Appendix A to Subpart G—Higher-Priced Mortgage Loan Appraisal Safe Harbor Review

To qualify for the safe harbor provided in § 34.203(c)(2), a creditor must confirm that the written appraisal:

* * * * *

7. Indicates that a physical property visit of the interior of the property was performed, as applicable.

* * * * *

Appendix C to Subpart G—OCC Interpretations

■ 5. In Appendix C to Subpart G:
■ a. Under the § 34.203(b) entry, add paragraph 1 and add an entry for § 34.203(b)(1);
■ c. Revise the § 34.203(b)(2) entry;
■ d. Add paragraph 2 to the § 34.203(b)(4) entry;
■ e. Add an entry for § 34.203(b)(7);
■ f. Effective July 18, 2015, add an entry for § 34.203(b)(8); and
■ g. In the § 34.203(f)(2) entry, remove paragraph 2, redesignate paragraph 3 as paragraph 2, and revise it.

The additions and revisions read as follows:

Section 34.203—Appraisals for Higher-Priced Mortgage Loans

* * * * *

34.203(b) Exemptions

1. *Compliance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).* Section 34.203(b) provides exemptions solely from the requirements of § 34.203(c) through (f). Institutions subject to the requirements of FIRREA and its implementing regulations that make a loan qualifying for an exemption under § 34.203(b) must still comply with appraisal and evaluation requirements under FIRREA and its implementing regulations.

34.203(b)(1) Exemptions

Paragraph 34.203(b)(1)

1. *Qualified mortgage criteria.* Under § 34.203(b)(1), a loan is exempt from the appraisal requirements of § 34.203 if either:

i. The loan is—(1) subject to the ability-to-repay requirements of the Consumer Financial Protection Bureau (Bureau) in 12 CFR 1026.43 as a ''covered transaction'' (defined in 12 CFR 1026.43(b)(1)) and (2) a qualified mortgage pursuant to the Bureau's rules or, for loans insured, guaranteed, or administered by the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Veterans Affairs (VA), U.S. Department of Agriculture (USDA), or Rural Housing Service (RHS), a qualified mortgage pursuant to applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's definition of a qualified mortgage applies to those loans); or

ii. The loan is—(1) not subject to the Bureau's ability-to-repay requirements in 12 CFR 1026.43 as a ''covered transaction'' (defined in 12 CFR 1026.43(b)(1)), but (2)

meets the criteria for a qualified mortgage in the Bureau's rules or, for loans insured, guaranteed, or administered by HUD, VA, USDA, or RHS, meets the criteria for a qualified mortgage in the applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). To explain further, loans enumerated in 12 CFR 1026.43(a) are not ''covered transactions'' under the Bureau's ability-to-repay requirements in 12 CFR 1026.43, and thus cannot be qualified mortgages (entitled to a rebuttable presumption or safe harbor of compliance with the ability-to-repay requirements of 12 CFR 1026.43, *see, e.g.,* 12 CFR 1026.43(e)(1)). These include an extension of credit made pursuant to a program administered by a Housing Finance Agency, as defined under 24 CFR 266.5, or pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008. *See* 12 CFR 1026.43(a)(3)(iv) and (vi). They also include extensions of credit made by a creditor identified in 12 CFR 1026.43(a)(3)(v). However, these loans are eligible for the exemption in § 34.203(b)(1) if they meet the Bureau's qualified mortgage criteria in 12 CFR 1026.43(e)(2), (4), (5), or (6) or 12 CFR 1026.43(f) (including limits on when loans must be consummated) or, for loans that are insured, guaranteed, or administered by HUD, VA, USDA, or RHS, in applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). For example, assume that HUD has prescribed rules to define loans insured under its programs that are qualified mortgages and those rules are in effect. Assume further that a creditor designated as a Community Development Financial Institution, as defined under 12 CFR 1805.104(h), originates a loan insured by the Federal Housing Administration, which is a part of HUD. The loan is not a ''covered transaction'' and thus is not a qualified mortgage. *See* 12 CFR 1026.43(a)(3)(v)(A) and (b)(1). Nonetheless, the transaction is eligible for an exemption from the appraisal requirements of § 34.203(b)(1) if it meets the qualified mortgage criteria in HUD's rules. Nothing in § 34.203(b)(1) alters the definition of a qualified mortgage under regulations of the Bureau, HUD, VA, USDA, or RHS.

Paragraph 34.203(b)(2)

1. *Threshold amount.* For purposes of § 34.203(b)(2), the threshold amount in effect during a particular one-year period is the amount stated below for that period. The threshold amount is adjusted effective January 1 of every year by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) that was in effect on the preceding June 1. Every year, this comment will be amended to provide the threshold amount for the upcoming one-year period after the annual percentage change in the CPI–W that was in effect on June 1 becomes available. Any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900.

i. From January 18, 2014, through December 31, 2014, the threshold amount is $25,000.

2. *Qualifying for exemption—in general.* A transaction is exempt under § 34.203(b)(2) if the creditor makes an extension of credit at consummation that is equal to or below the threshold amount in effect at the time of consummation.

3. *Qualifying for exemption—subsequent changes.* A transaction does not meet the condition for an exemption under § 34.203(b)(2) merely because it is used to satisfy and replace an existing exempt loan, unless the amount of the new extension of credit is equal to or less than the applicable threshold amount. For example, assume a closed-end loan that qualified for a § 34.203(b)(2) exemption at consummation in year one is refinanced in year ten and that the new loan amount is greater than the threshold amount in effect in year ten. In these circumstances, the creditor must comply with all of the applicable requirements of § 34.203 with respect to the year ten transaction if the original loan is satisfied and replaced by the new loan, unless another exemption from the requirements of § 34.203 applies. *See* § 34.203(b) and § 34.203(d)(7).

* * * * *

Paragraph 34.203(b)(4)

* * * * *

2. *Financing initial construction.* The exemption for construction loans in § 34.203(b)(4) applies to temporary financing of the construction of a dwelling that will be replaced by permanent financing once construction is complete. The exemption does not apply, for example, to loans to finance the purchase of manufactured homes that have not been or are in the process of being built when the financing obtained by the consumer at that time is permanent. *See* § 34.203(b)(8).

* * * * *

Paragraph 34.203(b)(7)

Paragraph 34.203(b)(7)(i)(A)

1. *Same credit risk holder.* The requirement that the holder of the credit risk on the existing obligation and the refinancing be the same applies to situations in which an entity bears the financial responsibility for the default of a loan by either holding the loan in its portfolio or guaranteeing payments of principal and any interest to investors in a mortgage-backed security in which the loan is pooled. *See* § 34.203(a)(2) (defining ''credit risk''). For example, a credit risk holder could be a bank that bears the credit risk on the existing obligation by holding the loan in the bank's portfolio. Another example of a credit risk holder would be a government-sponsored enterprise that bears the risk of default on a loan by guaranteeing the payment of principal and any interest on a loan to investors in a mortgage-backed security. The holder of credit risk under § 34.203(b)(7)(i)(A) does not mean individual investors in a mortgage-backed security or providers of private mortgage insurance.

2. *Same credit risk holder—illustrations.* Illustrations of the credit risk holder of the existing obligation continuing to be the credit risk holder of the refinancing include, but are not limited to, the following:

i. The existing obligation is held in the portfolio of a bank, thus the bank holds the credit risk. The bank arranges to refinance the loan and also will hold the refinancing in its portfolio. If the refinancing otherwise meets the requirements for an exemption under § 34.203(b)(7), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the bank arranged to refinance the loan directly or indirectly, such as through the servicer or subservicer on the existing obligation.

ii. The existing obligation is held in the portfolio of a government-sponsored enterprise (GSE), thus the GSE holds the credit risk. The existing obligation is then refinanced by the servicer of the loan and immediately transferred to the GSE. The GSE pools the refinancing in a mortgage-backed security guaranteed by the GSE, thus the GSE holds the credit risk on the refinance loan. If the refinance transaction otherwise meets the requirements for an exemption under § 34.203(b)(7), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the existing obligation was refinanced by the servicer or subservicer on the existing obligation (acting as a ''creditor'' under 12 CFR 1026.2(a)(17)) or by a different creditor.

3. *Forward commitments.* A creditor may make a mortgage loan that will be sold or otherwise transferred pursuant to an agreement that has been entered into at or before the time the transaction is consummated. Such an agreement is sometimes known as a ''forward commitment.'' A refinance loan does not satisfy the requirement of § 34.203(b)(7)(i)(A) if the loan will be acquired pursuant to a forward commitment, such that the credit risk on the refinance loan will transfer to a person who did not hold the credit risk on the existing obligation.

Paragraph 34.203(b)(7)(ii)

1. *Regular periodic payments.* Under § 34.203(b)(7)(ii), the regular periodic payments on the refinance loan must not: Result in an increase of the principal balance (negative amortization); allow the consumer to defer repayment of principal (*see* 12 CFR 1026.43, and the Official Staff Interpretations to the Bureau's Regulation Z, comment 43(e)(2)(i)–2); or result in a balloon payment. Thus, the terms of the legal obligation must require the consumer to make payments of principal and interest on a monthly or other periodic basis that will repay the loan amount over the loan term. Except for payments resulting from any interest rate changes after consummation in an adjustable-rate or step-rate mortgage, the periodic

payments must be substantially equal. For an explanation of the term ''substantially equal,'' *see* 12 CFR 1026.43, the Official Staff Interpretations to the Bureau's Regulation Z, comment 43(c)(5)(i)–4. In addition, a single-payment transaction is not a refinancing meeting the requirements of § 34.203(b)(7) because it does not require ''regular periodic payments.''

Paragraph 34.203(b)(7)(iii)

1. *Permissible use of proceeds.* The exemption for a refinancing under § 34.203(b)(7) is available only if the proceeds from the refinancing are used exclusively for the existing obligation and amounts attributed solely to the costs of the refinancing. The existing obligation includes the unpaid principal balance of the existing first lien loan, any earned unpaid finance charges, and any other lawful charges related to the existing loan. For guidance on the meaning of refinancing costs, *see* 12 CFR 1026.23, the Official Staff Interpretations to the Bureau's Regulations Z, comment 23(f)–4. If the proceeds of a refinancing are used for other purposes, such as to pay off other liens or to provide additional cash to the consumer for discretionary spending, the transaction does not qualify for the exemption for a refinancing under § 34.203(b)(7) from the appraisal requirements in § 34.203.

For applications received on or after July 18, 2015

Paragraph 34.203(b)(8)

Paragraph 34.203(b)(8)(i)

1. *Secured by new manufactured home and land—physical visit of the interior.* A transaction secured by a new manufactured home and land is subject to the requirements of § 34.203(c) through (f) except for the requirement in § 34.203(c)(1) that the appraiser conduct a physical inspection of the interior of the property. Thus, for example, a creditor of a loan secured by a new manufactured home and land could comply with § 34.203(c)(1) by obtaining an appraisal conducted by a state-certified or -licensed appraiser based on plans and specifications for the new manufactured home and an inspection of the land on which the property will be sited, as well as any other information necessary for the appraiser to complete the appraisal assignment in conformity with the Uniform Standards of Professional Appraisal Practice and the requirements of FIRREA and any implementing regulations.

Paragraph 34.203(b)(8)(ii)

1. *Secured by a manufactured home and not land.* Section 34.203(b)(8)(ii) applies to a higher-priced mortgage loan secured by a manufactured home and not land, regardless of whether the home is titled as realty by operation of state law.

Paragraph 34.203(b)(8)(ii)(B)

1. *Independent.* A cost service provider from which the creditor obtains a manufactured home unit cost estimate under § 34.203(b)(8)(ii)(B) is ''independent'' if that person is not affiliated with the creditor in the transaction, such as by common corporate ownership, and receives no direct or indirect financial benefits based on whether the transaction is consummated.

2. *Adjustments.* The requirement that the cost estimate be from an independent cost service provider does not prohibit a creditor from providing a cost estimate that reflects adjustments to account for factors such as special features, condition or location. However, the requirement that the estimate be obtained from an independent cost service provider means that any adjustments to the estimate must be based on adjustment factors available as part of the independent cost service used, with associated values that are determined by the independent cost service.

Paragraph 34.203(b)(8)(ii)(C)

1. *Interest in the property.* A person has a direct or indirect in the property if, for example, the person has any ownership or reasonably foreseeable ownership interest in the manufactured home. To illustrate, a person who seeks a loan to purchase the manufactured home to be valued has a reasonably foreseeable ownership interest in the property.

2. *Interest in the transaction.* A person has a direct or indirect interest in the transaction if, for example, the person or an affiliate of that person also serves as a loan officer of the creditor or otherwise arranges the credit transaction, or is the retail dealer of the manufactured home. A person also has a prohibited interest in the transaction if the person is compensated or otherwise receives financial or other benefits based on whether the transaction is consummated.

3. *Training in valuing manufactured homes.* Training in valuing manufactured homes includes, for example, successfully completing a course in valuing manufactured homes offered by a state or national appraiser association or receiving job training from an employer in the business of valuing manufactured homes.

4. *Manufactured home valuation—example.* A valuation in compliance with § 34.203(b)(8)(ii)(C) would include, for example, an appraisal of the manufactured home in accordance with the appraisal requirements for a manufactured home classified as personal property under the Title I Manufactured Home Loan Insurance Program of the U.S. Department of Housing and Urban Development, pursuant to section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

* * * * *

Paragraph 34.203(f)(2) * * *

2. *No waiver.* Regulation B, 12 CFR 1002.14(a)(1), allowing the consumer to waive the requirement that the appraisal copy be provided three business days before consummation, does not apply to higher-priced mortgage loans subject to § 34.203. A consumer of a higher-priced mortgage loan subject to § 34.203 may not waive the timing requirement to receive a copy of the appraisal under § 34.203(f)(2).

* * * * *

Board of Governors of the Federal Reserve System

Authority and Issuance

For the reasons stated above, the Board of Governors of the Federal Reserve System further amends Regulation Z, 12 CFR part 226, as amended at 78 FR 10368 (Feb. 13, 2013), as follows:

PART 226—TRUTH IN LENDING ACT (REGULATION Z)

■ 6. The authority citation for part 226 continues to read as follows:

Authority: 12 U.S.C. 3806; 15 U.S.C. 1604, 1637(c)(5), 1639(l), and 1639h; Pub. L. 111–24 section 2, 123 Stat. 1734; Pub. L. 111–203, 124 Stat. 1376.

■ 7a. Section 226.43 is amended by:
■ a. Revising paragraphs (a)(2) through (6);
■ b. Adding paragraphs (a)(7) through (10);
■ c. Revising paragraphs (b) introductory text, (b)(1) and (2) and (b)(5);
■ d. Adding paragraphs (b)(7) and (8).

The revisions and additions read as follows:

§ 226.43 Appraisals for higher-priced mortgage loans.

(a) * * *

(2) *Consummation* has the same meaning as in 12 CFR 1026.2(a)(13).

(3) *Creditor* has the same meaning as in 12 CFR 1026.2(a)(17).

(4) *Credit risk* means the financial risk that a consumer will default on a loan.

(5) *Higher-priced mortgage loan* has the same meaning as in 12 CFR 1026.35(a)(1).

(6) *Manufactured home* has the same meaning as in 24 CFR 3280.2.

(7) *Manufacturer's invoice* means a document issued by a manufacturer and provided with a manufactured home to a retail dealer that separately details the wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options (large appliances, built-in items and equipment), plus actual itemized charges for freight from the factory to the dealer's lot or the homesite (including any rental of wheels and axles) and for any sales taxes to be paid by the dealer. The invoice may recite such prices and charges on an itemized basis or by stating an aggregate price or charge, as appropriate, for each category.

(8) *National Registry* means the database of information about State certified and licensed appraisers maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(9) *New manufactured home* means a manufactured home that has not been previously occupied.

(10) *State agency* means a ''State appraiser certifying and licensing agency'' recognized in accordance with section 1118(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347(b)) and any implementing regulations.

(b) *Exemptions.* Unless otherwise specified, the requirements in paragraphs (c) through (f) of this section do not apply to the following types of transactions:

(1) A loan that satisfies the criteria of a qualified mortgage as defined pursuant to 15 U.S.C. 1639c;

(2) An extension of credit for which the amount of credit extended is equal to or less than the applicable threshold amount, which is adjusted every year to reflect increases in the Consumer Price Index for Urban Wage Earners and Clerical Workers, as applicable, and published in the official staff commentary to this paragraph (b)(2);

* * * * *

(5) A loan with a maturity of 12 months or less, if the purpose of the loan is a ''bridge'' loan connected with the acquisition of a dwelling intended to become the consumer's principal dwelling.

* * * * *

(7) An extension of credit that is a refinancing secured by a first lien, with refinancing defined as in 12 CFR 1026.20(a) (except that the creditor need not be the original creditor or a holder or servicer of the original obligation), provided that the refinancing meets the following criteria:

(i) Either—

(A) The credit risk of the refinancing is retained by the person that held the credit risk of the existing obligation and there is no commitment, at consummation, to transfer the credit risk to another person; or

(B) The refinancing is insured or guaranteed by the same Federal government agency that insured or guaranteed the existing obligation;

(ii) The regular periodic payments under the refinance loan do not—

(A) Cause the principal balance to increase;

(B) Allow the consumer to defer repayment of principal; or

(C) Result in a balloon payment, as defined in 12 CFR 1026.18(s)(5)(i); and

(iii) The proceeds from the refinancing are used only to satisfy the existing obligation and to pay amounts attributed solely to the costs of the refinancing; and

(8) A transaction secured in whole or in part by a manufactured home.

* * * * *

■ 7b. Effective July 18, 2015, § 226.43(b)(8) is revised to read as follows:

§ 226.43 Appraisals for higher-priced mortgage loans

* * * * *

(b) * * *

(8) A transaction secured by:

(i) A new manufactured home and land, but the exemption shall only apply to the requirement in paragraph (c)(1) of this section that the appraiser conduct a physical visit of the interior of the new manufactured home; or

(ii) A manufactured home and not land, for which the creditor obtains one of the following and provides a copy to the consumer no later than three business days prior to consummation of the transaction—

(A) For a new manufactured home, the manufacturer's invoice for the manufactured home securing the transaction, provided that the date of manufacture is no earlier than 18 months prior to the creditor's receipt of the consumer's application for credit;

(B) A cost estimate of the value of the manufactured home securing the transaction obtained from an independent cost service provider; or

(C) A valuation, as defined in 12 CFR 1026.42(b)(3), of the manufactured home performed by a person who has no direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is performed and has training in valuing manufactured homes.

* * * * *

■ 8. In Appendix N to part 226, the introductory text is republished and paragraph 7 is revised to read as follows:

Appendix N to Part 226—Higher-Priced Mortgage Loan Appraisal Safe Harbor Review

To qualify for the safe harbor provided in § 226.43(c)(2), a creditor must confirm that the written appraisal:

* * * * *

7. Indicates that a physical property visit of the interior of the property was performed, as applicable.

* * * * *

■ 9. In Supplement I to part 226, under *Section 226.43—Appraisals for Higher-Priced Mortgage Loans:*

■ a. Under the entry for 43(b), paragraph 1 is added;

■ b. A 43(b)(1) entry is added.

■ c. The 43(b)(2) entry is revised.

■ d. Under the 43(b)(4) entry, paragraph 2 is added.

■ e. A 43(b)(7) entry is added.

■ f. Effective July 18, 2015, a 43(b)(8) entry is added.

■ g. Under entry 43(f)(2), paragraph 2 is removed and paragraph 3 is redesignated as paragraph 2 and revised.

The additions and revisions read as follows:

Supplement I to Part 226—Official Interpretations

* * * * *

Section 226.43—Appraisals for Higher-Priced Mortgage Loans

* * * * *

43(b) Exemptions

1. *Compliance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).* Section 226.43(b) provides exemptions solely from the requirements of § 226.43(c) through (f). Institutions subject to the requirements of FIRREA and its implementing regulations that make a loan qualifying for an exemption under § 226.43(b) must still comply with appraisal and evaluation requirements under FIRREA and its implementing regulations.

Paragraph 43(b)(1)

1. *Qualified mortgage criteria.* Under § 226.43(b)(1), a loan is exempt from the appraisal requirements of § 226.43 if either:

i. The loan is—(1) subject to the ability-to-repay requirements of the Bureau of Consumer Financial Protection (Bureau) in 12 CFR 1026.43 as a ''covered transaction'' (defined in 12 CFR 1026.43(b)(1)) and (2) a qualified mortgage pursuant to the Bureau's rules or, for loans insured, guaranteed, or administered by the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Veterans Affairs (VA), U.S. Department of Agriculture (USDA), or Rural Housing Service (RHS), a qualified mortgage pursuant to applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's definition of a qualified mortgage applies to those loans); or

ii. The loan is—(1) not subject to the Bureau's ability-to-repay requirements in 12 CFR 1026.43 as a ''covered transaction'' (defined in 12 CFR 1026.43(b)(1)), but (2) meets the criteria for a qualified mortgage in the Bureau's rules or, for loans insured, guaranteed, or administered by HUD, VA, USDA, or RHS, meets the criteria for a qualified mortgage in the applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). To explain further, loans enumerated in 12 CFR 1026.43(a) are not ''covered transactions'' under the Bureau's ability-to-repay requirements in 12 CFR 1026.43, and thus cannot be qualified mortgages (entitled to a rebuttable presumption or safe harbor of compliance with the ability-to-repay requirements of 12 CFR 1026.43, *see, e.g.,* 12 CFR 1026.43(e)(1)). These include an extension of credit made pursuant to a program administered by a Housing Finance Agency, as defined under 24 CFR 266.5, or pursuant to a program

authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008. *See* 12 CFR 1026.43(a)(3)(iv) and (vi). They also include extensions of credit made by a creditor identified in 12 CFR 1026.43(a)(3)(v). However, these loans are eligible for the exemption in § 226.43(b)(1) if they meet the Bureau's qualified mortgage criteria in § 1026.43(e)(2), (4), (5), or (6) or § 1026.43(f) (including limits on when loans must be consummated) or, for loans that are insured, guaranteed, or administered by HUD, VA, USDA, or RHS, in applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). For example, assume that HUD has prescribed rules to define loans insured under its programs that are qualified mortgages and those rules are in effect. Assume further that a creditor designated as a Community Development Financial Institution, as defined under 12 CFR 1805.104(h), originates a loan insured by the Federal Housing Administration, which is a part of HUD. The loan is not a ''covered transaction'' and thus is not a qualified mortgage. *See* 12 CFR 1026.43(a)(3)(v)(A) and (b)(1). Nonetheless, the transaction is eligible for an exemption from the appraisal requirements of § 226.43 if it meets the qualified mortgage criteria in HUD's rules. Nothing in § 226.43(b)(1) alters the definition of a qualified mortgage under regulations of the Bureau, HUD, VA, USDA, or RHS.

Paragraph 43(b)(2)

1. *Threshold amount.* For purposes of § 226.43(b)(2), the threshold amount in effect during a particular one-year period is the amount stated below for that period. The threshold amount is adjusted effective January 1 of every year by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) that was in effect on the preceding June 1. Every year, this comment will be amended to provide the threshold amount for the upcoming one-year period after the annual percentage change in the CPI–W that was in effect on June 1 becomes available. Any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900.

i. From January 18, 2014, through December 31, 2014, the threshold amount is $25,000.

2. *Qualifying for exemption—in general.* A transaction is exempt under § 226.43(b)(2) if the creditor makes an extension of credit at consummation that is equal to or below the threshold amount in effect at the time of consummation.

3. *Qualifying for exemption—subsequent changes.* A transaction does not meet the condition for an exemption under § 226.43(b)(2) merely because it is used to satisfy and replace an existing exempt loan, unless the amount of the new extension of credit is equal to or less than the applicable threshold amount. For example, assume a closed-end loan that qualified for a § 226.43(b)(2) exemption at consummation in year one is refinanced in year ten and that the new loan amount is greater than the threshold amount in effect in year ten. In these circumstances, the creditor must comply with all of the applicable requirements of § 226.43 with respect to the year ten transaction if the original loan is satisfied and replaced by the new loan, unless another exemption from the requirements of § 226.43 applies. *See* § 226.43(b) and (d)(7).

* * * * *

Paragraph 43(b)(4)

* * * * *

2. *Financing initial construction.* The exemption for construction loans in § 226.43(b)(4) applies to temporary financing of the construction of a dwelling that will be replaced by permanent financing once construction is complete. The exemption does not apply, for example, to loans to finance the purchase of manufactured homes that have not been or are in the process of being built when the financing obtained by the consumer at that time is permanent. *See* § 226.43(b)(8).

Paragraph 43(b)(7)(i)(A)

1. *Same credit risk holder.* The requirement that the holder of the credit risk on the existing obligation and the refinancing be the same applies to situations in which an entity bears the financial responsibility for the default of a loan by either holding the loan in its portfolio or guaranteeing payments of principal and any interest to investors in a mortgage-backed security in which the loan is pooled. *See* § 226.43(a)(4) (defining ''credit risk''). For example, a credit risk holder could be a bank that bears the credit risk on the existing obligation by holding the loan in the bank's portfolio. Another example of a credit risk holder would be a government-sponsored enterprise that bears the risk of default on a loan by guaranteeing the payment of principal and any interest on a loan to investors in a mortgage-backed security. The holder of credit risk under § 226.43(b)(7)(i)(A) does not mean individual investors in a mortgage-backed security or providers of private mortgage insurance.

2. *Same credit risk holder—illustrations.* Illustrations of the credit risk holder of the existing obligation continuing to be the credit risk holder of the refinancing include, but are not limited to, the following:

i. The existing obligation is held in the portfolio of a bank, thus the bank holds the credit risk. The bank arranges to refinance the loan and also will hold the refinancing in its portfolio. If the refinancing otherwise meets the requirements for an exemption under § 226.43(b)(7), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the bank arranged to refinance the loan directly or indirectly, such as through the servicer or subservicer on the existing obligation.

ii. The existing obligation is held in the portfolio of a government-sponsored enterprise (GSE), thus the GSE holds the credit risk. The existing obligation is then refinanced by the servicer of the loan and immediately transferred to the GSE. The GSE pools the refinancing in a mortgage-backed security guaranteed by the GSE, thus the GSE holds the credit risk on the refinance loan. If the refinance transaction otherwise meets the requirements for an exemption under § 226.43(b)(7), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the existing obligation was refinanced by the servicer or subservicer on the existing obligation (acting as a ''creditor'' under § 1026.2(a)(17)) or by a different creditor.

3. *Forward commitments.* A creditor may make a mortgage loan that will be sold or otherwise transferred pursuant to an agreement that has been entered into at or before the time the transaction is consummated. Such an agreement is sometimes known as a ''forward commitment.'' A refinance loan does not satisfy the requirement of § 226.43(b)(7)(i)(A) if the loan will be acquired pursuant to a forward commitment, such that the credit risk on the refinance loan will transfer to a person who did not hold the credit risk on the existing obligation.

Paragraph 43(b)(7)

Paragraph 43(b)(7)(ii)

1. *Regular periodic payments.* Under § 226.43(b)(7)(ii), the regular periodic payments on the refinance loan must not: result in an increase of the principal balance (negative amortization); allow the consumer to defer repayment of principal (*see* 12 CFR 1026.43 and the Official Staff Interpretations to the Bureau's Regulation Z, comment 43(e)(2)(i)–2); or result in a balloon payment. Thus, the terms of the legal obligation must require the consumer to make payments of principal and interest on a monthly or other periodic basis that will repay the loan amount over the loan term. Except for payments resulting from any interest rate changes after consummation in an adjustable-rate or step-rate mortgage, the periodic payments must be substantially equal. For an explanation of the term ''substantially equal,'' see 12 CFR 1026.43 and the Official Staff Interpretations to the Bureau's Regulation Z, comment 43(c)(5)(i)–4. In addition, a single-payment transaction is not a refinancing meeting the requirements of § 226.43(b)(7) because it does not require ''regular periodic payments.''

Paragraph 43(b)(7)(iii)

1. *Permissible use of proceeds.* The exemption for a refinancing under § 226.43(b)(7) is available only if the proceeds from the refinancing are used exclusively for the existing obligation and amounts attributed solely to the costs of the refinancing. The existing obligation includes the unpaid principal balance of the existing first lien loan, any earned unpaid finance charges, and any other lawful charges related to the existing loan. For guidance on the meaning of refinancing costs, see 12 CFR

1026.23, the Official Staff Interpretations to the Bureau's Regulations Z, comment 23(f)–4. If the proceeds of a refinancing are used for other purposes, such as to pay off other liens or to provide additional cash to the consumer for discretionary spending, the transaction does not qualify for the exemption for a refinancing under § 226.43(b)(7) from the appraisal requirements in § 226.43.

For applications received on or after July 18, 2015

Paragraph 43(b)(8)

Paragraph 43(b)(8)(i)

1. *Secured by new manufactured home and land—physical visit of the interior.* A transaction secured by a new manufactured home and land is subject to the requirements of § 226.43(c) through (f) except for the requirement in § 226.43(c)(1) that the appraiser conduct a physical inspection of the interior of the property. Thus, for example, a creditor of a loan secured by a new manufactured home and land could comply with § 226.43(c)(1) by obtaining an appraisal conducted by a state-certified or -licensed appraiser based on plans and specifications for the new manufactured home and an inspection of the land on which the property will be sited, as well as any other information necessary for the appraiser to complete the appraisal assignment in conformity with the Uniform Standards of Professional Appraisal Practice and the requirements of FIRREA and any implementing regulations.

Paragraph 43(b)(8)(ii)

1. *Secured by a manufactured home and not land.* Section 226.43(b)(8)(ii) applies to a higher-priced mortgage loan secured by a manufactured home and not land, regardless of whether the home is titled as realty by operation of State law.

Paragraph 43(b)(8)(ii)(B)

1. *Independent.* A cost service provider from which the creditor obtains a manufactured home unit cost estimate under § 226.43(b)(8)(ii)(B) is ''independent'' if that person is not affiliated with the creditor in the transaction, such as by common corporate ownership, and receives no direct or indirect financial benefits based on whether the transaction is consummated.

2. *Adjustments.* The requirement that the cost estimate be from an independent cost service provider does not prohibit a creditor from providing a cost estimate that reflects adjustments to account for factors such as special features, condition or location. However, the requirement that the estimate be obtained from an independent cost service provider means that any adjustments to the estimate must be based on adjustment factors available as part of the independent cost service used, with associated values that are determined by the independent cost service.

Paragraph 43(b)(8)(ii)(C)

1. *Interest in the property.* A person has a direct or indirect in the property if, for example, the person has any ownership or reasonably foreseeable ownership interest in the manufactured home. To illustrate, a person who seeks a loan to purchase the manufactured home to be valued has a reasonably foreseeable ownership interest in the property.

2. *Interest in the transaction.* A person has a direct or indirect interest in the transaction if, for example, the person or an affiliate of that person also serves as a loan officer of the creditor or otherwise arranges the credit transaction, or is the retail dealer of the manufactured home. A person also has a prohibited interest in the transaction if the person is compensated or otherwise receives financial or other benefits based on whether the transaction is consummated.

3. *Training in valuing manufactured homes.* Training in valuing manufactured homes includes, for example, successfully completing a course in valuing manufactured homes offered by a State or national appraiser association or receiving job training from an employer in the business of valuing manufactured homes.

4. *Manufactured home valuation—example.* A valuation in compliance with § 226.43(b)(8)(ii)(C) would include, for example, an appraisal of the manufactured home in accordance with the appraisal requirements for a manufactured home classified as personal property under the Title I Manufactured Home Loan Insurance Program of the U.S. Department of Housing and Urban Development, pursuant to section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

* * * * *

43(f)(2) Timing

* * * * *

2. *No waiver.* Regulation B, 12 CFR 1002.14(a)(1), allowing the consumer to waive the requirement that the appraisal copy be provided three business days before consummation, does not apply to higher-priced mortgage loans subject to § 226.43. A consumer of a higher-priced mortgage loan subject to § 226.43 may not waive the timing requirement to receive a copy of the appraisal under § 226.43(f)(2).

* * * * *

Bureau of Consumer Financial Protection

Authority and Issuance

For the reasons stated above, the Bureau further amends Regulation Z, 12 CFR part 1026, as amended February 13, 2013 (78 FR 10368), as follows:

PART 1026—TRUTH IN LENDING ACT (REGULATION Z)

■ 10. The authority citation for part 1026 continues to read as follows:

Authority: 12 U.S.C. 2601, 2603–2605, 2607, 2609, 2617, 5511, 5512, 5532, 5581; 15 U.S.C. 1601 *et seq.*

Subpart E—Special Rules for Certain Home Mortgage Transactions

■ 11a. Section 1026.35 is amended by;

■ a. Revising the paragraph (c) subject heading and paragraphs (c)(1)(ii) through (iv);

■ b. Adding paragraphs (c)(1)(v) through (vii);

■ c. Revising paragraphs (c)(2) introductory text, (c)(2)(i) and (ii), and (v); and

■ d. Adding paragraphs (c)(2)(vii) and (viii).

The revisions and additions read as follows:

§ 1026.35 Requirements for higher-priced mortgage loans.

* * * * *

(c) *Appraisals*—(1) * * *

(ii) *Credit risk* means the financial risk that a consumer will default on a loan.

(iii) *Manufactured home* has the same meaning as in 24 CFR 3280.2.

(iv) *Manufacturer's invoice* means a document issued by a manufacturer and provided with a manufactured home to a retail dealer that separately details the wholesale (base) prices at the factory for specific models or series of manufactured homes and itemized options (large appliances, built-in items and equipment), plus actual itemized charges for freight from the factory to the dealer's lot or the homesite (including any rental of wheels and axles) and for any sales taxes to be paid by the dealer. The invoice may recite such prices and charges on an itemized basis or by stating an aggregate price or charge, as appropriate, for each category.

(v) *National Registry* means the database of information about State certified and licensed appraisers maintained by the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

(vi) *New manufactured home* means a manufactured home that has not been previously occupied.

(vii) *State agency* means a ''State appraiser certifying and licensing agency'' recognized in accordance with section 1118(b) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347(b)) and any implementing regulations.

(2) *Exemptions.* Unless otherwise specified, the requirements in paragraph (c)(3) through (6) of this section do not apply to the following types of transactions:

(i) A loan that satisfies the criteria of a qualified mortgage as defined pursuant to 15 U.S.C. 1639c;

(ii) An extension of credit for which the amount of credit extended is equal to or less than the applicable threshold amount, which is adjusted every year to reflect increases in the Consumer Price

Index for Urban Wage Earners and Clerical Workers, as applicable, and published in the official staff commentary to this paragraph (c)(2)(ii);

* * * * *

(v) A loan with a maturity of 12 months or less, if the purpose of the loan is a ''bridge'' loan connected with the acquisition of a dwelling intended to become the consumer's principal dwelling.

* * * * *

(vii) An extension of credit that is a refinancing secured by a first lien, with refinancing defined as in § 1026.20(a) (except that the creditor need not be the original creditor or a holder or servicer of the original obligation), provided that the refinancing meets the following criteria:

(A) Either—

(*1*) The credit risk of the refinancing is retained by the person that held the credit risk of the existing obligation and there is no commitment, at consummation, to transfer the credit risk to another person; or

(*2*) The refinancing is insured or guaranteed by the same Federal government agency that insured or guaranteed the existing obligation;

(B) The regular periodic payments under the refinance loan do not—

(*1*) Cause the principal balance to increase;

(*2*) Allow the consumer to defer repayment of principal; or

(*3*) Result in a balloon payment, as defined in § 1026.18(s)(5)(i); and

(C) The proceeds from the refinancing are used solely to satisfy the existing obligation and amounts attributed solely to the costs of the refinancing; and

(viii) A transaction secured in whole or in part by a manufactured home.

■ 11b. Effective July 18, 2015, § 1026.35(c)(2)(viii) is revised to read as follows:

§ 1026.35 Requirements for higher-priced mortgage loans.

* * * * *

(c) * * *

(2) * * *

(viii) A transaction secured by:

(A) A new manufactured home and land, but the exemption shall only apply to the requirement in paragraph (c)(3)(i) of this section that the appraiser conduct a physical visit of the interior of the new manufactured home; or

(B) A manufactured home and not land, for which the creditor obtains one of the following and provides a copy to the consumer no later than three business days prior to consummation of the transaction—

(*1*) For a new manufactured home, the manufacturer's invoice for the manufactured home securing the transaction, provided that the date of manufacture is no earlier than 18 months prior to the creditor's receipt of the consumer's application for credit;

(*2*) A cost estimate of the value of the manufactured home securing the transaction obtained from an independent cost service provider; or

(*3*) A valuation, as defined in § 1026.42(b)(3), of the manufactured home performed by a person who has no direct or indirect interest, financial or otherwise, in the property or transaction for which the valuation is performed and has training in valuing manufactured homes.

* * * * *

■ 12. In Appendix N to part 1026, the introductory text is republished and paragraph 7 is revised to read as follows:

Appendix N To Part 1026—Higher-Priced Mortgage Loan Appraisal Safe Harbor Review

To qualify for the safe harbor provided in § 1026.35(c)(3)(ii), a creditor must confirm that the written appraisal:

* * * * *

7. Indicates that a physical property visit of the interior of the property was performed, as applicable.

* * * * *

■ 13. In Supplement I to part 1026, under *Section 1026.35—Requirements for Higher Priced Mortgages Loans:*

■ a. The 35(c)(2) entry is amended by adding paragraph 1.

■ b. A 35(c)(2)(i) entry is added.

■ c. The 35(c)(2)(ii) entry is revised.

■ d. The 35(c)(2)(iv) entry is amended by adding paragraph 2.

■ e. A 35(c)(2)(vii)(A)(*1*) entry is added.

■ f. Entries for 35(c)(2)(vii)(B) and (C) are added.

■ g. Effective July 18, 2015, entries for 35(c)(2)(viii)(A) and (B) are added.

■ h. Effective July 18, 2015, a 35(c)(2)(viii)(B)(*2*) entry is added.

■ i. Effective July 18, 2015, a 35(c)(2)(viii)(C)(*3*) entry is added.

■ j. Under the 35(c)(6)(ii) entry, paragraph 2 is removed and paragraph 3 is redesignated as paragraph 2.

The revisions and additions read as follows:

Supplement I to Part 1026—Official Interpretations

* * * * *

Subpart E—Special Rules for Certain Home Mortgage Transactions

Section 1026.35—Requirements for Higher-Priced Mortgage Loans

* * * * *

Paragraph 35(c)(2) Exemptions

1. *Compliance with title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).* Section 1026.35(c)(2) provides exemptions solely from the requirements of section 1026.35(c)(3) through (6). Institutions subject to the requirements of FIRREA and its implementing regulations that make a loan qualifying for an exemption under section 1026.35(c)(2) must still comply with appraisal and evaluation requirements under FIRREA and its implementing regulations.

Paragraph 35(c)(2)(i)

1. *Qualified mortgage criteria.* Under § 1026.35(c)(2)(i), a loan is exempt from the appraisal requirements of § 1026.35(c) if either:

i. The loan is—(1) subject to the Bureau's ability-to-repay requirements in § 1026.43 as a ''covered transaction'' (defined in § 1026.43(b)(1)) and (2) a qualified mortgage pursuant to the Bureau's rules or, for loans insured, guaranteed, or administered by the U.S. Department of Housing and Urban Development (HUD), U.S. Department of Veterans Affairs (VA), U.S. Department of Agriculture (USDA), or Rural Housing Service (RHS), a qualified mortgage pursuant to applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's definition of a qualified mortgage applies to those loans); or

ii. The loan is—(1) not subject to the Bureau's ability-to-repay requirements in § 1026.43 as a ''covered transaction'' (defined in § 1026.43(b)(1)), but (2) meets the criteria for a qualified mortgage in the Bureau's rules or, for loans insured, guaranteed, or administered by HUD, VA, USDA, or RHS, meets the criteria for a qualified mortgage in the applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). To explain further, loans enumerated in § 1026.43(a) are not ''covered transactions'' under the Bureau's ability-to-repay requirements in § 1026.43, and thus cannot be qualified mortgages (entitled to a rebuttable presumption or safe harbor of compliance with the ability-to-repay requirements of § 1026.43, *see, e.g.,* § 1026.43(e)(1)). These include an extension of credit made pursuant to a program administered by a Housing Finance Agency, as defined under 24 CFR 266.5, or pursuant to a program authorized by sections 101 and 109 of the Emergency Economic Stabilization Act of 2008. *See* § 1026.43(a)(3)(iv) and (vi). They also include extensions of credit made by a creditor identified in § 1026.43(a)(3)(v). However, these loans are eligible for the exemption in § 1026.35(c)(2)(i) if they meet the Bureau's qualified mortgage criteria in § 1026.43(e)(2), (4), (5), or (6) or § 1026.43(f) (including limits on when loans must be consummated) or, for loans that are insured, guaranteed, or administered by HUD, VA, USDA, or RHS, in applicable rules prescribed by those agencies (but only once such rules are in effect; otherwise, the Bureau's criteria for a qualified mortgage applies to those loans). For example, assume that HUD has prescribed rules to define loans insured

under its programs that are qualified mortgages and those rules are in effect. Assume further that a creditor designated as a Community Development Financial Institution, as defined under 12 CFR 1805.104(h), originates a loan insured by the Federal Housing Administration, which is a part of HUD. The loan is not a ''covered transaction'' and thus is not a qualified mortgage. *See* § 1026.43(a)(3)(v)(A) and (b)(1). Nonetheless, the transaction is eligible for an exemption from the appraisal requirements of § 1026.35(c) if it meets the qualified mortgage criteria in HUD's rules. Nothing in § 1026.35(c)(2)(i) alters the definition of a qualified mortgage under regulations of the Bureau, HUD, VA, USDA, or RHS.

* * * * *

Paragraph 35(c)(2)(ii)

1. *Threshold amount.* For purposes of § 1026.35(c)(2)(ii), the threshold amount in effect during a particular one-year period is the amount stated below for that period. The threshold amount is adjusted effective January 1 of every year by the percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W) that was in effect on the preceding June 1. Every year, this comment will be amended to provide the threshold amount for the upcoming one-year period after the annual percentage change in the CPI–W that was in effect on June 1 becomes available. Any increase in the threshold amount will be rounded to the nearest $100 increment. For example, if the percentage increase in the CPI–W would result in a $950 increase in the threshold amount, the threshold amount will be increased by $1,000. However, if the percentage increase in the CPI–W would result in a $949 increase in the threshold amount, the threshold amount will be increased by $900.

i. From January 18, 2014, through December 31, 2014, the threshold amount is $25,000.

2. *Qualifying for exemption—in general.* A transaction is exempt under § 1026.35(c)(2)(ii) if the creditor makes an extension of credit at consummation that is equal to or below the threshold amount in effect at the time of consummation.

3. *Qualifying for exemption—subsequent changes.* A transaction does not meet the condition for an exemption under § 1026.35(c)(2)(ii) merely because it is used to satisfy and replace an existing exempt loan, unless the amount of the new extension of credit is equal to or less than the applicable threshold amount. For example, assume a closed-end loan that qualified for a § 1026.35(c)(2)(ii) exemption at consummation in year one is refinanced in year ten and that the new loan amount is greater than the threshold amount in effect in year ten. In these circumstances, the creditor must comply with all of the applicable requirements of § 1026.35(c) with respect to the year ten transaction if the original loan is satisfied and replaced by the new loan, unless another exemption from the requirements of § 1026.35(c) applies. *See* § 1026.35(c)(2) and § 1026.35(c)(4)(vii).

* * * * *

Paragraph 35(c)(2)(iv)

* * * * *

2. *Financing initial construction.* The exemption for construction loans in § 1026.35(c)(2)(iv) applies to temporary financing of the construction of a dwelling that will be replaced by permanent financing once construction is complete. The exemption does not apply, for example, to loans to finance the purchase of manufactured homes that have not been or are in the process of being built when the financing obtained by the consumer at that time is permanent. *See* § 1026.35(c)(2)(viii).

Paragraph 35(c)(2)(vii)(A)(*1*)

1. *Same credit risk holder.* The requirement that the holder of the credit risk on the existing obligation and the refinancing be the same applies to situations in which an entity bears the financial responsibility for the default of a loan by either holding the loan in its portfolio or guaranteeing payments of principal and any interest to investors in a mortgage-backed security in which the loan is pooled. *See* § 1026.35(c)(1)(ii) (defining ''credit risk''). For example, a credit risk holder could be a bank that bears the credit risk on the existing obligation by holding the loan in the bank's portfolio. Another example of a credit risk holder would be a government-sponsored enterprise that bears the risk of default on a loan by guaranteeing the payment of principal and any interest on a loan to investors in a mortgage-backed security. The holder of credit risk under § 1026.35(c)(2)(vii)(A)(*1*) does not mean individual investors in a mortgage-backed security or providers of private mortgage insurance.

2. *Same credit risk holder—illustrations.* Illustrations of the credit risk holder of the existing obligation continuing to be the credit risk holder of the refinancing include, but are not limited to, the following:

i. The existing obligation is held in the portfolio of a bank, thus the bank holds the credit risk. The bank arranges to refinance the loan and also will hold the refinancing in its portfolio. If the refinancing otherwise meets the requirements for an exemption under § 1026.35(c)(2)(vii), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the bank arranged to refinance the loan directly or indirectly, such as through the servicer or subservicer on the existing obligation.

ii. The existing obligation is held in the portfolio of a government-sponsored enterprise (GSE), thus the GSE holds the credit risk. The existing obligation is then refinanced by the servicer of the loan and immediately transferred to the GSE. The GSE pools the refinancing in a mortgage-backed security guaranteed by the GSE, thus the GSE holds the credit risk on the refinance loan. If the refinance transaction otherwise meets the requirements for an exemption under § 1026.35(c)(2)(vii), the transaction will qualify for the exemption because the credit risk holder is the same for the existing obligation and the refinance transaction. In this case, the exemption would apply regardless of whether the existing obligation was refinanced by the servicer or subservicer on the existing obligation (acting as a ''creditor'' under § 1026.2(a)(17)) or by a different creditor.

3. *Forward commitments.* A creditor may make a mortgage loan that will be sold or otherwise transferred pursuant to an agreement that has been entered into at or before the time the transaction is consummated. Such an agreement is sometimes known as a ''forward commitment.'' A refinance loan does not satisfy the requirement of § 1026.35(c)(2)(vii)(A)(*1*) if the loan will be acquired pursuant to a forward commitment, such that the credit risk on the refinance loan will transfer to a person who did not hold the credit risk on the existing obligation.

Paragraph 35(c)(2)(vii)(B)

1. *Regular periodic payments.* Under § 1026.35(c)(2)(vii)(B), the regular periodic payments on the refinance loan must not: result in an increase of the principal balance (negative amortization); allow the consumer to defer repayment of principal (*see* comment 43(e)(2)(i)–2); or result in a balloon payment. Thus, the terms of the legal obligation must require the consumer to make payments of principal and interest on a monthly or other periodic basis that will repay the loan amount over the loan term. Except for payments resulting from any interest rate changes after consummation in an adjustable-rate or step-rate mortgage, the periodic payments must be substantially equal. For an explanation of the term ''substantially equal,'' see comment 43(c)(5)(i)–4. In addition, a single-payment transaction is not a refinancing meeting the requirements of § 1026.35(c)(2)(vii) because it does not require ''regular periodic payments.''

Paragraph 35(c)(2)(vii)(C)

1. *Permissible use of proceeds.* The exemption for a refinancing under § 1026.35(c)(2)(vii) is available only if the proceeds from the refinancing are used exclusively for the existing obligation and amounts attributed solely to the costs of the refinancing. The existing obligation includes the unpaid principal balance of the existing first lien loan, any earned unpaid finance charges, and any other lawful charges related to the existing loan. For guidance on the meaning of refinancing costs, see comment 23(f)–4. If the proceeds of a refinancing are used for other purposes, such as to pay off other liens or to provide additional cash to the consumer for discretionary spending, the transaction does not qualify for the exemption for a refinancing under § 1026.35(c)(2)(vii) from the appraisal requirements in § 1026.35(c).

For applications received on or after July 18, 2015

Paragraph 35(c)(2)(viii)(A)

1. *Secured by new manufactured home and land—physical visit of the interior.* A transaction secured by a new manufactured home and land is subject to the requirements of § 1026.35(c)(3) through (6) except for the requirement in § 1026.35(c)(3)(i) that the appraiser conduct a physical inspection of the interior of the property. Thus, for

example, a creditor of a loan secured by a new manufactured home and land could comply with § 1026.35(c)(3)(i) by obtaining an appraisal conducted by a state-certified or -licensed appraiser based on plans and specifications for the new manufactured home and an inspection of the land on which the property will be sited, as well as any other information necessary for the appraiser to complete the appraisal assignment in conformity with the Uniform Standards of Professional Appraisal Practice and the requirements of FIRREA and any implementing regulations.

Paragraph 35(c)(2)(viii)(B)

1. *Secured by a manufactured home and not land.* Section 1026.35(c)(2)(viii)(B) applies to a higher-priced mortgage loan secured by a manufactured home and not land, regardless of whether the home is titled as realty by operation of state law.

Paragraph 35(c)(2)(viii)(B)(*2*)

1. *Independent.* A cost service provider from which the creditor obtains a manufactured home unit cost estimate under § 1026.35(c)(2)(viii)(B)(*2*) is ''independent'' if that person is not affiliated with the creditor in the transaction, such as by common corporate ownership, and receives no direct or indirect financial benefits based on whether the transaction is consummated.

2. *Adjustments.* The requirement that the cost estimate be from an independent cost service provider does not prohibit a creditor from providing a cost estimate that reflects adjustments to account for factors such as special features, condition or location. However, the requirement that the estimate be obtained from an independent cost service provider means that any adjustments to the estimate must be based on adjustment factors available as part of the independent cost service used, with associated values that are determined by the independent cost service.

Paragraph 35(c)(2)(viii)(C)(*3*)

1. *Interest in the property.* A person has a direct or indirect in the property if, for example, the person has any ownership or reasonably foreseeable ownership interest in the manufactured home. To illustrate, a person who seeks a loan to purchase the manufactured home to be valued has a reasonably foreseeable ownership interest in the property.

2. *Interest in the transaction.* A person has a direct or indirect interest in the transaction if, for example, the person or an affiliate of that person also serves as a loan officer of the creditor or otherwise arranges the credit transaction, or is the retail dealer of the manufactured home. A person also has a prohibited interest in the transaction if the person is compensated or otherwise receives financial or other benefits based on whether the transaction is consummated.

3. *Training in valuing manufactured homes.* Training in valuing manufactured homes includes, for example, successfully completing a course in valuing manufactured homes offered by a state or national appraiser association or receiving job training from an employer in the business of valuing manufactured homes.

4. *Manufactured home valuation—example.* A valuation in compliance with § 1026.35(c)(2)(viii)(B)(*3*) would include, for example, an appraisal of the manufactured home in accordance with the appraisal requirements for a manufactured home classified as personal property under the Title I Manufactured Home Loan Insurance Program of the U.S. Department of Housing and Urban Development, pursuant to section 2(b)(10) of the National Housing Act, 12 U.S.C. 1703(b)(10).

* * * * *

Dated: December 10, 2013.

Thomas J. Curry,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, December 11, 2013.

Robert deV. Frierson,

Secretary of the Board.

Dated: December 10, 2013.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

In consultation with:

By the National Credit Union Administration Board on December 10, 2013.

Gerard Poliquin,

Secretary of the Board.

Dated at Washington, DC, this 10th day of December, 2013.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

Dated: December 9, 2013.

Edward J. DeMarco,

Acting Director, Federal Housing Finance Agency.

[FR Doc. 2013–30108 Filed 12–18–13; 4:15 pm]

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Part III

Office of Management and Budget

2 CFR Chapter I, Chapter II, Part 200, et al.
Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards; Final Rule

OFFICE OF MANAGEMENT AND BUDGET

2 CFR Chapter I, and Chapter II, Parts 200, 215, 220, 225, and 230

Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards

AGENCY: Executive Office of the President, Office of Management and Budget (OMB).

ACTION: Final guidance.

SUMMARY: To deliver on the promise of a 21st-Century government that is more efficient, effective and transparent, the Office of Management and Budget (OMB) is streamlining the Federal government's guidance on Administrative Requirements, Cost Principles, and Audit Requirements for Federal awards. These modifications are a key component of a larger Federal effort to more effectively focus Federal resources on improving performance and outcomes while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. This guidance provides a governmentwide framework for grants management which will be complemented by additional efforts to strengthen program outcomes through innovative and effective use of grant-making models, performance metrics, and evaluation. This reform of OMB guidance will reduce administrative burden for non-Federal entities receiving Federal awards while reducing the risk of waste, fraud and abuse.

This final guidance supersedes and streamlines requirements from OMB Circulars A–21, A–87, A–110, and A–122 (which have been placed in OMB guidances); Circulars A–89, A–102, and A–133; and the guidance in Circular A–50 on Single Audit Act follow-up. Future reform efforts may eventually seek to incorporate the Cost Principles for Hospitals in Department of Health and Human Services regulations. Copies of the OMB Circulars that are superseded by this guidance are available on OMB's Web site at *http://www.whitehouse.gov/omb/circulars_default/.* The final guidance consolidates the guidance previously contained in the aforementioned citations into a streamlined format that aims to improve both the clarity and accessibility. This final guidance is located in Title 2 of the Code of Federal Regulations.

This final guidance does not broaden the scope of applicability from existing government-wide requirements, affecting Federal awards to non-Federal entities including state and local governments, Indian tribes, institutions of higher education, and nonprofit organizations. Parts of it may also apply to for-profit entities in limited circumstances and to foreign entities as described in this guidance and the Federal Acquisition Regulation. This guidance does not change or modify any existing statute or guidance otherwise based on any existing statute. This guidance does not supersede any existing or future authority under law or by executive order or the Federal Acquisition Regulation.

DATES: *Effective Date:* This guidance is effective December 26, 2013.

Applicability Date: This guidance is applicable for Federal agencies December 26, 2013 and applicable for non-Federal entities as described in this guidance.

FOR FURTHER INFORMATION CONTACT: OMB will host an informational webcast with the Council on Financial Assistance Reform and key stakeholders. Please visit *www.cfo.gov/cofar* for further information on the time and date of the webcast and on the Council on Financial Assistance Reform. For general information, please contact Victoria Collin or Gil Tran at the OMB Office of Federal Financial Management at (202) 395–3993.

SUPPLEMENTARY INFORMATION:

I. Objectives and Background

A. Objectives

The goal of this reform is to deliver on the President's directives to (1) streamline our guidance for Federal awards to ease administrative burden and (2) strengthen oversight over Federal funds to reduce risks of waste, fraud, and abuse. Streamlining existing OMB guidance will increase the efficiency and effectiveness of Federal awards to ensure best use of the more than $500 billion expended annually.

This reform builds on two years of work by the Federal government and its non-Federal partners: state, and local governments, Indian tribes, institutions of higher education, nonprofit organizations, and the audit community to rethink and reform the rules that govern our stewardship of Federal dollars. The revised rules set standard requirements for financial management of Federal awards across the entire Federal government.

These reforms complement targeted efforts by OMB and a number of Federal agencies to reform overall approaches to grant-making by implementing innovative, outcome-focused grant-making designs and processes in collaboration with their non-Federal partners, in accordance with OMB guidance in M–13–17 ''Next Steps in the Evidence and Innovation Agenda''. This new guidance plays an important role in fostering these and other innovative models and cost-effective approaches by including many provisions that strengthen requirements for internal controls while providing administrative flexibility for non-Federal entities. These provisions include mechanisms such as ''fixed amount awards'' which rely more on performance than compliance requirements to ensure accountability, and allow Federal agencies some additional flexibility to waive some requirements (in addition to the longstanding option to apply to OMB to waive requirements) that impede their capacity to achieve better outcomes through Federal awards. This guidance will provide a backbone for sound financial management as Federal agencies and their partners continue to develop and advance innovative and effective practices.

This reform of OMB guidance will improve the integrity of the financial management and operation of Federal programs and strengthen accountability for Federal dollars by improving policies that protect against waste, fraud, and abuse. At the same time, this reform will increase the impact and accessibility of programs by minimizing time spent complying with unnecessarily burdensome administrative requirements, and so re-orients recipients toward achieving program objectives. Through close and sustained collaboration with Federal and non-Federal partners, OMB has developed ideas that will ensure that discretionary grants and cooperative agreements are awarded based on merit; that management increases focus on performance outcomes; that rules governing the allocation of Federal funds are streamlined, and that the Single Audit oversight tool is better focused to reduce waste, fraud, and abuse.

As set forth in Executive Order 13563 of January 18, 2011, on Improving Regulation and Regulatory Review (76 FR 3821; January 21, 2011; *http://www.gpo.gov/fdsys/pkg/FR-2011-01-21/pdf/2011-1385.pdf*), each Federal agency must ''tailor its regulations to impose the least burden on society, consistent with regulatory objectives, taking into account, among other things, and to the extent practicable, the costs of cumulative regulations.'' To that end, it is important that Federal agencies identify those ''rules that may be outmoded, ineffective, insufficient, or excessively burdensome,'' and ''modify,

streamline, expand, or repeal them in accordance with what has been learned.'' This was reinforced in Executive Order 13579 of July 11, 2011 on Regulation and Independent Regulatory Agencies (76 FR 41587; July 14, 2011; *http://www.gpo.gov/fdsys/pkg/FR-2011-07-14/pdf/2011-17953.pdf*).

As in other areas involving Federal requirements, this guidance follows OMB's commitment to making government more accountable to the American people while eliminating requirements that are unnecessary and reforming those requirements that are overly burdensome. Eliminating unnecessary requirements will allow recipients of Federal awards to re-orient efforts spent on compliance with complex requirements towards achievement of programmatic objectives. In order to ensure that the public receives the most value, it is essential that these programs function as effectively and efficiently as possible, and that there is a high level of accountability to prevent waste, fraud, and abuse.

This reform streamlines the language from eight existing OMB circulars into one consolidated set of guidance in the code of Federal regulations. This consolidation is aimed at eliminating duplicative or almost duplicative language in order to clarify where policy is substantively different across types of entities, and where it is not. As a result, the guidance includes sections and parts of sections which are clearly delineated by the type of non-Federal entity to which they apply. For Federal agencies, auditors, and pass-through entities that engage with multiple types of non-Federal entities in the course of managing grants, this consolidation is intended to clarify where policies are uniform or differ across non-Federal entities, protecting variances in policy where required by the unique nature of each type of non-Federal entity. This clarification will make compliance less burdensome for recipients and reduce the number of audit findings that result more from unclear guidance than actual noncompliance. Section 200.101 Applicability outlines how each subpart of the proposed guidance will apply across types of Federal awards. Following the implementation of these reforms, OMB will continue to monitor their effects to evaluate whether (and the extent to which) the reforms are achieving their desired results, and will consider making further modifications as appropriate.

B. The Development of the Reform

This proposal reflects input from more than two years of work by the Federal and non-Federal financial assistance community led by the COFAR in response to the following two Presidential Directives:

1. February 28, 2011, Presidential Memorandum on Administrative Flexibility, Lower Costs, and Better Results for State, Local, and Tribal Governments, (Daily Comp. Pres. Docs.; *http://www.gpo.gov/fdsys/pkg/DCPD-201100123/pdf/DCPD-201100123.pdf*). This memorandum directs OMB to, with input from our partners and consistent with law, reduce unnecessary regulatory and administrative burdens and redirect resources to services that are essential to achieving better outcomes at lower cost. Specifically, the memorandum directs OMB to ''review and where appropriate revise guidance concerning cost principles, burden minimizations, and audits for state, local, and tribal governments in order to eliminate, to the extent permitted by law, unnecessary, unduly burdensome, duplicative, or low-priority recordkeeping requirements and effectively tie such requirements to achievement of outcomes.''

2. Executive Order 13520 on Reducing Improper Payments (74 FR 62201; November 25, 2009; *http://www.gpo.gov/fdsys/pkg/FR-2009-11-25/pdf/E9-28493.pdf*). Equally as essential to a 21st-Century government as reducing burdensome requirements that promote inefficiency is strengthening accountability by ''intensifying efforts to eliminate payment error, waste, fraud, and abuse'' in Federal programs, as required by EO 13520. Accordingly, Federal agencies must ''more effectively tailor their methodologies for identifying and measuring improper payments to those programs, or components of programs, where improper payments are most likely to occur.''

In response to the President's directives above, OMB worked with the Council on Financial Assistance Reform (COFAR, more information available at cfo.gov/COFAR) to publish the February 28, 2012 Advance Notice of Proposed Guidance (ANPG available at *www.regulations.gov* under docket number OMB–2012–0002) and the February 1, 2013 Notice of Proposed Guidance (NPG available at *www.regulations.gov* under docket number OMB–2013–0001) in the **Federal Register**. Through the COFAR's review of the comments received in response to the ANPG and the NPG, it has worked to formulate and further develop reform ideas to create the 21st-Century version of financial management policy for Federal awards. The COFAR continues to be committed to engaging in outreach efforts with both Federal and non-Federal stakeholders, with respect to this reform and beyond.

OMB has adopted changes from the NPG to the final guidance as recommended by the COFAR as described in the summary of major policy reforms (Part II) and the text of the final guidance (Part III). OMB will publish additional supporting materials on the OMB Web site at *http://www.whitehouse.gov/omb/grants_docs*.

II. Major Policy Reforms

In the ANPG and NPG, OMB invited comments from the public on all issues addressed in those notices, and further invited the public to make additional reform suggestions. The goal of both previous notices was to provide the broadest possible collection of stakeholders in the grants community with visibility on these ideas and the opportunity to participate in the discussion.

In response to each notice, OMB received more than 300 comments which were carefully considered in the development of this guidance. This section will discuss the policy reforms proposed in the NPG, the broad themes identified in the comments that were received across stakeholders, and the resulting reforms that OMB is implementing in this guidance. The vast majority of comments supported the idea of the consolidation itself and the structure of the guidance. As a result, this final guidance incorporates the proposed consolidation of eight previous sets of guidance into one. Conforming changes made throughout the document support streamlining and improve clarity of language; many of these were suggested by stakeholders during the comment period and have been incorporated, but are not specifically discussed in this preamble.

The objective of this reform is to reduce both administrative burden and risk of waste, fraud and abuse.

Reducing Administrative Burden and Waste, Fraud, and Abuse:

1. Eliminating Duplicative and Conflicting Guidance: By combining eight previously separate sets of OMB guidance into one, OMB has eliminated numerous overlapping duplicative and conflicting provisions of guidance that were written separately over many years. Beyond dealing with the administrative burden associated with understanding such guidance, non-Federal entities have faced risks of more restrictive oversight and audit findings that stem from inappropriate applications of the guidance caused by overlapping requirements. Streamlining

the guidance into one document improves consistency and eliminates of many duplicative provisions throughout. Further, as described in § 200.110 Effective Date, Federal agencies will implement this guidance in unison, which will provide non-Federal entities with a predictable, transparent, and governmentwide consistent implementation schedule. Finally, this completes a long-standing goal of co-locating all related OMB guidance into Title 2 of the Code of Federal Regulations.

2. Focusing on Performance over Compliance for Accountability: The final guidance includes provisions that focus on performance over compliance to provide accountability for Federal funds.

• Section 200.102 Exceptions notes that on a case-by-case basis, in accordance with OMB guidance in M–13–17, OMB will waive certain compliance requirements and approve new strategies for innovative program designs that improve cost-effectiveness and encourage effective collaboration across programs to achieve outcomes. The models described in OMB Memorandum 13–17 include tiered evidence grants, Pay for Success and other pay-for-performance approaches, and Performance Partnerships allowing braided and blended funding. The goals for these models include encouraging a greater share of funding to support approaches with strong evidence of effectiveness and building more evaluation into grant-making so we keep learning more about what works. In addition to these specific models, M–13–17 also encourages Federal agencies to pursue other strategies to increase cost-effectiveness in high-priority programs.

• Section 200.201 Use of Grant Agreements (Including Fixed Amount Awards), Cooperative Agreements, And Contracts includes provisions for fixed amount awards that minimize compliance requirements in favor of requirements to meet performance milestones.

• Section 200.301 Performance Measurement provides more robust guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices. The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones.

• Section 200.419 Cost Accounting Standards and Disclosure Statement, the threshold for IHEs to comply with Cost Accounting Standards is raised to align with the threshold in the Federal Acquisition Regulations and the process for Federal agency review of changes in accounting practices is streamlined to reduce risk of noncompliance.

• Section 200.430 Compensation—Personal Services strengthens the requirements for non-Federal entities to maintain high standards for internal controls over salaries and wages while allowing for additional flexibility in how non-Federal entities implement processes to meet those standards. In addition, it provides for Federal agencies to approve alternative methods of accounting for salaries and wages based on achievement of performance outcomes, including in approved instances where funding from multiple programs is blended to more efficiently achieve a combined outcome.

3. Encouraging Efficient Use of Information Technology and Shared Services: The final guidance updates provisions throughout to account for the efficient use of electronic information, as well as the acquisition and use of the information technology systems and services that permeate an effective and modern operating environment.

• Section 200.94 Supplies clarifies the threshold for defining personal property as a supply, and also that computing devices are subject to the less burdensome administrative requirements of supplies (as opposed to equipment) if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000.

• Section 200.303 Internal Controls requires non-Federal entities to take reasonable measures to safeguard protected personally identifiable information as well as any information that the Federal awarding agency or pass-through entity designates as sensitive.

• Section 200.318 General Procurement Standards paragraphs (d), (e), and (f) require non-Federal entity's procurement procedures to avoid duplicative purchases and encourage non-Federal entities to enter into inter-entity agreements for shared goods and services.

• In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, Section 200.335 Methods for Collection, Transmission and Storage of Information encourages non-Federal entities to, whenever practicable, collect, transmit and store Federal award-related information in open and machine-readable formats.

• Section 200.446 Idle Facilities and Idle Capacity allows for the costs of idle facilities when they are necessary to meet fluctuations in workload, as they often are when developing shared service arrangements.

• Section 200.449 Interest allows non-Federal entities to be reimbursed for financing costs associated with patents and computer software capitalized in accordance with GAAP on or after January 1, 2016.

4. Providing For Consistent and Transparent Treatment of Costs: The final guidance updates policies on direct and indirect cost to reduce administrative burden by providing more consistent and transparent treatment governmentwide.

• Section 200.306 Cost Sharing Or Matching clarifies policies on voluntary committed cost sharing to ensure that such cost sharing is only solicited for research proposals when required by regulation and transparent in the notice of funding opportunity. It may never be considered during the merit review.

• Section 200.331 Requirements For Pass-Through Entities requires pass-through entities to provide an indirect cost rate to subrecipients, which may be the de minimis rate described above, thereby further reducing potential barriers to receiving and effectively implementing Federal financial assistance.

• Section 200.413 Direct Costs makes consistent the guidance that administrative costs may be treated as direct costs when they meet certain conditions to demonstrate that they are directly allocable to a Federal award.

• Section 200.414 Indirect (F&A) Costs includes provisions that:

• Provide a de minimis indirect cost rate of 10% of MTDC to those non-Federal entities who have never had a negotiated indirect cost rate, thereby eliminating a potential administrative barrier to receiving and effectively implementing Federal financial assistance (sections 200.210 Information Contained in a Federal award, 200.331 Requirements for Pass-through entities, and 200.510 Financial Statements all require documentation of usage of this rate to allow for future evaluation of its effectiveness);

• Require Federal agencies to accept negotiated indirect cost rates unless an exception is required by statute or regulation, or approved by a Federal awarding agency head or delegate based on publicly documented justification;

• Allow for a one-time extension without further negotiation of a federally approved negotiated indirect cost rate for a period of up to 4 years.

• Section 200.433 Contingency Provisions clarifies the circumstances under which contingency costs may be included in Federal awards.

• Appendix III Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) includes provisions that extend to all IHEs the provisions previously extended only to a few that allow for recovery of increased utility costs associated with research.

5. Limiting Allowable Costs to Make Best Use of Federal Resources: The final guidance strengthens language in certain items of cost to appropriately limit costs under Federal awards.

• Section 200.432 Conferences clarifies allowable conference spending and requires conference hosts/sponsors to exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award.

• Section 200.437 Employee Health And Welfare Costs eliminates the existing allowance for ''morale'' cost.

• Section 200.464 Relocation Costs Of Employees limits the previously unlimited amount of time for which a Federal award may be charged for the costs of an employee's vacant home for up to six-months.

• Section 200.469 Student Activity Costs expands to all entities the limitation on student activity costs that previously applied only to IHEs.

6. Setting Standard Business Processes Using Data Definitions: The final guidance includes provisions that set the stage for Federal agencies to manage Federal awards via standardized business process and use of consistently defined data elements. This will reduce administrative burden on non-Federal entities that must navigate the processes of multiple Federal agencies as they manage information required to implement Federal awards.

• Subpart A—Acronyms and Definitions provides standard definitions of terms present not only throughout the document, but also throughout many approved Federal information collections used to manage Federal awards.

• Section 200.203 Notices Of Funding Opportunities provides a standard set of data elements to be provided in all Federal notices of funding opportunities. This will make such notices easier for non-Federal entities to compare and understand.

• Sections 200.206 Standard Application Requirements, 200.301 Performance Measurement, 200.327 Financial Reporting, and 200.328 Monitoring And Reporting Program Performance all require Federal awarding agencies to consistently use OMB-approved standard information collections in their management of Federal awards.

• Section 200.210 Information Contained In A Federal Award provides a standard set of data elements to be provided in all Federal awards. As a result, non-Federal entities will receive a consistent set of information for each Federal award they receive, which will reduce the administrative burden and costs associated with managing this information throughout the life of the Federal award.

• Section 200.305 Payment extends to non-Federal entities previously covered by OMB Circular A–102 the existing flexibility in OMB Circular A–110 to pay interest earned on Federal funds annually to the Department of Health and Human Services, rather than ''promptly'' to each Federal awarding agency.

• Section 200.407 Prior Written Approval (Prior Approval) provides both Federal agencies and non-Federal entities with a one-stop comprehensive list of the circumstances under which non-Federal entities should seek prior approval from the Federal awarding agency.

7. Encouraging Non-Federal Entities to Have Family-Friendly Policies: Provisions in the final guidance provide flexibilities that better allow non-Federal entities to have policies that allow their employees to balance their personal responsibilities while maintaining successful careers contributing to Federal awards. Specifically, these provisions allow for policies that ease dependent care costs when attending conferences- an issue that has been as one that prevents more women from maintaining careers in science.

• Section 200.432 Conferences provides that, for hosts of conferences, the costs of identifying (but not providing) locally available child-care resources are allowable.

• Section 200.474 Travel Costs provides that temporary dependent care costs that result directly from travel to conferences and meet specified standards are allowable.

8. Strengthening Oversight: The final guidance strengthens oversight over Federal awards by requiring Federal agencies and pass-through entities to review the risk associated with a potential recipient prior to making an award (including by making better use of available audit information where appropriate), requiring disclosures conflict of interest and relevant criminal violations, expressly prohibiting profit, requiring certifications of senior non-Federal entity officials, and providing Federal agencies with strong remedies to address non-compliance.

• Sections 200.112 Conflict of Interest and 200.113 Mandatory Disclosures require non-Federal entities to disclose to Federal agencies any instances of conflict of interest or relevant violations of Federal criminal law.

• Sections 200.204 Federal Awarding Agency Review of Merit of Proposals and 200.205 Federal Awarding Agency Review of Risk Posed by Applicants combined with section 200.207 Specific Conditions require Federal awarding agencies to evaluate the merit and risks associated with a potential Federal award and to impose specific conditions where necessary to mitigate potential risks of waste, fraud, and abuse, before the money is spent.

• Section 200.303 Internal Controls moves guidance that previously was only discussed in audit requirements (which are often only considered after the funds have been spent) into the administrative requirements to encourage non-Federal entities to better structure their internal controls earlier in the process.

• Section 200.331 Requirements for Pass-Through Entities provides a similar requirement for pass-through entities to consider risks associated with subawards combined with flexibility to adjust their oversight framework based on that consideration of risk.

• Subtitle VII Remedies for Noncompliance and Subtitle VIII Closeout of Subpart D—Post Federal Award Requirements respectively provide Federal agencies with clear tools to manage non-compliance and efficiently closeout Federal awards.

• Section 200.400 Policy Guide expressly prohibits the non-Federal entity from earning or keeping profit resulting from Federal financial assistance unless expressly authorized by the terms and conditions of the Federal award.

• Section 200.415 Required Certifications strengthens non-Federal entity accountability by providing explicit and consistent language for required certifications that includes awareness of potential penalties under the False Claims Act.

9. Targeting Audit Requirements on Risk of Waste, Fraud, and Abuse: The final guidance right-sizes the footprint of oversight and Single Audit requirements to strengthen oversight and focus audits where there is greatest risk of waste, fraud, and abuse of taxpayer dollars. It improves transparency and accountability by making single audit reports available to

the public online, and encourages Federal agencies to take a more cooperative approach to audit resolution in order to more conclusively resolve underlying weaknesses in internal controls.

• Section 200.501 Audit Requirements raises the Single Audit threshold from $500,000 in Federal awards per year to $750,000 in Federal awards per year. This reduces the audit burden for approximately 5,000 non-Federal entities while maintaining Single Audit coverage over 99% of the Federal dollars currently covered.

• Section 200.512 Report Submission requires publication of Single Audit Reports online with safeguards for protected personally identifiable information and an exception for Indian tribes in order to reduce the administrative burden on non-Federal entities associated with transmitting these reports to all interested parties.

• Section 200.513 Responsibilities requires Federal awarding agencies to designate a Senior Accountable Official who will be responsible for overseeing effective use of the Single Audit tool and implementing metrics to evaluate audit follow-up. This section also encourages Federal awarding agencies to make effective use of cooperative audit resolution practices in order to reduce repeated audit findings.

• Section 200.518 Major Program Determination focuses audits on the areas with internal control deficiencies that have been identified as material weaknesses. Future updates to the Compliance Supplement will reflect this focus as well.

The specific reform ideas and the responses to public comments received are outlined below in three main categories:

Section A: Subparts A–E: Reforms to Administrative Requirements (the governmentwide Common Rule implementing Circular A–102; Circular A–110; and Circular A–89)

Section B: Subpart F: Reforms to Cost Principles (Circulars A–21, A–87, and A–122)

Section C: Subpart G: Reforms to Audit Requirements (Circulars A–133 and A–50

In addition, conforming changes and those for linguistic clarity are shown in supporting materials provided on the OMB Web site with this proposal (available at *http://www.whitehouse.gov/omb/grants_docs#final).*

Section A: Subparts A–E Reforms to Administrative Requirements (The Common Rule Implementing Circular A–102); Circular A–110; and Circular A–89

This section discusses changes to the governmentwide common rule implementing Circular A–102 on Grants and Cooperative Agreements with State and Local Governments; Circular A–110 on Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations (2 CFR part 215); and Circular A–89 on Catalog of Federal Domestic Assistance. The following are major policy changes included in the final guidance.

Subpart A—Acronyms and Definitions

Subpart A lists definitions and acronyms for key terms found throughout the document. Because these terms, like the rest of the guidance, originated in eight different sets of guidance, there are many conforming changes made to harmonize the definitions with the terms that are used throughout the guidance. Some definitions reflect policy decisions as follows:

200.18 Cognizant Agency for Audit and 200.73 Oversight Agency for Audit

Commenters suggested that instead of defining the cognizant or oversight agency for audit as the Federal awarding agency that provides the most direct funding, it should be defined as the one that provides the most total funding. The suggestion that this would eliminate a potentially burdensome process of changing cognizance to allow for situations where a non-Federal entity receives most of its funding indirectly from one Federal agency, and only a small portion from another agency directly.

The COFAR considered this, but noted that even where significant portions of Federal funds are passed-through to subrecipients, the Federal agency retains a direct relationship only with a direct recipient, and relies on the pass-through entity to oversee the subaward. Further, the COFAR understands these instances to be relatively few, and in those cases where they have preferred to have a cognizant or oversight relationship, they have not found the process of negotiating a change to be burdensome. Contrary to comments reflecting a belief that the current OMB policy requires any change to be made within 30 days, changes have always been permissible at any time with notification to the Federal Audit Clearinghouse within 30 days of the change. As such, the COFAR did not recommend a change to this definition.

200.23 Contractor

Some commenters suggested that the term ''vendor'' is more appropriate and, in line with the Federal Acquisition Regulation, should be used throughout the final guidance in place of the proposed ''contractor''. The COFAR considered this but determined that contractor is more accurate in the context of guidance on how to distinguish between a contract and a grant. The COFAR believes that framing the distinction this way will better encourage Federal agencies to appropriately apply the guidance to awards for financial assistance regardless of the term they currently use to describe those awards. The COFAR recommended continued use of the term ''contractor'' throughout. As used in this guidance, the term ''contractor'' includes entities that, in other contexts, may be referred to as ''vendors''.

200.54 Indian Tribe (or ''Federally Recognized Indian Tribe'')

Existing guidance, including NPG, included Indian Tribes in the definition of a state. With the streamlined merging of the circulars and the inclusion of some guidance that is clearly intended only for either states or Indian Tribes, and in response to comments received, the COFAR found that this inclusion is no longer appropriate. As a result, the COFAR recommended that Indian Tribes, including Alaskan Natives, be separately defined as they are under existing statute.

200.94 Supplies

The definition of supplies in existing guidance includes all tangible personal property that fall below the prescribed threshold for equipment. Since, as technology improves, computing devices (inclusive of accessories) increasingly fall below this threshold, the proposed guidance made explicit that when they do, they shall be treated consistently with all other items below this level. Many commenters were highly supportive of this clarification in the proposal and indicated that it would greatly help in minimizing administrative burden. Other commenters recommended that because of the high value of the information on computing devices and because of their attractiveness to potential thieves, they should be subject to the more prescriptive oversight requirements of equipment that falls above the threshold.

The COFAR considered both views and determined that the sensitive information on computing devices could more efficiently be protected through guidance specifically on internal controls for sensitive information, rather than through prescriptive requirements for the devices themselves. Further, the COFAR considered that the prescriptive requirements that are appropriately in place for equipment over the threshold of $5,000 would create an administrative burden the cost of which would outweigh any benefits achieved by reducing the potential attractiveness of these devices to thieves. To guard against the costly burden that treating these devices as equipment would create, the COFAR recommended retaining the definition of supplies as proposed. To protect the sensitive information on these devices, the COFAR recommended new specific language on internal controls governing sensitive information (see section 200.303 Internal Controls).

200.33 Equipment

Commenters advocated for a higher threshold for equipment than $5,000. Comments suggested that particularly for large state governments with high amounts of Federal awards, and with state policies of higher capitalization thresholds in place, a higher threshold, possibly in line with the non-Federal entity's own capitalization threshold, would be more appropriate. The COFAR considered and determined that even though entities may view higher thresholds as appropriate for their own purposes, maintaining the threshold at $5,000 is important to protect the assets purchased with taxpayer dollars under Federal awards. The COFAR did not recommend raising the threshold.

2. Subchapter B: General Provisions

200.101 Applicability

Some commenters suggested at a minimum that this section in the proposal needed to be revised for clarity, and some proposed significant changes to applicability of the guidance beyond what had been proposed.

The COFAR reviewed these and recommended changes for clarity. The guidance maintains existing language stating that this guidance does not supersede any existing or future authority under law or by executive order or the Federal Acquisition Regulation. In various sections throughout the guidance, commenters noted that it would be helpful to note a policy was ''except as provided in statute''. The COFAR recommended that this language be included once in the beginning as applicable throughout.

200.102 Exceptions

Commenters suggested that this section should reflect a more active role for OMB as an arbiter of situations where non-Federal entities encounter policies that deviate from this guidance and do not appear to conform to the list of exceptions articulated. The COFAR considered this feedback, but determined that Federal agencies are responsible for implementing their programs under authorities provided specifically by statute, and are further responsible for responding to any potential concerns from their particular recipients. OMB, as the entity responsible for promulgating the governmentwide guidance, is responsible for ensuring that the policies best meet the desired goals and for providing assistance where it is needed in interpreting the guidance. As reflected in section 200.108 Inquiries, non-Federal entities should address their specific concerns to the Federal awarding agency, cognizant agency for indirect costs, or cognizant or oversight agency for audit. OMB will periodically review the guidance for effectiveness and will provide assistance interpreting the guidance upon request. In addition, new language in paragraph (d) notes that on a case-by-case basis, in accordance with OMB guidance in M–13–17, OMB will waive certain compliance requirements and approve new strategies for innovative program designs that improve cost-effectiveness and encourage effective collaboration across programs to achieve outcomes.

200.111 Effective Date

Commenters requested that OMB and the COFAR orchestrate the implementation of the final guidance in a manner that results in a smooth transition for entities that are required to comply. The COFAR considered these requests as well as past implementations of OMB guidance and recommended that Federal agencies coordinate under OMB's guidance to issue regulations or OMB-reviewed guidance in unison, which will be effective one year from the publication of this final guidance. As a result, upon implementation, this guidance will be in effect for all Federal awards or funding increments provided after the effective date. Non-Federal entities wishing to implement entity-wide system changes to comply with the guidance after the effective date will not be penalized for doing so.

The COFAR further recommended that provisions of Subpart F—Audit Requirements be effective for non-Federal entity fiscal years beginning on or after the effective date of this guidance. An auditee that conducts a biennial audit and has a biennial period beginning before the effective date of this guidance should apply the provisions of OMB Circular A–133. The requirements of Subpart F—Audit Requirements apply to any biennial periods beginning on or after the effective date of this guidance. Federal agencies must submit draft implementing regulations to OMB no later than six months from the date of publication of this guidance unless different provisions are required by statute or approved by OMB.

200.112 Conflict of Interest

Commenters suggested that the guidance is missing a broad general statement requiring standards of conduct that mitigate potential conflicts of interest in the administration of Federal awards. The COFAR concurred, but noted that many Federal agencies have specific policies on this that are appropriately tailored to the specific nature of their programs. As a result, the COFAR recommended adding language that requires Federal agencies to have policies on conflict of interest in Federal awards (in case there are any that do not) and requires non-Federal entities to disclose in writing any potential conflicts of interest (in accordance with applicable policies) to the Federal awarding agency or pass-through entity.

200.113 Mandatory Disclosures

Commenters suggested that requirements in procurement regulations for non-Federal entities to disclose in writing any violations of Federal criminal law involving fraud, bribery, or gratuity violations in Title 18 of the United States Code have been effective measures to help prevent or prosecute instances of waste, fraud, and abuse. These commenters recommended that a similar provision be added to this guidance. The COFAR concurred with the recommendation.

Commenters also suggested that requiring two signatures on all certifications would be a similarly effective measure to guard against waste, fraud, and abuse. The COFAR considered this, but determined that due to the extensive responsibility for having expert knowledge of the non-Federal entities' cost accounting that is required in order to make the certifications as they are required now, adding this requirement for an additional person would be a significant source of administrative burden. The

COFAR did not recommend the addition.

3. Subpart C—Pre-Award Requirements

Content in the NPG from Subchapters previously designated as C—Notice of Federal Awards and D—Terms and Conditions of Federal Awards was reorganized to provide more streamlined guidance on information that is required to be provided to a non-Federal entity upon receipt of a Federal award.

200.201 Use of Grant Agreements (Including Fixed Amount Awards), Cooperative Agreements, and Contracts

In order to broaden a best practice within many Federal agencies' existing policy and to facilitate implementation of M–13–17, a recently published policy encouraging evidence-based programs, and drawing on existing policies and practices from several Federal agencies, new language has been added to the final guidance to allow for ''Fixed amount'' awards that rely more on performance than compliance for accountability. (See also Section 200.102 Exceptions and 200.430 Compensation—Personal Services.)

200.202 Requirement To Provide Public Notice of Federal Financial Assistance Programs

Comments suggested that, in order to facilitate auditor's ability to ensure that programs are correctly evaluated during audits, this section include the existing requirement for Federal agencies to include in the Catalog of Federal Domestic Assistance whether or not the particular program is subject to Single Audit Requirements in Subpart F. The COFAR recommended this change. The COFAR further recommended that due to uncertain timing regarding the integration of the Catalog of Federal Domestic Assistance into the System for Award Management, the name be left unchanged instead of changed to Catalog of Federal Financial Assistance as proposed.

200.203 Notices of Funding Opportunities

As discussed in the ANPG and NPG, the bulk of this section is not a policy change, but rather incorporates the existing requirement for certain categories of information to be published in announcements of public funding opportunities. See OMB Memorandum M–04–01 of October 15, 2003 (*http://www.whitehouse.gov/omb/memoranda_fy04_m04-01*), announcing the **Federal Register** notice that OMB published at 68 FR 58146 (October 8, 2003).

Commenters did note that the policy change providing a minimum timeframe of 30-days for applications to be available was a helpful idea, but that the proposed timeframe was too short to be of use. Federal agencies had previously indicated that the 90-day timeframe proposed in the ANPG was too long to be practicable given the constraints they often operate under.

The COFAR considered these perspectives and recommended the final guidance require all funding opportunities to be available for application for at least 60 days, with an exception for Federal awarding agencies to make a determination to have a less than 60 day availability period but no funding opportunity should be available for less than 30 days. The recommended policy would assure a minimum timeframe that is useful to applicants, and while many Federal agencies would likely continue best practices of a longer application period, they would have the exceptions that they require under exigent circumstances.

200.204 Federal Awarding Agency Review of Merit of Proposals

The proposed guidance required that unless prohibited by Federal statute for competitive grants and cooperative agreements, Federal awarding agencies must design and execute a merit review process for applications. This section left the design of the process to the Federal awarding agencies in order to leave as much flexibility as possible to incorporate the requirements of specific programs.

This reform was received positively in the proposal, with the comment that it should be separated out from the financial risk review discussed in the following section. The COFAR considered the feedback and recommended the suggested change in organization.

200.205 Federal Awarding Agency Review of Risk Posed by Applicants

As proposed, the guidance provides latitude for Federal awarding agencies to design this review as appropriate for the program. As noted in Section 200.101 Applicability, since nothing in this guidance can supersede the requirements of Federal statute, flexibilities such as those enshrined in the Indian Self-Determination and Education Assistance Act (ISDEAA) would not be contravened by this policy. Comments suggested that this section be structured to require a ''framework'' for reviewing risk, rather than an award-by-award review, where some programs have long histories and a strong understanding of the risks associated with frequent applicants. Evidence from comments suggests that Federal agencies would likely design their risk-based framework to make best use as possible of existing resources such as Single Audit reports—which aligns with comments indicating a preference for use of existing resources from the non-Federal entity community.

The COFAR considered the comments and recommended the suggested changes. In addition, the COFAR recommended that the final guidance clarify that, as a baseline for their review, Federal awarding agencies are required by 31 U.S.C. 3321 and 41 U.S.C. 2313 to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), Dun and Bradstreet, or ''Do Not Pay'', and also to comply with suspension and debarment requirements at 2 CFR part 180.

200.206 Standard Application Requirements

As proposed in the NPG, the guidance includes the requirement that Federal awarding agencies may only use those application information collections approved by OMB under the Paperwork Reduction Act of 1995 and OMB's implementing regulation in 5 CFR part 1320. Comments were generally in favor of maintaining this longstanding requirement and strengthening enforcement. In addition, OMB and the COFAR have been working closely with the Government Accountability and Transparency Board to identify opportunities for greater standardization of information collections governmentwide.

Though this is not a policy change, the COFAR endorsed it as an indicator of work by the COFAR and broader financial assistance community to further standardize governmentwide information collections. It is a further indicator of OMB's intent to authorize exceptions only on a limited basis.

200.207 Specific Conditions

This section of the final guidance was revised in response to comments received to include the list of examples of specific conditions from existing guidance that may be applied to a Federal award.

4. Subpart D—Post-Award Requirements

Subtitle I Standards for Financial and Program Management

200.301 Performance Measurement

In this section, commenters expressed concern about the longstanding requirement to relate performance to financial information whenever practicable. This language was not a change from existing policy, but in response to concerns, the COFAR recommended clarifications that this requirement will be met through use of governmentwide standard information collections, and notes that further requirements are as appropriate in accordance with those collections. This means that, for the research community where there are standard information collections for performance that, in accordance with the ''where practicable'' aspect of the guidance, do not relate financial information to performance data, there will be no such requirement.

200.302 Financial Management

Some commenters suggested that to strengthen financial management, non-Federal entities should be required to maintain separate bank accounts for each Federal award. The COFAR considered this but determined that doing so would be excessively administratively burdensome for non-Federal entities, and is not necessary to assure accountability as long as non-Federal entities have appropriate records that meet the standards as described in the guidance. The COFAR recommended further edits to better streamline this section of the guidance on financial management that was previously more scattered throughout the guidance, such as incorporating documentation standards previously in the audit requirements into this section.

200.303 Internal Controls

In response to comments that suggested that efforts to mitigate risks of waste, fraud, and abuse would be strengthened by a more explicit reference to existing internal control requirements issued by the Government Accountability Office (GAO) and the Committee of Sponsoring Organizations of the Treadway Commission (COSO), the COFAR recommended including this new section of the guidance which makes explicit non-Federal entity's responsibilities with regard to effective internal controls. In response to comments expressed regarding controls over sensitive information, the COFAR recommended adding language to make explicit a non-Federal entity's responsibility for safeguarding protected personally identifiable information (PII) and information designated as sensitive. This new language will result in stronger policies for protecting this information across Federal awards.

200.305 Payment

Comments noted with concern that the proposal included language from OMB Circular A–102 which required entities to remit interest payments due to Federal agencies promptly across multiple agencies. The final guidance reinstates and expands applicability of existing language from OMB Circular A–110 that instructs non-Federal entities to remit interest earned on Federal awards annually to the Department of Health and Human Services Payment Management System. This will result in a much less burdensome annual payment process.

In addition, this section has been revised to more accurately reflect the requirements in 31 U.S.C. chapter 65 and implementing Treasury Department regulations in 31 CFR Part 205 Rules And Procedures For Efficient Federal-State Funds Transfers. All requirements for payments to states are set forth in 31 CFR Part 205. Accordingly, the payment section now covers payments to states in paragraph (a) and refers to the Treasury requirements. Payment requirements for other non-Federal entities are set forth in the rest of the section.

200.306 Cost Sharing or Matching

Many comments were supportive of the proposed language stating that voluntary committed cost sharing is not expected under Federal research proposals and is not to be used as a factor in the review of applications or proposals. Federal agencies recommended adding that such cost sharing may be considered when in accordance with regulation and included in the notice of funding opportunity. In addition, commenters suggested that the final guidance incorporate existing guidance that only mandatory cost sharing or cost sharing specifically submitted in the project budget shall be included in the organized research base for computing indirect (F&A) costs for research projects. The COFAR considered the feedback and recommended the addition.

Subtitle III Procurement Standards

Subtitle III Procurement Standards takes the majority of the language from OMB Circular A–102. In the NPG, OMB requested comments on whether the inclusion of this language would be administratively burdensome for non-Federal entities currently subject to A–110. Responses indicated that it could be, and pointed to a few specific areas recommending refinement. The COFAR recommended keeping the A–102 language over the A–110 language because it considered this language to be better able to mitigate the risk of waste, fraud, and abuse. In response to the comments received, the COFAR recommended the specific changes described as follows.

200.318 General Procurement Standards

Commenters were concerned about possible administrative burden resulting from the requirement in paragraph (b) to maintain a contract administration system that ensures contractors perform in accordance with the terms, conditions and specifications of their contracts and delivery orders. The COFAR considers this to be a requirement that already exists in OMB Circular A–110, just perhaps not recognized due to different language. The COFAR recommended clarifying the language to require non-Federal entities to maintain ''oversight'' rather than a ''system'' to eliminate potential confusion over the standards of the system and to conform more explicitly to existing guidance.

Commenters recommended that the conflict of interest language found in paragraph (c) of this section be expanded to provide guidance on conflicts of interest for Federal awards more broadly. The COFAR considered this, but found that many Federal agencies already have conflict of interest policies, and these are fairly specific and vary by Federal agency. The COFAR recommended treating conflict of interest more broadly separately as described in section 200.112 Conflict of Interest, and also recommended expanding the conflict of interest guidance in this section to include organizational conflict of interest. This expansion will require non-Federal entities to have strong policies preventing organizational conflicts of interest which will be used to protect the integrity of procurements under Federal awards and subawards.

Commenters were concerned that language in the NPG requiring a review of proposed procurement methods by Federal awarding agencies would add an unnecessary layer of administrative burden to the process. The COFAR concurred and recommended that the language be removed from the final guidance.

Language in paragraphs (d), (e), and (f) is longstanding language which has always encouraged state and local governments subject to A–102 to avoid duplicative purchases and to enter into common procurements to promote efficient use of Federal awards. Comments recommended strengthening the language in light of OMB's 2012 Shared Services Strategy for Federal agencies encouraging the use of ''shared services'' for increased efficiency. The COFAR recommended strengthening the language in line with comments received. Additional changes as noted below in the cost principles are further intended to facilitate these types of arrangements.

Commenters were concerned that the requirement in paragraph (i) requiring the maintenance of records sufficient to detail the history of performance would similarly create administrative burden. The COFAR considered this requirement to be an important one for documenting the integrity of the transaction and recommended it be retained.

Commenters were concerned that language in the NPG, which required information concerning any protests of a procurement to be provided to the Federal awarding agency, would create an unnecessary layer of administrative burden to that process. The COFAR concurred, and that language has been removed from the section.

200.319 Competition

Commenters were concerned that language this section, which prohibits the use of geographic preference in solicitations, would put some non-Federal entities in conflict with the requirements of state law in some cases where state laws require such preferences. The COFAR considered this, but ultimately determined that such preferences could result in the non-Federal entity not making the most efficient possible use of the funds received under a Federal award, and so recommended the language remain unchanged. Where there is a conflict between state or tribal law and this guidance as implemented in regulation with respect to the administration of a Federal award, this Federal guidance prevails.

200.320 Methods of Procurement To Be Followed

Commenters were concerned that the methods of procurement this section might be overly proscriptive and might prevent entities from making purchases from specific contractors where such purchases were necessary, especially for example, for the integrity of a research project. The COFAR considered the language and recommended that with minor clarifications these methods, which include sole source procurements with justification, be retained as they should be inclusive enough to account for such situations.

200.322 Procurement of Recovered Materials

The COFAR also recommended including language in paragraph (f) on the procurement of recovered material to reiterate non-Federal entities' obligations under section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

Subtitle IV Performance and Financial Monitoring and Reporting

200.328 Monitoring and Reporting Program Performance

Some language in this section that had been included in the NPG aligning requirements with those in OMB Circular A–11 were found by Federal agencies to be overly broad, and have instead been replaced by more narrow language in section 200.102 Exceptions. The more specific language is designed to encourage evidence based program design.

The final guidance also includes language from existing guidance that had been dropped from the NPG noting that reporting should not be required more frequently than quarterly. In addition, similar language to that in section 200.501 on Standards for Performance and Financial Management notes that performance reports are subject to the Paperwork Reduction Act requirements and should use OMB-approved governmentwide information collections.

200.329 Reporting on Real Property

The language in this section is based on the supplementary information provided in the purpose section of the Final Notice of the Real Property Status Report (RPSR) form SF–429 available at 75 FR 56540 published September 16, 2010.

Subtitle V Subrecipient Monitoring and Management

This section was proposed in the NPG as section 200.501, but the COFAR recommended it be reordered in the final guidance for a more logical flow of post-award requirements.

200.331 Requirements for Pass-Through Entities

Many commenters were concerned that this section could expand the monitoring requirements for subrecipients significantly and result in increased administrative burden. In addition to re-ordering certain elements of the NPG language for clarity as some commenters suggested, the COFAR recommended the following further modifications:

In paragraph (a), data elements that are required to be included in subawards are aligned with those required to be included by Federal awarding agencies in Federal awards in section 200.210 Information Contained In A Federal Award.

Comments on the proposed language requiring pass-through entities to include an indirect cost rate in the subaward were highly positive, but suggested that the de minimis rate as outlined in section 200.414 Indirect (F&A) Costs should be higher. Commenters were concerned that pass-through entities might decline to negotiate, and this would make the de minimis rate more likely a de facto rate for subrecipients. The COFAR considered this feedback but determined that as an automatic rate without any review of actual costs, the rate should remain at the conservative levels discussed in that section to protect the Federal government against excessive over reimbursement.

Comments noted concern that as stated the language broadened pass-through entity responsibility for monitoring subrecipients particularly with respect to audit follow-up. The COFAR recommended modifications to clarify that the required monitoring of subrecipients is limited to reviewing any performance and financial reports that the pass-through entity has decided to require in order to meet their own requirements under the terms and conditions of the Federal award, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits only when those findings pertain to Federal award funds provided to the subrecipient from the pass-through entity. This is consistent with existing requirements. Language is further modified to clarify that pass-through entities must only verify, rather than ensure, that a subrecipient has an audit as required by Subpart F Audit Requirements. As a result of these clarifications, the requirements for subrecipient monitoring are substantively unchanged from existing guidance.

Subtitle VI Record Retention and Access

200.333 Retention Requirements for Records

The final guidance maintains and clarifies the existing requirement that records be retained for three years from the date of submission of the final expenditure report. The COFAR considered alternative scenarios proposed by commenters, and recommended that the proposed language be retained. The COFAR noted that this length can be extended if required by statute or with an exception from OMB, but that in most cases it is sufficient.

200.335 Methods for Collection, Transmission and Storage of Information

In addition, in response to the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, as well as to comments requesting that the guidance in general be updated to reflect 21st century methods of communicating, the COFAR recommended a new paragraph be added. The new paragraph (c) adds language on methods for the collection, transmission, and storage of information, which combines language that had been previously scattered throughout the guidance to make clear that electronic, open, machine readable information is preferable to paper, as long as there are appropriate and reasonable internal controls in place to safeguard against any inappropriate alteration of records.

Subtitle VII Remedies for Noncompliance

200.338 Remedies for Noncompliance

Commenters suggested that this section, which was titled ''Termination and Enforcement'' in the NPG, should be expanded to more accurately describe the actions that could be taken under enforcement. The COFAR recommended this change.

200.339 Termination

Commenters suggested that language should be added to allow for Federal agency termination for cause, because situations often arise beyond the Federal agency's or non-Federal entity's control which may require awards to be terminated. This language would prove useful in situations like those encountered during implementation of the Recovery Act or Sequestration, where congressional mandates encouraged expedited performance, or changes to appropriated amounts require modifications to programs. The COFAR recommended these additions.

200.343 Closeout

The proposal included expanded guidance on closeout, to help strengthen Federal agencies policies for this process in line with OMB's July 2012 Controller Alert. Commenters recommended this language be modified to extend the closeout period for an award from 180 days to the more realistic timeframe of one year, in addition to the clarifying language that non-Federal entities have 90 days from the end date of the period of performance to submit all final reports, and also to clarify that the one-year period begins once final reports have been received from the non-Federal entity. The COFAR recommended the addition.

200.344 Post-Closeout Adjustments and Continuing Responsibilities

Commenters suggested that language be added to limit the period when Federal agencies may disallow costs to within the three-year record retention period required under section 506 Record Retention and Access. The COFAR recommended the addition.

200.345 Collection Of Amounts Due

As with section 200.343 Post-Closeout Adjustments and Continuing Responsibilities, commenters recommended language to limit the collection period to within the three-year record retention period required under section 200.333 Retention Requirements for Records. The COFAR noted that the Federal government has the right to collect amounts due at any point, and while recognizing that a determination of disallowance should be made within the record retention period, did not recommend the addition in this section.

Section B: Subpart E and Appendices III–VIII: Cost Principles. Reforms to Cost Principles (Circulars A–21, A–87, and A–122)

This section discusses proposed changes to the OMB cost-principle circulars that have been placed at 2 CFR Parts 220, 225, and 215 (Circulars A–21, Cost Principles for Educational Institutions; Circular A–87, Cost Principles for State, Local and Indian Tribal Governments; and Circular A–122, Cost Principles for Non-Profit Organizations). The COFAR considered adding the hospital cost principles to the guidance, but decided that doing so would require in depth further review that would be best done as part of a separate process at a later date.

200.400 Policy Guide

Commenters requested that the final guidance include language which was previously included in OMB Circular A–21 to address the dual role of students in research at IHEs. The COFAR recommended that a slightly updated version of the language be included.

Other commenters suggested that to better mitigate the risks of waste, fraud, and abuse, the final guidance include language to make explicit that non-Federal entities are not permitted to earn or keep any profit resulting from Federal awards, unless expressly authorized by the applicable award conditions. The COFAR recommended the language be included.

200.401 Application

At the suggestion of commenters, the COFAR recommended this section include additional language to clarify that when a non-Federal entity has a Cost Accounting Standards (CAS) covered contract subject to the requirements of 48 CFR 995, those requirements do not automatically extend beyond the covered contract to other awards, though the non-Federal entity is required to maintain consistent application of cost accounting standards.

200.407 Prior Written Approval (Prior Approval)

In response to comments, the COFAR recommended the title of this section be changed from ''Advance Understanding'' to more closely mirror the language used in the guidance. In addition, a list of instances of sections that discuss conditions under which prior approval is required is included to ensure that these requirements are transparent and to reduce burden by providing both Federal agencies and non-Federal entities a complete listing of where all these types of requirements may be found.

200.413 Direct Costs

Paragraph (d) includes the language in this section that was proposed as a change to clarify the circumstances under which it is allowable to directly charge administrative support Costs. This language was proposed in order to address an ongoing inconsistency in the definition of direct costs; which required administrative costs to be charged indirectly but otherwise provided that costs are direct when they may be specifically allocated to one award; regardless of what activities they support.

Many commenters were supportive of the change with some concerns about

the way it was proposed. Some commenters were concerned that the conditions as originally articulated were not sufficiently clear for auditors to determine whether a directly charged administrative cost was allowable or not. Other commenters were concerned that the requirement to have these costs approved in the budget was more restrictive than otherwise standard rebudgeting practices and would unduly constrain implementation. The COFAR considered the issue and recommended adding explicit language to clarify that when these costs are allowable, they must have the prior approval of the Federal awarding agency. Additional language was added to allow for this approval after the initial budget approval in order to allow for flexibility in implementation. The clarified language addresses both sets of concerns; clarifying conditions for allowability while providing additional flexibility in project management.

200.414 Indirect (F&A) Costs

In response to a wide range of feedback from diverse stakeholders, Section 615 Indirect Costs contained a number of proposals for making indirect costs more transparent and consistent for non-Federal entities. These were well received by most stakeholders who submitted comments, and have mostly been retained as proposed, with some modifications.

Language in paragraph (c) provides for the consistent application of negotiated indirect cost rates, and articulates the conditions under which a Federal awarding agency may use a different rate. These conditions include approval of the Federal awarding agency head (as delegated per standard delegations of authority) based on documented justification, the public availability of established policies for determinations to use other than negotiated rates, the inclusion of notice of such a decision in the announcement of funding opportunity, as well as in any pre-announcement outreach, and notification to OMB of the decision. Comments received regarding these proposals were mostly positive, and indicated that these provisions would likely lead to greater consistency, and transparency in the application of indirect cost rates governmentwide. Some commenters recommended that for even greater consistency decisions about the use of rates be subject to OMB approval rather than Federal agency approval. The COFAR considered this, but ultimately recommends that responsibility for administering Federal financial assistance programs continue to rest with the Federal awarding agencies, and that the conditions set by OMB for these determinations are stringent enough to ensure that they do not occur without strong justification. The COFAR did not recommend the change.

Language in paragraph (f) provides that any non-Federal entity that has never had a negotiated indirect cost rate may use a de minimis rate of 10% of modified total direct costs. Commenters recommended that this rate should be higher—either at 15% or 20% respectively. They were concerned that because for smaller organizations the capacity to conduct full negotiations is often out of reach, this rate will most likely be the de facto rate rather than the de minimis rate. The COFAR considered the possibility of raising this rate, but ultimately recommended that as an automatic de minimis rate without analysis of actual costs it should stay at a conservative level in order to minimize the possibility that the Federal government over reimburse for these costs. Additional comments also suggested that to further reduce burden for both recipients and the Federal government, this de minimis rate be allowable for use indefinitely, and the COFAR concurred.

Language in paragraph (g) provides an option for entities with an approved federally negotiated indirect cost rate to apply for a one-time extension without further negotiation subject to the approval of the negotiating Federal agency. Commenters responded positively to this option, though some suggested that the extension period be longer, or that additional extensions be allowable. The COFAR considered these, but found it important to renegotiate after an initial 4-year extension period to ensure that such rates continue to be based on actual costs. The COFAR recommended this provision remain as proposed.

200.415 Required Certifications

Comments recommended that in order to better mitigate risks of waste, fraud, and abuse, required certification language be strengthened to include specific language acknowledging the statutory consequences of false certifications. The COFAR concurred with the recommendation.

200.419 Cost Accounting Standards and Disclosure Statement

The NPG proposed deleting the requirements that apply only to IHEs to comply with the Federal Acquisition Regulation (FAR) Cost Accounting Standards (CAS) and to file a Disclosure Statement when their Federal awards total $25 million or more. Some commenters responded favorably that this would reduce a source of administrative burden, but others were concerned, stating that this disclosure statement was a critical tool to mitigating waste, fraud, and abuse and opposed its elimination. Since the most likely source of burden occurs when an entity crosses the threshold for the first time, the COFAR recommended reinstating the requirement at the new threshold of $50 million to be consistent with current FAR requirements.

The COFAR further noted that for most IHEs that have already passed the threshold, the biggest source of burden associated with these requirements arises from uncertainty when awaiting Federal agency approval for a submitted change in a Disclosure Statement. In response, instead of requiring Federal agency approval for changes, the COFAR recommended the final guidance require only that non-Federal entities submit their changes six months in advance of implementing a change. If they receive no indication of an extension of the review period or of concern from a Federal agency, they may proceed with the implementation without further delay. The COFAR's recommended solution would thus continue to require use a valuable tool for mitigating risks of waste, fraud, and abuse while eliminating key sources of administrative burden and uncertainty for non-Federal entities that can lead to unnecessary audit findings.

Subtitle VI General Provisions for Selected Items of Cost

Some commenters noted concern that the current item of cost for ''Communication costs'' had been deleted from the proposed guidance. The COFAR considered this, but considered communications costs to be straightforward enough to be easily covered by the guidance in Subtitle II: Basic Considerations. The COFAR notes that all items not specifically covered in the items of cost are subject to the guidance in Subtitle II Basic Considerations, and that this section should be read as a guiding framework for all specific discussions of cost in the section that follow.

200.421 Advertising and Public Relations

Commenters noted that it was important that costs relating to advertising and public relations allow for costs of advertising program outreach and other specific costs necessary to meet the requirements of the federal award. The COFAR recommended the addition.

200.422 Advisory Councils

Commenters were concerned that the proposed guidance disallowed previously allowable costs for documented advisory council costs that benefited a federal award.

The COFAR reviewed the language and noted that the revised language is clarifying in nature and does not substantively change the existing requirements, noting that these costs are still allowable with prior approval from the Federal awarding agency. The COFAR did not recommend a change.

200.425 Audit Services

Commenters recommended that this section be clarified to include reference to a non-Federal entity's fiscal year in noting that when Federal awards total less than $750,000 the non-Federal entity is exempted from having a single audit. The commenters wanted the addition of the fiscal year clause in order to be consistent with Subpart F. The COFAR recommended the addition.

Commenters noted concern for language which stated that other audit costs were allowable if included in an approved cost allocation plan or an indirect cost proposal, or if it was approved by the Federal awarding agency as a direct cost to the Federal award.

Upon further review, the COFAR notes that though this language allowing costs of other audits has been in place for years, it is not consistent with the Single Audit Act, and so recommended deleting it. Instead, the COFAR recommends language that allows the costs of a financial statement audit for a non-Federal entity that does not currently have a Federal award when included in the indirect cost pool as part of a cost allocation plan or indirect cost proposal. These audits may be useful to the Federal agency negotiating an indirect cost rate, and the COFAR does not believe them to be in conflict with the Single Audit Act.

The COFAR further recommends clarification that agreed-upon-procedures are defined in section 2(A) of the GAGAS attestation standards, and this section will be aligned with the types of compliance requirements in the compliance supplement once updated.

200.428 Collections of Improper Payments

The COFAR recommends that the last sentence of this section, which describes the collection of improper payments when time elapses between the collection of funds from entities and their expenditure, be deleted because it is redundant and duplicates what is said in section 200.305 Payment, which is also cross-referenced. The result is more streamlined language that articulates the requirement more clearly.

200.430 Compensation—Personal Services

The COFAR began review of these requirements under this reform effort based on feedback that the existing requirements had become extremely administratively burdensome, and as written, the guidance did not allow for advances in technology, record keeping, and internal controls, which allow non-Federal entities to document these costs in increasingly efficient and sophisticated ways. In addition, the COFAR considered the long-term goal of tying justification for salaries to the achievement of programmatic objectives rather than measurement of effort (hours) expended. Though such performance-oriented reporting is not currently possible across the diverse suite of Federal assistance programs, the advances noted above allow for alternatives to the current requirements that can provide an even higher standard of accountability without burdensome process requirements. The COFAR received many comments on this proposed language indicating that the changes had potential for positive impact but recommended modifications to the proposed language.

Comments suggested that language be added to include more detail as to the general explanation of what compensation for personal services is allowable.

The COFAR considered the current level of detail to be sufficient, especially since any personal services not listed in this section would be addressed in section 200.431 Compensation—Fringe Benefits.

Commenters suggested that compensation surveys providing data representative of the labor market involved were inferior to the other methods described in the NPG for evaluating the reasonableness of compensation for personal services. Others commented that with regard to the basis for salary rates, unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award should not exceed the proportionate share of the institutional base salary for the period during which the faculty member worked on the award.

The COFAR recommended additions to support both proposals.

Commenters recommended deleting the specific reference to conflict of interest policies, noting that there is no reason to highlight any one institutional policy in this section over others. They also recommended deleting the rest of the section allowing Federal agencies to negotiate alternative arrangements when non-Federal entity policy is deemed inadequate. Commenters also recommended the deletion language which provided special consideration in determining allowability for any change in the non-Federal entity's compensation policy because they found it redundant to other language describing the compensation for personal services and the reasonableness with which these services need to be proven in order for compensation to be expected.

The COFAR concurred with the recommended deletion of conflict of interest policy but did not recommended further changes on special considerations which they found to provide important provisions that mitigate the risks of waste, fraud, and abuse.

Another comment recommended deletion of language on allowable incentive compensation because the commenter believed this provision has resulted in cost disallowances and is burdensome. The COFAR disagreed and recommended that the section stay the way it was originally proposed.

Comments noted with concern that that nonprofit organizations are not subject to the same rules as other types of non-Federal entities. The COFAR considered that due to the unique facets of nonprofit organizations, these flexibilities are important, and recommended that paragraph (g) stay the way it was originally proposed.

Commenters proposed major changes to paragraph (h), which provides provisions specific to IHEs describing conditions that require special consideration and possible limitations in determining allowable compensation costs. They recommended re-organization of the section for clarity and an explicit recognition of Institutional Base Salary rate (a type of policy most IHEs have well defined) instead of references to a more loosely defined ''base rate''. The COFAR concurred and recommended most of the suggested changes.

Many diverse stakeholders submitted comments on paragraph (i) Standards for Documentation of Personnel Expenses (also known informally as ''time and effort reporting''). Many agreed on the need for clearer standards of the internal controls around these charges. Many commenters also requested additional flexibility in how these standards could be implemented, while others recommended stricter uniformity in the provision of specific

certification language that would better prevent and facilitate prosecution of fraud. Some commenters that allowance for costs based on estimates could result in a lack of sufficient documentation that the costs were in accordance with the work performed.

The COFAR agreed with the recommendations on the risks in this area and the need for a strong system of internal controls to document compliance. This final guidance requires non-Federal entities to comply with a stringent framework of internal control objectives and requirements. The guidance also requires that when interim charges are based on budget estimates, the non-Federal entity's system of internal controls must include processes to ensure necessary adjustments are made such that the final amount charged to Federal awards is proper.

The COFAR considered recommendations from commenters to include specific certification language, but was concerned that requiring specific language at this level would result in audit findings more likely to be based on incorrect documentation rather than uncovering weaknesses in internal control or instances of fraud. Further, the COFAR notes that other certifications included by recipients in their applications and indirect cost rate agreements provide a layer of assurance that can be used in preventing and prosecuting instances of fraud.

The COFAR believes this focus on overall internal controls provides greater accountability as the non-Federal entity must ensure that the total internal control system for documenting personal expenses provides proper accountability and the auditor must test these internal controls as part of the Single Audit requirements in Subpart F. While many non-Federal entities may still find that existing procedures in place such as personal activity reports and similar documentation are the best method for them to meet the internal control requirements, this final guidance does not specifically require them. The focus in this final guidance on overall internal controls mitigates the risk that a non-Federal entity or their auditor will focus solely on prescribed procedures such as reports, certifications, or certification time periods which alone may be ineffective in assuring full accountability.

While this approach may increase burden on non-Federal entities with weak internal controls, the COFAR believes overall it will reduce burden by providing non-Federal entities the ability to implement the internal control systems and business processes that best fit a non-Federal entity's needs. Also, placing requirements at the internal control objective level is consistent with the requirements in section 200.303 Internal Controls. Specifically, the COFAR recommended stating explicitly that charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. Further clarifications describe the required controls in more detail.

The COFAR received positive feedback on proposed language that provided for Federal agencies to approve alternative methods where proposals are submitted that are more performance oriented or in instances of approved blended funding and recommended it be retained.

The combined result of these changes is that non-Federal entities have clear high standards for maintaining a strong system of internal controls over their records to justify costs of salaries and wages, and also additional flexibility in the processes they use to meet these standards. This should allow them to be more accountable for these costs at less expense.

200.431 Compensation—Fringe Benefits

Commenters recommended eliminating a requirement for awarding agency pre-approval for insurance payments based on consistent entity policy for actual payments to or on behalf of employees or former employees for unemployment compensation or workers' compensation. The COFAR agreed and recommends removing the language.

Based on recommendations from diverse comments, the COFAR recommended clarification of the applicability of GAAP to entities using accrual based accounting. The COFAR also recommends that prior approval by the Federal awarding agency or cognizant agency be given before an indirect cost is charged to the Federal award for abnormal or mass severance pay.

Federal agencies recommended that all severance in excess of normal severance policy in accordance with institutional policy or other conditions for allowability discussed in the guidance should be unallowable, not just golden parachute packages. The COFAR recommended the proposed changes to prevent excessive severance payments.

Finally, many commenters commended the inclusion of family-related leave among the examples of types of leave that may be allowed according to the non-Federal entity's written policies. The COFAR recommended keeping this language as proposed.

200.432 Conferences

The language from the proposed item of costs for External Meetings and Conferences has been clarified to better articulate the limits on the types of gatherings for which these costs are allowable. In addition, the language clarifies that the costs of identifying, but not providing, locally available dependent care options for attendees are allowable. The result is that non-Federal entities have clear limits around conference spending which should limit these costs appropriately.

Further, without adding significant cost, the policy encourages family-friendly practices that will better enable employees of non-Federal entities with dependent care responsibilities to progress in their careers. This is an outcome which was noted in comments as one that is essential for advancing the careers of women in science, technology, engineering and math. Similar outcomes are supported by reforms to 200.474 Travel Costs and 200.431 Compensation—Fringe Benefits.

200.433 Contingency Provisions

Many commenters noted that this proposed section made positive and helpful clarifications which enable a better understanding of how contingency costs may be budgeted and charged. Some commenters recommended additional provisions for further clarity on the types of costs that are allowable for contingencies, and recommended additional controls on how Federal agencies provide oversight over these funds as part of their Federal awards. In particular, commenters suggested adding a requirement to track funds that are spent as contingency funds throughout the non-Federal entity's records.

The COFAR reviewed the language, and concluded that it does provide sufficient controls to Federal agencies to manage Federal awards. The COFAR noted that: (i) though a diversity of techniques are available to establish contingency estimates, the estimates must be based on broadly-accepted cost estimating methodologies, (ii) budgeted amounts would be explicitly subject to Federal agency approval at time of award, (iii) funds would not be drawn down unless in accordance with all the other applicable provisions of this guidance (such as Subtitle II Basic Considerations), and (iv) actual costs incurred must be verifiable from the non-Federal entity's records. The

COFAR considered this last requirement to be sufficient for tracking the use of funds, as contingency funds should most properly be charged not as ''contingency funds'' specifically, but according to the cost category into which they would naturally fall. The COFAR did not recommend any changes to the proposed language.

200.434 Contributions and Donations

Comments suggested that the value of a donated item, whether it is a good or a building, should not be charged to a Federal award as either a direct or indirect cost.

The COFAR concurred and recommended changes accordingly. The COFAR also recommended clarifying that depreciation on donated assets is permitted in accordance with 200.436 Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements. The COFAR also recommended consolidation of much this section with section 200.306 Cost Sharing Or Matching.

200.435 Defense and Prosecution of Criminal and Civil Proceedings, Claims, Appeals and Patent Infringements

Commenters recommended that that all costs related to defense of criminal, civil, or administrative proceedings should be completely unallowable, regardless of disposition.

The COFAR considered this but recommended keeping the language as it was originally proposed in order to preserve a wrongly accused defendant's ability to charge the Federal award for legal costs related to charges or claims for which the defendant ultimately receives a favorable disposition.

200.436 Depreciation

Commenters suggested that allowable compensation for the use of their buildings, capital improvements, equipment, and software projects should be based on capitalization in accordance with GAAP instead of the Government Accounting Standards Board Statement Number 51.

The COFAR agreed and recommended changing the language to reflect this change. The COFAR also recommend adding clarification that an asset donated to the non-Federal entity by a third party will have its fair market value documented at the time of the donation and shall be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both.

Commenters noted that proposed language on depreciating assets donated by a third party would prevent recipients from recovering depreciation on assets that might be purchased under non-Federal awards, but nevertheless used at least in part to support a Federal award. This exclusion would discourage efficiencies to Federal awards that could otherwise be gained through shared use of these assets. The COFAR agreed and recommended the proposed change.

200.437 Employee Health and Welfare Costs

Commenters suggested that allowing costs to improve ''morale'' in this item as proposed would be difficult to distinguish from the language in the following item that disallows entertainment costs, potentially resulting in opportunities for waste, fraud, and abuse.

The COFAR concurred and, to better mitigate these risks recommended eliminating references to morale, limiting this item to those for Health and Welfare as established in the non-Federal entity's documented policies.

200.438 Entertainment Costs

Many diverse commenters noted the potential for conflicting guidance between this section as proposed and the guidance under 200.437 Employee Health And Welfare Costs, as well as confusion about exceptions for entertainment under the terms and conditions of the award.

In addition to the clarifications to 200.437 Employee Health And Welfare Costs, the COFAR recommended clarifying that any exceptions require a programmatic purpose as well as written prior approval from the Federal awarding agency.

200.439 Equipment and Other Capital Expenditures

Many diverse commenters noted opportunity for clarification in this section. The COFAR recommended addressing most of these either in consolidated definitions in the definitions section or through appropriate consolidations with the language in Subpart D—Post Federal Award Requirements, section Subtitle II Property Standards.

200.441 Fines, Penalties, Damages and Other Settlements

Commenters suggested that the list of laws under which failure to comply could result in costs of fines and other penalties should include Tribal law. The COFAR recommended the addition.

Commenters suggested that costs resulting from ''alleged violations'' and not just ''violations'' should be unallowable, except when they result directly from complying with the terms of a Federal award or are approved in advance by the Federal awarding agency. The COFAR recommended the addition.

200.444 General Costs of Government

Commenters suggested that to be consistent with current policy this item should include language that allows up to 50% of the portion of salaries and wages for the chief executive and his or her staff supporting Federal awards for Indian Tribes and Councils of Government to be allowable as indirect costs without further justification. The COFAR recommended the addition.

200.445 Goods or Services for Personal Use

Diverse stakeholders suggested additional types of costs that could be explicitly discussed under this item. The COFAR considered these but found them to be items either addressed elsewhere in the guidance or covered under Subpart II Basic Considerations. The COFAR did not recommend changes to this section.

200.446 Idle Facilities and Idle Capacity

Commenters requested further clarification on the circumstances under which costs of idle facilities are unallowable versus allowable. The COFAR recommended changes for clarification and to ensure sure that these fluctuations are allocated properly to all benefiting programs.

Other commenters suggested that the one year time limit that the guidance provides on funding idle facilities may be arbitrary, and noted that often the projects which require this flexibility are multi-year projects, where a two year horizon might be considered an extremely aggressive timeline.

The COFAR considered that the exact requirement is for a ''reasonable period of time, ordinarily not to exceed one year'', which provides some flexibility on the timeline when needed, while still setting expectations of limits. The COFAR did not recommend changes to this language.

200.447 Insurance and Indemnification

Commenters suggested that policy allowing Federal agencies to choose whether to participate in losses not covered by the recipient's self-insurance reserves is inappropriate and burdensome to entities, and also contradicts other provisions in the language.

The COFAR agreed and recommended that the sentence be deleted. The COFAR also recommended deleting

policy that the Federal government will participate in actual losses of a self-insurance fund that are in excess of the reserves, to protect the Federal government from inappropriate exposure to these types of costs.

Commenters recommended that language discussing fees paid to or on behalf of employees or former employees for worker's compensation, unemployment compensation, be moved to the section on fringe benefits. The COFAR recommended the language be moved.

200.448 Intellectual Property

One comment requested use of a more commonly understood phrase than ''searching the art'', which is currently used in the guidance.

The COFAR determined that this is a term of art and is the appropriate phrase for this guidance. The COFAR did not recommend a change.

200.449 Interest

Commenters noted that they preferred the organization of the language used in the A–21 circular, suggesting that this section begin with the general principle that costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-Federal entity's own funds are unallowable, followed by exceptions. The COFAR recommended the change in organization.

Commenters responded positively to the more explicit inclusion of information technology in the definition of capital assets. They also recommended that the date for the provision to take effect be based on a non-Federal entity's fiscal year rather than a specific date. The COFAR recommended moving this and all other definitions to the streamlined definitions section and concurred with the adjustment to the effective date.

Some commenters suggested recipient's limits for claims for federal reimbursement of interest costs to the least expensive alternative and that criterion for the non-Federal entity to make an equity contribution of at least 25% of the purchase debt arrangements over a million dollars be removed. Other commenters suggested that these should remain in order to protect Federal government interests. The COFAR did not recommend removing these provisions.

Commenters suggested that extra criteria for nonprofit organizations is not appropriate and ask that all the conditions specifically for nonprofit organizations be removed. The COFAR recommended deleting all but one of specific conditions for nonprofit organizations. The COFAR recommended keeping the provision that requires that the non-profit organization had to have incurred the cost after September 29, 1995, in connection with acquisitions of capital assets that occurred after the data. The COFAR also recommended deleting any additional conditions for non-profit organizations that are duplicative of CAS.

Commenters suggested adding a provision to ensure that interest attributable to a fully depreciated asset is unallowable. The COFAR recommended the addition.

200.453 Materials and Supplies Costs, Including Costs Of Computing Devices

The COFAR recommended moving the definition of supplies to the definition section, and feedback on that definition is discussed there.

200.454 Memberships, Subscriptions, and Professional Activity Costs

Commenters noted that it was unclear what was meant by ''substantially engaged in lobbying''. The COFAR recommended substituting ''whose principal purpose is lobbying'' and adding a citation to section 200.450 Lobbying to clarify.

200.455 Organization Costs

Commenters recommended parity in application of this item across types of non-Federal entities. The COFAR recommended making this section applicable to all stakeholders.

200.456 Participant Support Costs

The proposed guidance included language on participant support costs that expands to all entities a provision which previously applied only to nonprofit entities, though moves the definition of these costs to the definition section. The proposal received mostly positive feedback from commenters. The COFAR recommended keeping this language and that treatment of participant support costs in the definition of modified total direct costs and appendices on indirect cost rates be modified in accordance with this guidance.

200.460 Proposal Costs

Many comments were supportive of the proposed language, though some were concerned that the language allowing for other than indirect treatment with prior Federal agency approval could lead to inconsistencies. The COFAR recommended deleting this language to improve consistency and allow proposal costs to be charged only as an indirect cost.

200.461 Publication and Printing Costs

Commenters suggested that language should be added to resolve a long-standing issue with charges necessary to publish research results, which typically occur after expiration, but are otherwise allowable costs of an award.

The COFAR concurred with the comments and recommended additional language to clarify that non-Federal entities may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.

200.463 Recruiting Costs

Commenters suggested that since ''special emoluments, fringe benefits, and salary allowances'' that do not meet the test of reasonableness or do not conform with established practices of the entity would be unallowable regardless of where the personnel are currently employed; language should be clarified accordingly with the deletion of ''from other non-federal entities'' after the list of benefits that attract professional personnel. Commenters also noted that modifications were needed to clarify that when relocation costs incurred with the recruitment of a new employee have been funded in whole or in part as a direct cost to the federal award, and the newly hired employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity will be required to refund or credit only the Federal share of such relocation costs to the Federal government. The COFAR concurred with the suggested change.

Commenters suggested that this section in its proposed form (and in existing guidance) fails to account for costs associated with obtaining critical foreign research skills and proposed additional language and standards to remediate the problem. Commenters recommended that costs associated with visas when critical skills are needed for a specific award should be allowed. The COFAR concurred with the recommended change.

200.464 Relocation Costs of Employees

Commenters suggested that the costs of the ownership of the vacant former home after the settlement or lease date of the employees new permanent home should only be paid for up to 6 months to eliminate excessive charges to the Federal government. The COFAR concurred with the recommended change.

200.465 Rental Costs of Real Property and Equipment

Commenters requested that an exception for Indian tribes to the provisions that allow ''less-than-arm's-length'' transactions only up to the actual costs of ownership. They suggest that this is a matter of tribal autonomy and a way to better support tribal enterprises. The COFAR considered the suggestion but determined that despite the unique government-to-government relationship with Indian tribes and the importance of tribal autonomy, allowing these transactions at higher than the costs of actual ownership would result in undue increases in costs to the Federal government. The COFAR did not recommend the change.

Commenters recommended that rental costs under ''sale and lease back'' arrangements should only be allowable up to the actual costs of ownership, and not up to the amount that would be allowed had the entity continued to own the property. They also commented that language explaining that for clarity rental costs under ''less-than-arm's length'' leases are allowable only up to the amount as explained in paragraph (2) need not include that the costs are allowable up to the amount had the title to the property vested in the institution.

Commenters suggested that the provisions of the General Accepted Accounting Principles should determine whether a lease is a capital lease or not. Commenters also suggested that language should be added prohibiting the charge of home office space and utilities charged to a Federal award.

The COFAR recommended these proposed changes.

200.466 Scholarships and Student Aid Costs

Commenters suggested that this section should reflect the dual role of students and that the language should make clear that voluntary committed cost sharing should not be used as a factor in the review of applications.

The COFAR concurred with the recommended clarifications, but recommended they be more appropriately added in section 200.400 Policy Guide, and section 200.306 Cost Sharing Or Matching, respectively.

200.467 Selling and Marketing Costs

Commenters suggested that a cross-reference to section 200.460 Proposal Costs should be added to the existing cross reference to section 200.421 Advertising and Public Relations as allowable exceptions to the otherwise unallowable costs covered by this section. The COFAR concurred with the recommendation.

200.468 Specialized Service Facilities

Commenters suggested introducing the concept of an ''equipment replacement fund''. Their concern is that when federally-funded equipment is being used, the depreciation charges on this equipment are not allowed to be included in the rates charged to users of the equipment. Consequently, this restricts the ability of the non-Federal entity to recover funds that could be used to replace the equipment in the future. Allowing non-Federal entities to establish an ''equipment replacement fund'' would help to ensure that institutions are in a position to fund future equipment without having to rely on equipment grants from research funding agencies. The COFAR considered this suggestion, but was concerned that allowing such costs would inappropriately increase costs under Federal awards and reduce the benefits intended to be achieved by the Federal award. The COFAR did not recommend the change.

Commenters suggested that examples of costs of services provided by highly complex or specialized facilities operated by the entity are not needed.

The COFAR considered the suggestion and although generally throughout the guidance has declined to include specific examples recommended that in this case the examples be kept as an important way to illustrate the intent of the language.

200.469 Student Activity Costs

Upon review of this section, the COFAR recommended that though it primarily applies to IHEs, expanding this language to all entities would further mitigate risks of waste, fraud, and abuse.

200.471 Termination Costs

Commenters suggested that the cross reference to an exception for reimbursement for a predetermined amount under proposed Subpart D—Post Federal Award Requirements, Subtitle II Property Standards did not exist in the document and recommended the cross-reference be deleted.

Commenters suggested that while there is no substantive change in the proposed guidance from the existing circulars, they are unsure why indirect costs are being specifically cited with regard to settlement expenses, and were concerned the citation could be misinterpreted as somehow limiting the allowable indirect costs to only a portion of termination costs. They propose deleting the reference.

The COFAR recommended making both proposed deletions.

200.472 Training and Education Costs

Commenters indicated concern that the language allowing the costs of training and education for employee development is too open-ended and recommended more restrictive language.

The COFAR considered the suggestion, but believes that the basic considerations for allowability in Subtitle II Basic Considerations provide adequate restrictions that will appropriately limit the risk of waste, fraud, and abuse. The COFAR did not recommend a change.

200.474 Travel Costs

Commenters suggested that the proposed language allowing temporary dependent care costs was too open-ended and could increase risks of waste, fraud, and abuse.

The COFAR concurred with the concerns raised and modified the language to provide more specific parameters for the conditions under which these costs are allowable. The result is language that provides, under specific and limited circumstances, a family-friendly policy that should allow for individuals with dependent care responsibilities to better balance their responsibilities to both their families and the Federal award.

200.475 Trustees

Commenters noted that this section reverses existing language from OMB Circulars A–21 and A–122 where travel and subsistence costs of trustees, or directors, are allowable under certain conditions. They proposed that past policy from A–21 and A–122 be reinstated.

The COFAR concurred and recommended that the costs for the nonprofit community and institutions be allowable, given those costs are also in line with section 200.474 Travel Costs.

Appendix III Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph B.4.c.

Commenters noted that while many of those who do not currently benefit from the 1.3% utility cost adjustment currently allowed under A–21 appreciated the proposed new language, they would further appreciate the opportunity to suggest alternative indices to measure ''effective square footage''.

The COFAR considered this, but determined that such open ended adjustments to costs would result in increased risk of waste, fraud, and abuse. Further, some commenters expressed concern about the total costs

to Federal agencies that could result from these charges, particularly given the lack of conclusive data available to accurately project these costs. The COFAR concurred with the concern, and so recommended that while these charges should be based on actual costs, the amount recoverable should be limited to an amount equal to 1.3% of the IHE's indirect cost rate until such time as OMB and Federal agencies can better understand the cost implications of full reimbursement of actual costs and the potential implication for Federal programs.

Appendix V State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans

Under existing requirements, any ''major local government'' is required to submit a Cost Allocation Plan to its cognizant agency for indirect cost on an annual basis in order to claim its central services costs against Federal awards. The ''major local governments'' subject to this requirement, along with each cognizant agency assignment, are listed in the **Federal Register** notice dated January 6, 1986 (available at: *http://www.whitehouse.gov/sites/default/files/omb/assets/financial_pdf/fr-notice_cost_negotiation_010686.pdf*).

The proposed guidance set the definition of ''major local government'' at $100 million in order to more accurately reflect the updated universe of such governments which has changed since 1986, and also to provide a threshold that will remain in place as the sizes of individual local governments fluctuates over time. Commenters inquired whether the new definition supersedes the 1986 listing.

The COFAR noted the new definition of major local government does supersede the 1986 listing. The COFAR recommended adding this notice to the list of supersessions in section 200.104 Rescission and Supersession.

In addition, the COFAR recommended a change to the guidance on cognizant agencies. The policy would remain as it is for indirect cost rates, with cognizance being based on direct Federal awards. However, for local governments' central service cost allocation plans, the COFAR recommended that cognizance is best governed by total Federal awards, in order to avoid a situation where direct funding for one program (for example in housing) may result in a different outcome of cognizance than would otherwise be appropriate.

Section C: Subpart F Audit Requirements (Circulars A–133 and A–50)

This section discusses ideas for changes that would be made to the audit guidance that is contained in Circular A–133 on Audits of States, Local Governments, and Non-Profit Organizations and in Circular A–50 on Audit Follow-up. The following ideas for reform were discussed in the ANPG.

200.501 Audit Requirements

OMB received many comments on the appropriateness of the proposed threshold for the single audit requirement at $750,000, some of which recommended the threshold be raised to a higher level, others ambivalent, and some recommended it be kept at its current level of $500,000.

The COFAR considered the comments and the implications that raising the threshold to $750,000 would maintain Single Audit oversight over 99.7% of the dollars that are currently subject to the requirement and 87.1% of the entities that are currently subject to the requirement; eliminating the requirement for approximately 5,000 out of the 37,500 entities that currently receive a Single Audit. The COFAR also noted that an increase of $250,000 is in line with the previous adjustment to the threshold.

The COFAR considered that raising the threshold would allow Federal agencies to focus their audit resolution resources on the findings that put higher amounts of taxpayer dollars at risk, thus better mitigating overall risks of waste, fraud, and abuse across the government. Further, the COFAR notes that provisions throughout the guidance, including pre-award review of risks, standards for financial and program management, subrecipient monitoring and management, and remedies for noncompliance provide a strengthened level of oversight for non-Federal entities that would fall below the new threshold.

The COFAR recommended that the threshold be kept at the proposed level of $750,000.

200.503 Relation to Other Audit Requirements

Commenters recommended that language be added to this section to explicitly require Federal agencies or pass-through entities to review the Federal Audit Clearinghouse for existing audits submitted by the entities, and to rely on those to the extent possible prior to commencing an additional audit.

The COFAR concurred with the suggestion and recommended the addition in order to reduce duplication by better leveraging existing audit resources prior to initiating new engagements.

200.507 Program-Specific Audits

Commenters suggested that rather than requiring auditors to contact inspectors general for program specific audit guides, such guides should be listed in the annual compliance supplement. The COFAR recommended the addition to reduce administrative burden.

200.509 Auditor Selection

Comments recommended that peer reviews be added to the factors considered in selecting an auditor. The COFAR recommended the addition to strengthen audit quality and ensure that audit resources are used most effectively.

200.510 Financial Statements

Commenters suggested that the schedule of expenditures of Federal awards must include the total Federal awards expended as determined in accordance with section 200.502 Basis for Determining Federal Awards Expended, and also that for clusters of programs, the schedule of expenditures of Federal awards should include the cluster name and also include the Federal awarding agency name with the list of programs within the cluster. The COFAR recommended the addition to facilitate a more efficient and effective audit follow-up process.

200.511 Audit Findings Follow-Up

Commenters recommended restoring existing language from OMB Circular A–133 that lists the valid reasons for considering an audit finding as not warranting further action. The COFAR recommended the addition.

200.512 Report Submission

Commenters noted concern with the proposed language in this section that would make audit reports publicly available on the internet. Despite the fact that the non-Federal entity is already required to make the Single Audit report available for public inspection under the Single Audit Act, Indian Tribes were concerned that publishing them would expose sensitive confidential business information that would be harmful to the tribes. The COFAR considered this feedback including feedback from the Department of the Interior, which noted that even if a single audit report for an Indian Tribe were to be requested by a member of the public under the Freedom of Information Act, the confidential

business information would be redacted under exemption 4 under the Act.

To fully address this problem, the COFAR would need to explore with the audit community whether auditing standards could allow for financial statements that do not include this sensitive information in the first place. Since this solution is beyond the reach of the COFAR at this time, the COFAR recommended adding an option to allow Indian Tribes to opt out of having the Federal Audit Clearinghouse publish their reports. If an Indian tribe were to exercise this option, it would be responsible for providing its audit report to any pass-through entities as appropriate.

Commenters recommended additional language to make explicit that the Federal Audit Clearinghouse is the repository of record and authoritative source for single audit reports. Federal agencies, pass-through entities, and others interested should therefore obtain it by accessing the clearinghouse rather than requesting it directly from the non-Federal entity. The COFAR agreed that the proposed addition would likely reduce administrative burden and recommended the addition.

Commenters also recommended that the section include language to allow for exceptions to reporting deadlines particularly in cases of emergency. The COFAR considered this, but noted that such language would likely lead to an administratively burdensome process of frequent requests and denials of the extension period. In cases of true emergency, OMB and Federal agencies together often issue pre-emptive extensions of the deadline. The COFAR did not recommend further changes to the language.

Further comments noted possible confusion over the deadline for report submission if it falls on a holiday. The COFAR also recommended changes to clarify that if the due date falls on a Saturday, Sunday, or Federal legal holiday, the reporting package is due the next business day.

200.513 Responsibilities

Commenters recommended that the proposed language on quality control reviews be revised back to current OMB Circular A–133 for reviews that are risk based, which is more in line with agency capacity for reviews. The COFAR concurred with the recommendation. The COFAR further recommended further language to require a governmentwide audit quality project every six years similar to those done in the past to take a meaningful look at audit quality governmentwide and make substantive changes where needed.

Commenters noted that the responsibility to coordinate a management decision for cross-cutting findings is one that Federal agencies struggle to accomplish currently. The COFAR considered this and agreed, but recommended the language remain as an articulation of the best policy. The Single Audit resolution pilot project currently under supervision of the COFAR is aimed at addressing some of the difficulties currently found in implementation.

Commenters noted that the proposed requirement to submit management decisions to the Federal Audit Clearinghouse is one they concur with, but find that significant work would need to be done to coordinate the management decision process at a governmentwide level before this could feasibly be implemented. The COFAR concurred and struck the proposed language, as well as language that would allow other Federal agencies and pass-through entities to rely on cross-cutting management decisions from Cognizant or Oversight Agencies for Audit. The COFAR further notes that the Single Audit resolution pilot project currently under supervision of the COFAR will hopefully result in lessons learned and best practices that can facilitate the implementation of this policy in the future.

Commenters responded positively to new provisions that would strengthen the audit-follow-up process including the appointment of Senior Accountable Officials, implementation of metrics, and encouragement of cooperative audit resolution techniques. These revisions would effectively strengthen the follow-up process and reduce risk of repeated findings of waste, fraud, and abuse.

Some commenters posed questions about the role of the Senior Accountable Official for Audit and how it would align with responsibilities of the Office of Inspectors General. Similar questions were posed about the role of the designated key single audit coordinator. The COFAR considered these and recommended clarifications that the Senior Accountable Official is intended to be a policy official of the awarding agency who can be responsible for overseeing agency management's role in audit resolution. The COFAR also recommended the key single audit coordinator be renamed the key management single audit liaison, and notes that neither of these roles should in any way impact existing responsibilities of Inspectors General, but rather as the COFAR moves toward greater governmentwide coordination of the audit resolution process, these officials will be accountable for implementing that coordination and ensuring best results.

200.514 Scope of Audit

Several commenters indicated sections where they recommended further references to Generally Accepted Government Auditing Standards (GAGAS). The COFAR considered these but noted that language in this section states upfront that Single Audits shall be conducted in accordance with GAGAS, and recommends that further repetition of this language throughout the document be avoided as unnecessary. The COFAR further recommended conforming changes to eliminate duplicative references throughout the guidance.

200.515 Audit Reporting

Commenters recommended several minor technical edits throughout this section to align with auditing standards which the COFAR recommended. Commenters also recommended new language to note that nothing in this section should preclude combining of audit reporting required by this section with reporting required by section 200.512 Report Submission. The COFAR considered that such an addition would be useful if future advances in technology allow more consolidated reporting in the future, and recommended the addition.

200.516 Audit Findings

Some commenters requested that the proposed threshold for questioned costs of $25,000 be lowered, even below the existing threshold to a level of zero. Other commenters asked that it be raised higher than $25,000, and recommended that the level be set on a sliding scale as a percentage of total dollars awarded per program.

The COFAR considered these recommendations, and noted that for purposes of accountability, types of compliance requirements are reviewed with levels of materiality in mind. The questioned cost threshold serves in most cases to dramatically lower the level at which a finding would otherwise be considered material and be reported. The threshold is a valuable tool that provides assurance that questioned costs above it will under no circumstances go unreported regardless of materiality. Based on these considerations, the COFAR recommended that the proposed threshold of $25,000 be accepted.

200.718 Major Program Determination

The Government Accountability Office (GAO) commented that step 1 of the major program determination would be more easily understood if presented in a table. The COFAR concurred and recommended the new format for ease of comprehension among readers.

Commenters noted the inconsistency of the single audit threshold at $750,000, the Type A/B program threshold at $500,000, and the threshold for an entity to have a Type A program at $1,000,000. Commenters suggested that that the level of the threshold for major programs needed to be raised consistent with the threshold for the Single Audit as a whole at $750,000 to ensure consistent coverage. The COFAR recommended the modification that all three thresholds be the same at $750.000 consistent with the single audit threshold.

Commenters also recommended additional language to clarify the criteria under the step 2 determination of Type A programs which are low-risk. The COFAR recommended the addition.

200.520 Criteria for a Low-Risk Auditee

Members of the audit community and states commented on the criteria for a low-risk auditee that includes whether the financial statements were prepared in accordance with GAAP. Members of the audit community note that GAAP is the preferred method, and states note that state law sometimes provides for other methods of preparation. The COFAR considered this and recommended revised language to allow for exceptions where state law requires otherwise.

200.521 Management Decision

Upon review of the structure of the proposed guidance, the COFAR recommended that this section be moved to the end of the document.

Commenters suggested that auditees should be required to initiate corrective action as rapidly as possible, and not wait until audit reports are submitted. The COFAR recommended the addition. Commenters also noted that while they supported the ultimate publication of management decisions through the Federal audit clearinghouse, this is not a change that they are prepared to implement immediately. As a result, the COFAR recommended that this be added to the current Single Audit Resolution Pilot currently underway within the COFAR, and that based on the results of the pilot, the COFAR work with Federal agencies to begin implementation of publication of management decisions in 2016.

Appendix XI Compliance Supplement

While most commenters were in favor of the proposed reduction of the number of types of compliance requirements in the compliance supplement, many voiced concern about the process that would implement such changes. Comments questioned whether Federal agencies adding back provisions under special tests and provisions would result in increased administrative burden and requested that such fundamental changes be subject to a public notice and comment period. Since the Compliance Supplement is published as part of a separate process, no final changes are made at this time, but the COFAR recommended that any future changes to the compliance supplement be made based on available evidence on past findings and the potential impact of non-compliance for each type of compliance requirement. The COFAR further recommends that further public outreach be conducted prior to making any structural changes to the format of the compliance supplement to mitigate potential risks of an inadvertent increase in administrative burden.

List of Subjects in 2 CFR Parts 200, 215, 220, 225, and 230

Accounting, Auditing, Colleges and universities, State and local governments, Grant programs, Grants administration, Hospitals, Indians, Nonprofit organizations, Reporting and recordkeeping requirements.

Norman Dong,

Deputy Controller.

For the reasons stated in the preamble, under the Authority of the Chief Financial Officer Act of 1990 (31 U.S.C. 503), the Office of Management and Budget amends 2 CFR Chapters I and II as set forth below:

Chapter I—Office Of Management and Budget Governmentwide Guidance for Grants and Agreements

■ 1. Remove the subchapter headings for Subchapters A through G from Chapter I.

Chapter II—Office of Management and Budget Guidance

■ 2. The heading of chapter II is revised to read as set forth above.

■ 3. Add part 200 to read as follows:

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR FEDERAL AWARDS

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Acronyms

Sec.

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200.1 Definitions.
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200.10 Catalog of Federal Domestic Assistance number.
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200.12 Capital assets.
200.13 Capital expenditures.
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200.15 Class of Federal awards.
200.16 Closeout.
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200.18 Cognizant agency for audit.
200.19 Cognizant agency for indirect costs.
200.20 Computing devices.
200.21 Compliance supplement.
200.22 Contract.
200.23 Contractor.
200.24 Cooperative agreement.
200.25 Cooperative audit resolution.
200.26 Corrective action.
200.27 Cost allocation plan.
200.28 Cost objective.
200.29 Cost sharing or matching.
200.30 Cross-cutting audit finding.
200.31 Disallowed costs.
200.32 Data Universal Numbering System (DUNS) number.
200.33 Equipment.
200.34 Expenditures.
200.35 Federal agency.
200.36 Federal Audit Clearinghouse (FAC).
200.37 Federal awarding agency.
200.38 Federal award.
200.39 Federal award date.
200.40 Federal financial assistance.
200.41 Federal interest.
200.42 Federal program.
200.43 Federal share.
200.44 Final cost objective.
200.45 Fixed amount awards.
200.46 Foreign public entity.
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200.48 General purpose equipment.
200.49 Generally Accepted Accounting Principles (GAAP).
200.50 Generally Accepted Government Auditing Standards (GAGAS).
200.51 Grant agreement.
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200.53 Improper payment.
200.54 Indian tribe (or ''federally recognized Indian tribe'').
200.55 Institutions Of Higher Education (IHEs).
200.56 Indirect (facilities & administrative) costs.
200.57 Indirect cost rate proposal.
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200.59 Intangible property.
200.60 Intermediate cost objective.
200.61 Internal controls.
200.62 Internal control over compliance requirements for Federal awards.
200.63 Loan.
200.64 Local government.
200.65 Major program.
200.66 Management decision.
200.67 Micro-purchase.
200.68 Modified Total Direct Cost (MTDC).
200.69 Non-Federal entity.
200.70 Nonprofit organization.
200.71 Obligations.
200.72 Office of Management and Budget (OMB).
200.73 Oversight agency for audit.
200.74 Pass-through entity.
200.75 Participant support costs.
200.76 Performance goal.
200.77 Period of performance.
200.78 Personal property.
200.79 Personally Identifiable Information (PII).
200.80 Program income.
200.81 Property.
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200.83 Project cost.
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200.86 Recipient.
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200.91 Student Financial Aid (SFA).
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200.93 Subrecipient.
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200.96 Third-party in-kind contributions.
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200.101 Applicability.
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200.448 Intellectual property.
200.449 Interest.
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200.451 Losses on other awards or contracts.
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Authority: 31 U.S.C. 503

Subpart A—Acronyms and Definitions

Acronyms

§ 200.0 Acronyms.

ACRONYM	TERM
CAS	Cost Accounting Standards
CFDA	Catalog of Federal Domestic Assistance
CFR	Code of Federal Regulations
CMIA	Cash Management Improvement Act
COG	Councils Of Governments
COSO	Committee of Sponsoring Organizations of the Treadway Commission
D&B	Dun and Bradstreet
DUNS	Data Universal Numbering System
EPA	Environmental Protection Agency
ERISA	Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301–1461)
EUI	Energy Usage Index
F&A	Facilities and Administration
FAC	Federal Audit Clearinghouse
FAIN	Federal Award Identification Number
FAPIIS	Federal Awardee Performance and Integrity Information System
FAR	Federal Acquisition Regulation
FFATA	Federal Funding Accountability and Transparency Act of 2006 or Transparency Act—Public Law 109–282, as amended by section 6202(a) of Public Law 110–252 (31 U.S.C. 6101)
FICA	Federal Insurance Contributions Act
FOIA	Freedom of Information Act
FR	Federal Register
FTE	Full-time equivalent
GAAP	Generally Accepted Accounting Principles
GAGAS	Generally Accepted Government Accounting Standards
GAO	General Accounting Office
GOCO	Government owned, contractor operated
GSA	General Services Administration
IBS	Institutional Base Salary
IHE	Institutions of Higher Education
IRC	Internal Revenue Code
ISDEAA	Indian Self-Determination and Education and Assistance Act
MTC	Modified Total Cost
MTDC	Modified Total Direct Cost
OMB	Office of Management and Budget
PII	Personally Identifiable Information
PRHP	Post-retirement Health Plans
PTE	Pass-through Entity
REUI	Relative Energy Usage Index
SAM	System for Award Management
SFA	Student Financial Aid
SNAP	Supplemental Nutrition Assistance Program
SPOC	Single Point of Contact
TANF	Temporary Assistance for Needy Families
TFM	Treasury Financial Manual
U.S.C.	United States Code
VAT	Value Added Tax

§ 200.1 Definitions.

These are the definitions for terms used in this Part. Different definitions may be found in Federal statutes or regulations that apply more specifically to particular programs or activities. These definitions could be supplemented by additional instructional information provided in governmentwide standard information collections.

§ 200.2 Acquisition cost.

Acquisition cost means the cost of the asset including the cost to ready the asset for its intended use. Acquisition cost for equipment, for example, means the net invoice price of the equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Acquisition costs for software includes those development costs capitalized in accordance with generally accepted accounting principles (GAAP). Ancillary charges, such as taxes, duty, protective in transit insurance, freight, and installation may be included in or excluded from the acquisition cost in

accordance with the non-Federal entity's regular accounting practices.

§200.3 Advance payment.

Advance payment means a payment that a Federal awarding agency or pass-through entity makes by any appropriate payment mechanism, including a predetermined payment schedule, before the non-Federal entity disburses the funds for program purposes.

§ 200.4 Allocation.

Allocation means the process of assigning a cost, or a group of costs, to one or more cost objective(s), in reasonable proportion to the benefit provided or other equitable relationship. The process may entail assigning a cost(s) directly to a final cost objective or through one or more intermediate cost objectives.

§ 200.5 Audit finding.

Audit finding means deficiencies which the auditor is required by § 200.516 Audit findings, paragraph (a) to report in the schedule of findings and questioned costs.

§ 200.6 Auditee.

Auditee means any non-Federal entity that expends Federal awards which must be audited under Subpart F—Audit Requirements of this Part.

§ 200.7 Auditor.

Auditor means an auditor who is a public accountant or a Federal, state or local government audit organization, which meets the general standards specified in generally accepted government auditing standards (GAGAS). The term auditor does not include internal auditors of nonprofit organizations.

§ 200.8 Budget.

Budget means the financial plan for the project or program that the Federal awarding agency or pass-through entity approves during the Federal award process or in subsequent amendments to the Federal award. It may include the Federal and non-Federal share or only the Federal share, as determined by the Federal awarding agency or pass-through entity.

§ 200.9 Central service cost allocation plan.

Central service cost allocation plan means the documentation identifying, accumulating, and allocating or developing billing rates based on the allowable costs of services provided by a state, local government, or Indian tribe on a centralized basis to its departments and agencies. The costs of these services may be allocated or billed to users.

§ 200.10 Catalog of Federal Domestic Assistance (CFDA) number.

CFDA number means the number assigned to a Federal program in the CFDA.

§ 200.11 CFDA program title.

CFDA program title means the title of the program under which the Federal award was funded in the CFDA.

§ 200.12 Capital assets.

Capital assets means tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

(a) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and

(b) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

§ 200.13 Capital expenditures.

Capital expenditures means expenditures to acquire capital assets or expenditures to make additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations, or alterations to capital assets that materially increase their value or useful life.

§ 200.14 Claim.

Claim means, depending on the context, either:

(a) A written demand or written assertion by one of the parties to a Federal award seeking as a matter of right:

(1) The payment of money in a sum certain;

(2) The adjustment or interpretation of the terms and conditions of the Federal award; or

(3) Other relief arising under or relating to a Federal award.

(b) A request for payment that is not in dispute when submitted.

§ 200.15 Class of Federal awards.

Class of Federal awards means a group of Federal awards either awarded under a specific program or group of programs or to a specific type of non-Federal entity or group of non-Federal entities to which specific provisions or exceptions may apply.

§ 200.16 Closeout.

Closeout means the process by which the Federal awarding agency or pass-through entity determines that all applicable administrative actions and all required work of the Federal award have been completed and takes actions as described in § 200.343 Closeout.

§ 200.17 Cluster of programs.

Cluster of programs means a grouping of closely related programs that share common compliance requirements. The types of clusters of programs are research and development (R&D), student financial aid (SFA), and other clusters. ''Other clusters'' are as defined by OMB in the compliance supplement or as designated by a state for Federal awards the state provides to its subrecipients that meet the definition of a cluster of programs. When designating an ''other cluster,'' a state must identify the Federal awards included in the cluster and advise the subrecipients of compliance requirements applicable to the cluster, consistent with § 200.331 Requirements for pass-through entities, paragraph (a). A cluster of programs must be considered as one program for determining major programs, as described in § 200.518 Major program determination, and, with the exception of R&D as described in § 200.501 Audit requirements, paragraph (c), whether a program-specific audit may be elected.

§ 200.18 Cognizant agency for audit.

Cognizant agency for audit means the Federal agency designated to carry out the responsibilities described in § 200.513 Responsibilities, paragraph (a). The cognizant agency for audit is not necessarily the same as the cognizant agency for indirect costs. A list of cognizant agencies for audit may be found at the FAC Web site.

§ 200.19 Cognizant agency for indirect costs.

Cognizant agency for indirect costs means the Federal agency responsible for reviewing, negotiating, and approving cost allocation plans or indirect cost proposals developed under this Part on behalf of all Federal agencies. The cognizant agency for indirect cost is not necessarily the same as the cognizant agency for audit. For assignments of cognizant agencies see the following:

(a) For IHEs: Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph C.10.

(b) For nonprofit organizations: Appendix IV to Part 200—Indirect (F&A) Costs Identification and

Assignment, and Rate Determination for Nonprofit Organizations, paragraph C.1.

(c) For state and local governments: Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans, paragraph F.1.

§ 200.20 Computing devices.

Computing devices means machines used to acquire, store, analyze, process, and publish data and other information electronically, including accessories (or ''peripherals'') for printing, transmitting and receiving, or storing electronic information. See also §§ 200.94 Supplies and 200.58 Information technology systems.

§ 200.21 Compliance supplement.

Compliance supplement means Appendix XI to Part 200—Compliance Supplement (previously known as the Circular A–133 Compliance Supplement).

§ 200.22 Contract.

Contract means a legal instrument by which a non-Federal entity purchases property or services needed to carry out the project or program under a Federal award. The term as used in this Part does not include a legal instrument, even if the non-Federal entity considers it a contract, when the substance of the transaction meets the definition of a Federal award or subaward (see § 200.92 Subaward).

§ 200.23 Contractor.

Contractor means an entity that receives a contract as defined in § 200.22 Contract.

§ 200.24 Cooperative agreement.

Cooperative agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302–6305:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal government or pass-through entity's direct benefit or use;

(b) Is distinguished from a grant in that it provides for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(c) The term does not include:

(1) A cooperative research and development agreement as defined in 15 U.S.C. 3710a; or

(2) An agreement that provides only:

(i) Direct United States Government cash assistance to an individual;

(ii) A subsidy;

(iii) A loan;

(iv) A loan guarantee; or

(v) Insurance.

§ 200.25 Cooperative audit resolution.

Cooperative audit resolution means the use of audit follow-up techniques which promote prompt corrective action by improving communication, fostering collaboration, promoting trust, and developing an understanding between the Federal agency and the non-Federal entity. This approach is based upon:

(a) A strong commitment by Federal agency and non-Federal entity leadership to program integrity;

(b) Federal agencies strengthening partnerships and working cooperatively with non-Federal entities and their auditors; and non-Federal entities and their auditors working cooperatively with Federal agencies;

(c) A focus on current conditions and corrective action going forward;

(d) Federal agencies offering appropriate relief for past noncompliance when audits show prompt corrective action has occurred; and

(e) Federal agency leadership sending a clear message that continued failure to correct conditions identified by audits which are likely to cause improper payments, fraud, waste, or abuse is unacceptable and will result in sanctions.

§ 200.26 Corrective action.

Corrective action means action taken by the auditee that:

(a) Corrects identified deficiencies;

(b) Produces recommended improvements; or

(c) Demonstrates that audit findings are either invalid or do not warrant auditee action.

§ 200.27 Cost allocation plan.

Cost allocation plan means central service cost allocation plan or public assistance cost allocation plan.

§ 200.28 Cost objective.

Cost objective means a program, function, activity, award, organizational subdivision, contract, or work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, products, jobs, capital projects, etc. A cost objective may be a major function of the non-Federal entity, a particular service or project, a Federal award, or an indirect (Facilities & Administrative (F&A)) cost activity, as described in Subpart E—Cost Principles of this Part. See also §§ 200.44 Final cost objective and 200.60 Intermediate cost objective.

§ 200.29 Cost sharing or matching.

Cost sharing or matching means the portion of project costs not paid by Federal funds (unless otherwise authorized by Federal statute). See also § 200.306 Cost sharing or matching.

§ 200.30 Cross-cutting audit finding.

Cross-cutting audit finding means an audit finding where the same underlying condition or issue affects Federal awards of more than one Federal awarding agency or pass-through entity.

§ 200.31 Disallowed costs.

Disallowed costs means those charges to a Federal award that the Federal awarding agency or pass-through entity determines to be unallowable, in accordance with the applicable Federal statutes, regulations, or the terms and conditions of the Federal award.

§ 200.32 Data Universal Numbering System (DUNS) number.

DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D&B) to uniquely identify entities. A non-Federal entity is required to have a DUNS number in order to apply for, receive, and report on a Federal award. A DUNS number may be obtained from D&B by telephone (currently 866–705–5711) or the Internet (currently at *http://fedgov.dnb.com/webform).*

§ 200.33 Equipment.

Equipment means tangible personal property (including information technology systems) having a useful life of more than one year and a per-unit acquisition cost which equals or exceeds the lesser of the capitalization level established by the non-Federal entity for financial statement purposes, or $5,000. See also §§ 200.12 Capital assets, 200.20 Computing devices, 200.48 General purpose equipment, 200.58 Information technology systems, 200.89 Special purpose equipment, and 200.94 Supplies.

§ 200.34 Expenditures.

Expenditures means charges made by a non-Federal entity to a project or program for which a Federal award was received.

(a) The charges may be reported on a cash or accrual basis, as long as the methodology is disclosed and is consistently applied.

(b) For reports prepared on a cash basis, expenditures are the sum of:

(1) Cash disbursements for direct charges for property and services;

(2) The amount of indirect expense charged;

(3) The value of third-party in-kind contributions applied; and

(4) The amount of cash advance payments and payments made to subrecipients.

(c) For reports prepared on an accrual basis, expenditures are the sum of:

(1) Cash disbursements for direct charges for property and services;

(2) The amount of indirect expense incurred;

(3) The value of third-party in-kind contributions applied; and

(4) The net increase or decrease in the amounts owed by the non-Federal entity for:

(i) Goods and other property received;

(ii) Services performed by employees, contractors, subrecipients, and other payees; and

(iii) Programs for which no current services or performance are required such as annuities, insurance claims, or other benefit payments.

§ 200.35 Federal agency.

Federal agency means an ''agency'' as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).

§ 200.36 Federal Audit Clearinghouse (FAC).

FAC means the clearinghouse designated by OMB as the repository of record where non-Federal entities are required to transmit the reporting packages required by Subpart F—Audit Requirements of this Part. The mailing address of the FAC is Federal Audit Clearinghouse, Bureau of the Census, 1201 E. 10th Street, Jeffersonville, IN 47132 and the web address is: *http://harvester.census.gov/sac/*. Any future updates to the location of the FAC may be found at the OMB Web site.

§ 200.37 Federal awarding agency.

Federal awarding agency means the Federal agency that provides a Federal award directly to a non-Federal entity.

§ 200.38 Federal award.

Federal award has the meaning, depending on the context, in either paragraph (a) or (b) of this section: (a)(1) The Federal financial assistance that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability; or

(2) The cost-reimbursement contract under the Federal Acquisition Regulations that a non-Federal entity receives directly from a Federal awarding agency or indirectly from a pass-through entity, as described in § 200.101 Applicability.

(b) The instrument setting forth the terms and conditions. The instrument is the grant agreement, cooperative agreement, other agreement for assistance covered in paragraph (b) of § 200.40 Federal financial assistance, or the cost-reimbursement contract awarded under the Federal Acquisition Regulations.

(c) Federal award does not include other contracts that a Federal agency uses to buy goods or services from a contractor or a contract to operate Federal government owned, contractor operated facilities (GOCOs).

(d) See also definitions of Federal financial assistance, grant agreement, and cooperative agreement.

§ 200.39 Federal award date.

Federal award date means the date when the Federal award is signed by the authorized official of the Federal awarding agency.

§ 200.40 Federal financial assistance.

(a) For grants and cooperative agreements, *Federal financial assistance* means assistance that non-Federal entities receive or administer in the form of:

(1) Grants;

(2) Cooperative agreements;

(3) Non-cash contributions or donations of property (including donated surplus property);

(4) Direct appropriations;

(5) Food commodities; and

(6) Other financial assistance (except assistance listed in paragraph (b) of this section).

(b) For Subpart F—Audit Requirements of this part, *Federal financial assistance* also includes assistance that non-Federal entities receive or administer in the form of:

(1) Loans;

(2) Loan Guarantees;

(3) Interest subsidies; and

(4) Insurance.

(c) *Federal financial assistance* does not include amounts received as reimbursement for services rendered to individuals as described in § 200.502 Basis for determining Federal awards *expended,* paragraph (h) and (i) of this Part.

§ 200.41 Federal interest.

Federal interest means, for purposes of § 200.329 Reporting on real property or when used in connection with the acquisition or improvement of real property, equipment, or supplies under a Federal award, the dollar amount that is the product of the:

(a) Federal share of total project costs; and

(b) Current fair market value of the property, improvements, or both, to the extent the costs of acquiring or improving the property were included as project costs.

§ 200.42 Federal program.

Federal program means:

(a) All Federal awards which are assigned a single number in the CFDA.

(b) When no CFDA number is assigned, all Federal awards to non-Federal entities from the same agency made for the same purpose should be combined and considered one program.

(c) Notwithstanding paragraphs (a) and (b) of this definition, a cluster of programs. The types of clusters of programs are:

(1) Research and development (R&D);

(2) Student financial aid (SFA); and

(3) ''Other clusters,'' as described in the definition of Cluster of Programs.

§ 200.43 Federal share.

Federal share means the portion of the total project costs that are paid by Federal funds.

§ 200.44 Final cost objective.

Final cost objective means a cost objective which has allocated to it both direct and indirect costs and, in the non-Federal entity's accumulation system, is one of the final accumulation points, such as a particular award, internal project, or other direct activity of a non-Federal entity. See also §§ 200.28 Cost objective and 200.60 Intermediate cost objective.

§ 200.45 Fixed amount awards.

Fixed amount awards means a type of grant agreement under which the Federal awarding agency or pass-through entity provides a specific level of support without regard to actual costs incurred under the Federal award. This type of Federal award reduces some of the administrative burden and record-keeping requirements for both the non-Federal entity and Federal awarding agency or pass-through entity. Accountability is based primarily on performance and results. See §§ 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b) and 200.332 Fixed amount subawards.

§ 200.46 Foreign public entity.

Foreign public entity means:

(a) A foreign government or foreign governmental entity;

(b) A public international organization, which is an organization entitled to enjoy privileges, exemptions, and immunities as an international

organization under the International Organizations Immunities Act (22 U.S.C. 288–288f);

(c) An entity owned (in whole or in part) or controlled by a foreign government; or

(d) Any other entity consisting wholly or partially of one or more foreign governments or foreign governmental entities.

§ 200.47 Foreign organization.

Foreign organization means an entity that is:

(a) A public or private organization located in a country other than the United States and its territories that are subject to the laws of the country in which it is located, irrespective of the citizenship of project staff or place of performance;

(b) A private nongovernmental organization located in a country other than the United States that solicits and receives cash contributions from the general public;

(c) A charitable organization located in a country other than the United States that is nonprofit and tax exempt under the laws of its country of domicile and operation, and is not a university, college, accredited degree-granting institution of education, private foundation, hospital, organization engaged exclusively in research or scientific activities, church, synagogue, mosque or other similar entities organized primarily for religious purposes; or

(d) An organization located in a country other than the United States not recognized as a Foreign Public Entity.

§ 200.48 General purpose equipment.

General purpose equipment means equipment which is not limited to research, medical, scientific or other technical activities. Examples include office equipment and furnishings, modular offices, telephone networks, information technology equipment and systems, air conditioning equipment, reproduction and printing equipment, and motor vehicles. See also Equipment and Special Purpose Equipment.

§ 200.49 Generally Accepted Accounting Principles (GAAP).

GAAP has the meaning specified in accounting standards issued by the Government Accounting Standards Board (GASB) and the Financial Accounting Standards Board (FASB).

§ 200.50 Generally Accepted Government Auditing Standards (GAGAS).

GAGAS means generally accepted government auditing standards issued by the Comptroller General of the United States, which are applicable to financial audits.

§ 200.51 Grant agreement.

Grant agreement means a legal instrument of financial assistance between a Federal awarding agency or pass-through entity and a non-Federal entity that, consistent with 31 U.S.C. 6302, 6304:

(a) Is used to enter into a relationship the principal purpose of which is to transfer anything of value from the Federal awarding agency or pass-through entity to the non-Federal entity to carry out a public purpose authorized by a law of the United States (see 31 U.S.C. 6101(3)); and not to acquire property or services for the Federal awarding agency or pass-through entity's direct benefit or use;

(b) Is distinguished from a cooperative agreement in that it does not provide for substantial involvement between the Federal awarding agency or pass-through entity and the non-Federal entity in carrying out the activity contemplated by the Federal award.

(c) Does not include an agreement that provides only:

(1) Direct United States Government cash assistance to an individual;

(2) A subsidy;

(3) A loan;

(4) A loan guarantee; or

(5) Insurance.

§ 200.52 Hospital.

Hospital means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

§ 200.53 Improper payment.

(a) *Improper payment* means any payment that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements; and

(b) *Improper payment* includes any payment to an ineligible party, any payment for an ineligible good or service, any duplicate payment, any payment for a good or service not received (except for such payments where authorized by law), any payment that does not account for credit for applicable discounts, and any payment where insufficient or lack of documentation prevents a reviewer from discerning whether a payment was proper.

§ 200.54 Indian tribe (or ''federally recognized Indian tribe'').

Indian tribe means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. Chapter 33), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians (25 U.S.C. 450b(e)). See annually published Bureau of Indian Affairs list of Indian Entities Recognized and Eligible to Receive Services.

§ 200.55 Institutions of Higher Education (IHEs).

IHE is defined at 20 U.S.C. 1001.

§ 200.56 Indirect (facilities & administrative (F&A)) costs.

Indirect (F&A) costs means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect (F&A) costs. Indirect (F&A) cost pools should be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

§ 200.57 Indirect cost rate proposal.

Indirect cost rate proposal means the documentation prepared by a non-Federal entity to substantiate its request for the establishment of an indirect cost rate as described in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) through Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals of this Part.

§ 200.58 Information technology systems.

Information technology systems means computing devices, ancillary equipment, software, firmware, and similar procedures, services (including support services), and related resources. See also §§ 200.20 Computing devices and 200.33 Equipment.

§ 200.59 Intangible property.

Intangible property means property having no physical existence, such as trademarks, copyrights, patents and patent applications and property, such as loans, notes and other debt instruments, lease agreements, stock and other instruments of property ownership (whether the property is tangible or intangible).

§ 200.60 Intermediate cost objective.

Intermediate cost objective means a cost objective that is used to accumulate indirect costs or service center costs that are subsequently allocated to one or more indirect cost pools or final cost objectives. See also § 200.28 Cost objective and § 200.44 Final cost objective.

§ 200.61 Internal controls.

Internal controls means a process, implemented by a non-Federal entity, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

(a) Effectiveness and efficiency of operations;

(b) Reliability of reporting for internal and external use; and

(c) Compliance with applicable laws and regulations.

§ 200.62 Internal control over compliance requirements for Federal awards.

Internal control over compliance requirements for Federal awards means a process implemented by a non-Federal entity designed to provide reasonable assurance regarding the achievement of the following objectives for Federal awards:

(a) Transactions are properly recorded and accounted for, in order to:

(1) Permit the preparation of reliable financial statements and Federal reports;

(2) Maintain accountability over assets; and

(3) Demonstrate compliance with Federal statutes, regulations, and the terms and conditions of the Federal award;

(b) Transactions are executed in compliance with:

(1) Federal statutes, regulations, and the terms and conditions of the Federal award that could have a direct and material effect on a Federal program; and

(2) Any other Federal statutes and regulations that are identified in the Compliance Supplement; and

(c) Funds, property, and other assets are safeguarded against loss from unauthorized use or disposition.

§ 200.63 Loan.

Loan means a Federal loan or loan guarantee received or administered by a non-Federal entity, except as used in the definition of § 200.80 Program income.

(a) The term ''direct loan'' means a disbursement of funds by the Federal government to a non-Federal borrower under a contract that requires the repayment of such funds with or without interest. The term includes the purchase of, or participation in, a loan made by another lender and financing arrangements that defer payment for more than 90 days, including the sale of a Federal government asset on credit terms. The term does not include the acquisition of a federally guaranteed loan in satisfaction of default claims or the price support loans of the Commodity Credit Corporation.

(b) The term ''direct loan obligation'' means a binding agreement by a Federal awarding agency to make a direct loan when specified conditions are fulfilled by the borrower.

(c) The term ''loan guarantee'' means any Federal government guarantee, insurance, or other pledge with respect to the payment of all or a part of the principal or interest on any debt obligation of a non-Federal borrower to a non-Federal lender, but does not include the insurance of deposits, shares, or other withdrawable accounts in financial institutions.

(d) The term ''loan guarantee commitment'' means a binding agreement by a Federal awarding agency to make a loan guarantee when specified conditions are fulfilled by the borrower, the lender, or any other party to the guarantee agreement.

§ 200.64 Local government.

Local government means any unit of government within a state, including a:

(a) County;

(b) Borough;

(c) Municipality;

(d) City;

(e) Town;

(f) Township;

(g) Parish;

(h) Local public authority, including any public housing agency under the United States Housing Act of 1937;

(i) Special district;

(j) School district;

(k) Intrastate district;

(l) Council of governments, whether or not incorporated as a nonprofit corporation under state law; and

(m) Any other agency or instrumentality of a multi-, regional, or intra-state or local government.

§ 200.65 Major program.

Major program means a Federal program determined by the auditor to be a major program in accordance with § 200.518 Major program determination or a program identified as a major program by a Federal awarding agency or pass-through entity in accordance with § 200.503 Relation to other audit requirements, paragraph (e).

§ 200.66 Management decision.

Management decision means the evaluation by the Federal awarding agency or pass-through entity of the audit findings and corrective action plan and the issuance of a written decision to the auditee as to what corrective action is necessary.

§ 200.67 Micro-purchase.

Micro-purchase means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a non-Federal entity's small purchase procedures. The non-Federal entity uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions). It is $3,000 except as otherwise discussed in Subpart 2.1 of that regulation, but this threshold is periodically adjusted for inflation.

§ 200.68 Modified Total Direct Cost (MTDC).

MTDC means all direct salaries and wages, applicable fringe benefits, materials and supplies, services, travel, and subawards and subcontracts up to the first $25,000 of each subaward or subcontract (regardless of the period of performance of the subawards and subcontracts under the award). MTDC excludes equipment, capital expenditures, charges for patient care, rental costs, tuition remission, scholarships and fellowships, participant support costs and the portion of each subaward and subcontract in excess of $25,000. Other items may only be excluded when necessary to avoid a serious inequity in the distribution of indirect costs, and with the approval of the cognizant agency for indirect costs.

§ 200.69 Non-Federal entity.

Non-Federal entity means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient.

§ 200.70 Nonprofit organization.

Nonprofit organization means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:

(a) Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;

(b) Is not organized primarily for profit; and

(c) Uses net proceeds to maintain, improve, or expand the operations of the organization.

§ 200.71 Obligations.

When used in connection with a non-Federal entity's utilization of funds under a Federal award, *obligations* means orders placed for property and services, contracts and subawards made, and similar transactions during a given period that require payment by the non-Federal entity during the same or a future period.

§ 200.72 Office of Management and Budget (OMB).

OMB means the Executive Office of the President, Office of Management and Budget.

§ 200.73 Oversight agency for audit.

Oversight agency for audit means the Federal awarding agency that provides the predominant amount of funding directly to a non-Federal entity not assigned a cognizant agency for audit. When there is no direct funding, the Federal awarding agency which is the predominant source of pass-through funding must assume the oversight responsibilities. The duties of the oversight agency for audit and the process for any reassignments are described in § 200.513 Responsibilities, paragraph (b).

§ 200.74 Pass-through entity.

Pass-through entity means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

§ 200.75 Participant support costs.

Participant support costs means direct costs for items such as stipends or subsistence allowances, travel allowances, and registration fees paid to or on behalf of participants or trainees (but not employees) in connection with conferences, or training projects.

§ 200.76 Performance goal.

Performance goal means a target level of performance expressed as a tangible, measurable objective, against which actual achievement can be compared, including a goal expressed as a quantitative standard, value, or rate. In some instances (e.g., discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with agency policy).

§ 200.77 Period of performance.

Period of performance means the time during which the non-Federal entity may incur new obligations to carry out the work authorized under the Federal award. The Federal awarding agency or pass-through entity must include start and end dates of the period of performance in the Federal award (see §§ 200.210 Information contained in a Federal award paragraph (a)(5) and 200.331 Requirements for pass-through entities, paragraph (a)(1)(iv)).

§ 200.78 Personal property.

Personal property means property other than real property. It may be tangible, having physical existence, or intangible.

§ 200.79 Personally Identifiable Information (PII).

PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books, public Web sites, and university listings. This type of information is considered to be Public PII and includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual.

§ 200.80 Program income.

Program income means gross income earned by the non-Federal entity that is directly generated by a supported activity or earned as a result of the Federal award during the period of performance. (See § 200.77 Period of performance.) Program income includes but is not limited to income from fees for services performed, the use or rental or real or personal property acquired under Federal awards, the sale of commodities or items fabricated under a Federal award, license fees and royalties on patents and copyrights, and principal and interest on loans made with Federal award funds. Interest earned on advances of Federal funds is not program income. Except as otherwise provided in Federal statutes, regulations, or the terms and conditions of the Federal award, program income does not include rebates, credits, discounts, and interest earned on any of them.

See also § 200.407 Prior written approval (prior approval). See also 35 U.S.C. 200–212 ''Disposition of Rights in Educational Awards'' applies to inventions made under Federal awards.

§ 200.81 Property.

Property means real property or personal property.

§ 200.82 Protected Personally Identifiable Information (Protected PII).

Protected PII means an individual's first name or first initial and last name in combination with any one or more of types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal, medical and financial records, educational transcripts. This does not include PII that is required by law to be disclosed. (See also § 200.79 Personally Identifiable Information (PII)).

§ 200.83 Project cost.

Project cost means total allowable costs incurred under a Federal award and all required cost sharing and voluntary committed cost sharing, including third-party contributions.

§ 200.84 Questioned cost.

Questioned cost means a cost that is questioned by the auditor because of an audit finding:

(a) Which resulted from a violation or possible violation of a statute, regulation, or the terms and conditions of a Federal award, including for funds used to match Federal funds;

(b) Where the costs, at the time of the audit, are not supported by adequate documentation; or

(c) Where the costs incurred appear unreasonable and do not reflect the actions a prudent person would take in the circumstances.

§ 200.85 Real property.

Real property means land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.

§ 200.86 Recipient.

Recipient means a non-Federal entity that receives a Federal award directly from a Federal awarding agency to carry out an activity under a Federal program. The term recipient does not include subrecipients. See also § 200.69 Non-Federal entity.

§ 200.87 Research and Development (R&D).

R&D means all research activities, both basic and applied, and all development activities that are performed by non-Federal entities. The term research also includes activities involving the training of individuals in research techniques where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

''Research'' is defined as a systematic study directed toward fuller scientific knowledge or understanding of the subject studied. ''Development'' is the systematic use of knowledge and understanding gained from research directed toward the production of useful materials, devices, systems, or methods, including design and development of prototypes and processes.

§ 200.88 Simplified acquisition threshold.

Simplified acquisition threshold means the dollar amount below which a non-Federal entity may purchase property or services using small purchase methods. Non-Federal entities adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 CFR Subpart 2.1 (Definitions) and in accordance with 41 U.S.C. 1908. As of the publication of this Part, the simplified acquisition threshold is $150,000, but this threshold is periodically adjusted for inflation. (Also see definition of § 200.67 Micro-purchase.)

§ 200.89 Special purpose equipment.

Special purpose equipment means equipment which is used only for research, medical, scientific, or other technical activities. Examples of special purpose equipment include microscopes, x-ray machines, surgical instruments, and spectrometers. See also §§ 200.33 Equipment and 200.48 General purpose equipment.

§ 200.90 State.

State means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any agency or instrumentality thereof exclusive of local governments.

§ 200.91 Student Financial Aid (SFA).

SFA means Federal awards under those programs of general student assistance, such as those authorized by Title IV of the Higher Education Act of 1965, as amended, (20 U.S.C. 1070–1099d), which are administered by the U.S. Department of Education, and similar programs provided by other Federal agencies. It does not include Federal awards under programs that provide fellowships or similar Federal awards to students on a competitive basis, or for specified studies or research.

§ 200.92 Subaward.

Subaward means an award provided by a pass-through entity to a subrecipient for the subrecipient to carry out part of a Federal award received by the pass-through entity. It does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program. A subaward may be provided through any form of legal agreement, including an agreement that the pass-through entity considers a contract.

§ 200.93 Subrecipient.

Subrecipient means a non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program; but does not include an individual that is a beneficiary of such program. A subrecipient may also be a recipient of other Federal awards directly from a Federal awarding agency.

§ 200.94 Supplies.

Supplies means all tangible personal property other than those described in § 200.33 Equipment. A computing device is a supply if the acquisition cost is less than the lesser of the capitalization level established by the non-Federal entity for financial statement purposes or $5,000, regardless of the length of its useful life. See also §§ 200.20 Computing devices and 200.33 Equipment.

§ 200.95 Termination.

Termination means the ending of a Federal award, in whole or in part at any time prior to the planned end of period of performance.

§ 200.96 Third-party in-kind contributions.

Third-party in-kind contributions means the value of non-cash contributions (i.e., property or services) that—

(a) Benefit a federally assisted project or program; and

(b) Are contributed by non-Federal third parties, without charge, to a non-Federal entity under a Federal award.

§ 200.97 Unliquidated obligations.

Unliquidated obligations means, for financial reports prepared on a cash basis, obligations incurred by the non-Federal entity that have not been paid (liquidated). For reports prepared on an accrual expenditure basis, these are obligations incurred by the non-Federal entity for which an expenditure has not been recorded.

§ 200.98 Unobligated balance.

Unobligated balance means the amount of funds under a Federal award that the non-Federal entity has not obligated. The amount is computed by subtracting the cumulative amount of the non-Federal entity's unliquidated obligations and expenditures of funds under the Federal award from the cumulative amount of the funds that the Federal awarding agency or pass-through entity authorized the non-Federal entity to obligate.

§ 200.99 Voluntary committed cost sharing.

Voluntary committed cost sharing means cost sharing specifically pledged on a voluntary basis in the proposal's budget or the Federal award on the part of the non-Federal entity and that becomes a binding requirement of Federal award.

Subpart B—General Provisions

§ 200.100 Purpose.

(a)(1) This Part establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities, as described in § 200.101 Applicability. Federal awarding agencies must not impose additional or inconsistent requirements, except as provided in §§ 200.102 Exceptions and 200.210 Information contained in a Federal award, or unless specifically required by Federal statute, regulation, or Executive Order.

(2) This Part provides the basis for a systematic and periodic collection and uniform submission by Federal agencies of information on all Federal financial assistance programs to the Office of Management and Budget (OMB). It also establishes Federal policies related to the delivery of this information to the public, including through the use of electronic media. It prescribes the manner in which General Services Administration (GSA), OMB, and Federal agencies that administer Federal financial assistance programs are to carry out their statutory responsibilities under the Federal Program Information Act (31 U.S.C. 6101–6106).

(b) Administrative requirements. Subparts B through D of this Part set

forth the uniform administrative requirements for grant and cooperative agreements, including the requirements for Federal awarding agency management of Federal grant programs before the Federal award has been made, and the requirements Federal awarding agencies may impose on non-Federal entities in the Federal award.

(c) Cost Principles. Subpart E—Cost Principles of this Part establishes principles for determining the allowable costs incurred by non-Federal entities under Federal awards. The principles are for the purpose of cost determination and are not intended to identify the circumstances or dictate the extent of Federal government participation in the financing of a particular program or project. The principles are designed to provide that Federal awards bear their fair share of cost recognized under these principles except where restricted or prohibited by statute.

(d) Single Audit Requirements and Audit Follow-up. Subpart F—Audit Requirements of this Part is issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507). It sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards. These provisions also provide the policies and procedures for Federal awarding agencies and pass-through entities when using the results of these audits.

(e) For OMB guidance to Federal awarding agencies on Challenges and Prizes, please see M–10–11 Guidance on the Use of Challenges and Prizes to Promote Open Government, issued March 8, 2010, or its successor.

§ 200.101 Applicability.

(a) General applicability to Federal agencies. The requirements established in this Part apply to Federal agencies that make Federal awards to non-Federal entities. These requirements are applicable to all costs related to Federal awards.

(b)(1) Applicability to different types of Federal awards. The following table describes what portions of this Part apply to which types of Federal awards. The terms and conditions of Federal awards (including this Part) flow down to subawards to subrecipients unless a particular section of this Part or the terms and conditions of the Federal award specifically indicate otherwise. This means that non-Federal entities must comply with requirements in this Part regardless of whether the non-Federal entity is a recipient or subrecipient of a Federal award. Pass-through entities must comply with the requirements described in Subpart D—Post Federal Award Requirements of this Part, §§ 200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, but not any requirements in this Part directed towards Federal awarding agencies unless the requirements of this Part or the terms and conditions of the Federal award indicate otherwise.

The following portions of the Part:	Are applicable to the following types of Federal Awards (except as noted in paragraphs (d) and (e) of this section):	Are NOT applicable to the following types of Federal Awards:
This table must be read along with the other provisions of this section		
Authority: 31 U.S.C. 503		
Subpart A—Acronyms and Definitions	—All.	
Subpart B—General Provisions, except for §§ 200.111 English *language,* 200.112 Conflict of *interest,* 200.113. Mandatory *disclosures*	—All.	
200.111 English *language,* 200.112 Conflict of *interest,* and 200.113. Mandatory *disclosures*	—Grant agreements and cooperative agreements.	—Agreements for: loans, loan guarantees, interest subsidies, and insurance. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement subcontracts under these contracts.
Subparts C–D, except for Subrecipient Monitoring and Management.	—Grant agreements and cooperative agreements.	—Agreements for: loans, loan guarantees, interest subsidies, and insurance. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement subcontracts under these contracts.
Subpart D—Post Federal Award Requirements, Subrecipient Monitoring and Management.	—All.	
Subpart E—Cost Principles	—Grant agreements and cooperative agreements, except those providing food commodities. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulations and cost-reimbursement subcontracts under these contracts in accordance with the FAR.	—Grant agreements and cooperative agreements providing food commodities. —Fixed amount awards. —Agreements for: loans, loan guarantees, interest subsidies, insurance. —Federal awards to hospitals (see Appendix IX to Part 200—Hospital Cost Principles).
Subpart F—Audit Requirements	—All.	

(2) Federal award of cost-reimbursement contract under the FAR to a non-Federal entity. When a non-Federal entity is awarded a cost-reimbursement contract, only Subpart D—Post Federal Award Requirements of this Part, §§ 200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards (in addition to any FAR related requirements for subaward monitoring), Subpart E—Cost Principles of this Part and Subpart F—Audit Requirements of this Part are incorporated by reference into the contract. However, when the Cost Accounting Standards (CAS) are applicable to the contract, they take precedence over the requirements of this Part except for Subpart F—Audit Requirements of this Part when they are in conflict. In addition, costs that are made unallowable under 10 U.S.C. 2324(e) and 41 U.S.C. 4304(a) as described in the FAR subpart 31.2 and subpart 31.603 are always unallowable. For requirements other than those covered in Subpart D—Post Federal Award Requirements of this Part, §§ 200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards, Subpart E—Cost Principles of this Part and Subpart F—Audit Requirements of this Part, the terms of the contract and the FAR apply.

(3) With the exception of Subpart F—Audit Requirements of this Part, which is required by the Single Audit Act, in any circumstances where the provisions of Federal statutes or regulations differ from the provisions of this Part, the provision of the Federal statutes or regulations govern. This includes, for agreements with Indian tribes, the provisions of the Indian Self-Determination and Education and Assistance Act (ISDEAA), as amended, 25 U.S.C 450–458ddd–2.

(c) Federal agencies may apply subparts A through E of this Part to for-profit entities, foreign public entities, or foreign organizations, except where the Federal awarding agency determines that the application these subparts would be inconsistent with the international obligations of the United States or the statute or regulations of a foreign government.

(d) Except for § 200.202 Requirement to provide public notice of Federal financial assistance programs and §§ 200.330 Subrecipient and contractor determinations through 200.332 Fixed amount Subawards of Subpart D—Post Federal Award Requirements of this Part, the requirements in Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards, Subpart D—Post Federal Award Requirements of this Part, and Subpart E—Cost Principles of this Part do not apply to the following programs:

(1) The block grant awards authorized by the Omnibus Budget Reconciliation Act of 1981 (including Community Services; Preventive Health and Health Services; Alcohol, Drug Abuse, and Mental Health Services; Maternal and Child Health Services; Social Services; Low-Income Home Energy Assistance; States' Program of Community Development Block Grant Awards for Small Cities; and Elementary and Secondary Education other than programs administered by the Secretary of Education under title V, subtitle D, chapter 2, section 583—the Secretary's discretionary award program) and both the Alcohol and Drug Abuse Treatment and Rehabilitation Block Grant Award (42 U.S.C. 300x–21 to 300x–35 and 42 U.S.C. 300x–51 to 300x64) and the Mental Health Service for the Homeless Block Grant Award (42 U.S.C. 300x to 300x–9) under the Public Health Services Act.

(2) Federal awards to local education agencies under 20 U.S.C. 7702–7703b, (portions of the Impact Aid program);

(3) Payments under the Department of Veterans Affairs' State Home Per Diem Program (38 U.S.C. 1741); and

(4) Federal awards authorized under the Child Care and Development Block Grant Act of 1990, as amended:

(i) Child Care and Development Block Grant (42 U.S.C. 9858)

(ii) Child Care Mandatory and Matching Funds of the Child Care and Development Fund (42 U.S.C. 9858)

(e) Except for § 200.202 Requirement to provide public notice of Federal financial assistance programs the guidance in Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards of this Part does not apply to the following programs:

(1) Entitlement Federal awards to carry out the following programs of the Social Security Act:

(i) Temporary Assistance to Needy Families (title IV–A of the Social Security Act, 42 U.S.C. 601–619);

(ii) Child Support Enforcement and Establishment of Paternity (title IV–D of the Social Security Act, 42 U.S.C. 651–669b);

(iii) Foster Care and Adoption Assistance (title IV–E of the Act, 42 U.S.C. 670–679c);

(iv) Aid to the Aged, Blind, and Disabled (titles I, X, XIV, and XVI–AABD of the Act, as amended); and

(v) Medical Assistance (Medicaid) (title XIX of the Act, 42 U.S.C. 1396–1396w–5) not including the State Medicaid Fraud Control program authorized by section 1903(a)(6)(B) of the Social Security Act (42 U.S.C. 1396b(a)(6)(B)).

(2) A Federal award for an experimental, pilot, or demonstration project that is also supported by a Federal award listed in paragraph (e)(1) of this section;

(3) Federal awards under subsection 412(e) of the Immigration and Nationality Act and subsection 501(a) of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422, 94 Stat. 1809), for cash assistance, medical assistance, and supplemental security income benefits to refugees and entrants and the administrative costs of providing the assistance and benefits (8 U.S.C. 1522(e));

(4) Entitlement awards under the following programs of The National School Lunch Act:

(i) National School Lunch Program (section 4 of the Act, 42 U.S.C. 1753),

(ii) Commodity Assistance (section 6 of the Act, 42 U.S.C. 1755),

(iii) Special Meal Assistance (section 11 of the Act, 42 U.S.C. 1759a),

(iv) Summer Food Service Program for Children (section 13 of the Act, 42 U.S.C. 1761), and

(v) Child and Adult Care Food Program (section 17 of the Act, 42 U.S.C. 1766).

(5) Entitlement awards under the following programs of The Child Nutrition Act of 1966:

(i) Special Milk Program (section 3 of the Act, 42 U.S.C. 1772),

(ii) School Breakfast Program (section 4 of the Act, 42 U.S.C. 1773), and

(iii) State Administrative Expenses (section 7 of the Act, 42 U.S.C. section 1776).

(6) Entitlement awards for State Administrative Expenses under The Food and Nutrition Act of 2008 (section 16 of the Act, 7 U.S.C. 2025).

(7) Non-discretionary Federal awards under the following non-entitlement programs:

(i) Special Supplemental Nutrition Program for Women, Infants and Children (section 17 of the Child Nutrition Act of 1966) 42 U.S.C. section 1786;

(ii) The Emergency Food Assistance Programs (Emergency Food Assistance Act of 1983) 7 U.S.C. section 7501 note; and

(iii) Commodity Supplemental Food Program (section 5 of the Agriculture and Consumer Protection Act of 1973) 7 U.S.C. section 612c note.

§ 200.102 Exceptions.

(a) With the exception of Subpart F—Audit Requirements of this Part, OMB may allow exceptions for classes of Federal awards or non-Federal entities subject to the requirements of this Part when exceptions are not prohibited by statute. However, in the interest of maximum uniformity, exceptions from the requirements of this Part will be permitted only in unusual circumstances. Exceptions for classes of Federal awards or non-Federal entities will be published on the OMB Web site at *www.whitehouse.gov/omb*.

(b) Exceptions on a case-by-case basis for individual non-Federal entities may be authorized by the Federal awarding agency or cognizant agency for indirect costs except where otherwise required by law or where OMB or other approval is expressly required by this Part. No case-by-case exceptions may be granted to the provisions of Subpart F—Audit Requirements of this Part.

(c) The Federal awarding agency may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB, required by Federal statutes or regulations except for the requirements in Subpart F—Audit Requirements of this Part. A Federal awarding agency may apply less restrictive requirements when making fixed amount awards as defined in Subpart A—Acronyms and Definitions of this Part, except for those requirements imposed by statute or in Subpart F—Audit Requirements of this Part.

(d) On a case-by-case basis, OMB will approve new strategies for Federal awards when proposed by the Federal awarding agency in accordance with OMB guidance (such as M–13–17) to develop additional evidence relevant to addressing important policy challenges or to promote cost-effectiveness in and across Federal programs. Proposals may draw on the innovative program designs discussed in M–13–17 to expand or improve the use of effective practices in delivering Federal financial assistance while also encouraging innovation in service delivery. Proposals submitted to OMB in accordance with M–13–17 may include requests to waive requirements other than those in Subpart F—Audit Requirements of this Part.

§ 200.103 Authorities.

This Part is issued under the following authorities.

(a) Subpart B—General Provisions of this Part through Subpart D—Post Federal Award Requirements of this Part are authorized under 31 U.S.C. 503 (the Chief Financial Officers Act, Functions of the Deputy Director for Management), 31 U.S.C. 1111 (Improving Economy and Efficiency of the United States Government), 41 U.S.C. 1101–1131 (the Office of Federal Procurement Policy Act), Reorganization Plan No. 2 of 1970, and Executive Order 11541 (''Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President''), the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507), as well as The Federal Program Information Act (Public Law 95–220 and Public Law 98–169, as amended, codified at 31 U.S.C. 6101–6106).

(b) Subpart E—Cost Principles of this Part is authorized under the Budget and Accounting Act of 1921, as amended; the Budget and Accounting Procedures Act of 1950, as amended (31 U.S.C. 1101–1125); the Chief Financial Officers Act of 1990 (31 U.S.C. 503–504); Reorganization Plan No. 2 of 1970; and Executive Order No. 11541, ''Prescribing the Duties of the Office of Management and Budget and the Domestic Policy Council in the Executive Office of the President.''

(c) Subpart F—Audit Requirements of this Part is authorized under the Single Audit Act Amendments of 1996, (31 U.S.C. 7501–7507).

§ 200.104 Supersession.

As described in § 200.110 Effective/applicability date, this Part supersedes the following OMB guidance documents and regulations under Title 2 of the Code of Federal Regulations:

(a) A–21, ''Cost Principles for Educational Institutions'' (2 CFR Part 220);

(b) A–87, ''Cost Principles for State, Local and Indian Tribal Governments'' (2 CFR Part 225) and also **Federal Register** notice 51 FR 552 (January 6, 1986);

(c) A–89, ''Federal Domestic Assistance Program Information'';

(d) A–102, ''Grant Awards and Cooperative Agreements with State and Local Governments'';

(e) A–110, ''Uniform Administrative Requirements for Awards and Other Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations'' (codified at 2 CFR 215);

(f) A–122, ''Cost Principles for Non-Profit Organizations'' (2 CFR Part 230);

(g) A–133, ''Audits of States, Local Governments and Non-Profit Organizations,''; and

(h) Those sections of A–50 related to audits performed under Subpart F—Audit Requirements of this Part.

§ 200.105 Effect on other issuances.

For Federal awards subject to this Part, all administrative requirements, program manuals, handbooks and other non-regulatory materials that are inconsistent with the requirements of this Part must be superseded upon implementation of this Part by the Federal agency, except to the extent they are required by statute or authorized in accordance with the provisions in § 200.102 Exceptions.

§ 200.106 Agency implementation.

The specific requirements and responsibilities of Federal agencies and non-Federal entities are set forth in this Part. Federal agencies making Federal awards to non-Federal entities must implement the language in the Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards of this Part through Subpart F—Audit Requirements of this Part in codified regulations unless different provisions are required by Federal statute or are approved by OMB.

§ 200.107 OMB responsibilities.

OMB will review Federal agency regulations and implementation of this Part, and will provide interpretations of policy requirements and assistance to ensure effective and efficient implementation. Any exceptions will be subject to approval by OMB. Exceptions will only be made in particular cases where adequate justification is presented.

§ 200.108 Inquiries.

Inquiries concerning this Part may be directed to the Office of Federal Financial Management Office of Management and Budget, in Washington, DC. Non-Federal entities' inquiries should be addressed to the Federal awarding agency, cognizant agency for indirect costs, cognizant or

oversight agency for audit, or pass-through entity as appropriate.

§ 200.109 Review date.

OMB will review this Part at least every five years after December 26, 2013.

§ 200.110 Effective/applicability date.

(a) The standards set forth in this Part which affect administration of Federal awards issued by Federal agencies become effective once implemented by Federal agencies or when any future amendment to this Part becomes final. Federal agencies must implement the policies and procedures applicable to Federal awards by promulgating a regulation to be effective by December 26, 2014 unless different provisions are required by statute or approved by OMB.

(b) The standards set forth in Subpart F—Audit Requirements of this Part and any other standards which apply directly to Federal agencies will be effective December 26, 2013 and will apply to audits of fiscal years beginning on or after December 26, 2014.

§ 200.111 English language.

(a) All Federal financial assistance announcements and Federal award information must be in the English language. Applications must be submitted in the English language and must be in the terms of U.S. dollars. If the Federal awarding agency receives applications in another currency, the Federal awarding agency will evaluate the application by converting the foreign currency to United States currency using the date specified for receipt of the application.

(b) Non-Federal entities may translate the Federal award and other documents into another language. In the event of inconsistency between any terms and conditions of the Federal award and any translation into another language, the English language meaning will control. Where a significant portion of the non-Federal entity's employees who are working on the Federal award are not fluent in English, the non-Federal entity must provide the Federal award in English and the language(s) with which employees are more familiar.

§ 200.112 Conflict of interest.

The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

§ 200.113 Mandatory disclosures.

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures can result in any of the remedies described in § 200.338 Remedies for noncompliance, including suspension or debarment. (See also 2 CFR Part 180 and 31 U.S.C. 3321).

Subpart C—Pre-Federal Award Requirements and Contents of Federal Awards

§ 200.200 Purpose.

(a) Sections 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts through 200.208 Certifications and representations. Prescribe instructions and other pre-award matters to be used in the announcement and application process.

(b) Use of §§ 200.203 Notices of funding opportunities, 200.204 Federal awarding agency review of merit of proposals, 200.205 Federal awarding agency review of risk posed by applicants, and 200.207 Specific conditions, is required only for competitive Federal awards, but may also be used by the Federal awarding agency for non-competitive awards where appropriate or where required by Federal statute.

§ 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

(a) The Federal awarding agency or pass-through entity must decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or contract) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301–08).

(b) Fixed Amount Awards. In addition to the options described in paragraph (a) of this section, Federal awarding agencies, or pass-through entities as permitted in § 200.332 Fixed amount subawards, may use fixed amount awards (see § 200.45 Fixed amount awards) to which the following conditions apply:

(1) Payments are based on meeting specific requirements of the Federal award. Accountability is based on performance and results. The Federal award amount is negotiated using the cost principles (or other pricing information) as a guide. Except in the case of termination before completion of the Federal award, there is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award. The Federal awarding agency or pass-through entity may use fixed amount awards if the project scope is specific and if adequate cost, historical, or unit pricing data is available to establish a fixed amount award with assurance that the non-Federal entity will realize no increment above actual cost. Some of the ways in which the Federal award may be paid include, but are not limited to:

(i) In several partial payments, the amount of each agreed upon in advance, and the ''milestone'' or event triggering the payment also agreed upon in advance, and set forth in the Federal award;

(ii) On a unit price basis, for a defined unit or units, at a defined price or prices, agreed to in advance of performance of the Federal award and set forth in the Federal award; or,

(iii) In one payment at Federal award completion.

(2) A fixed amount award cannot be used in programs which require mandatory cost sharing or match.

(3) The non-Federal entity must certify in writing to the Federal awarding agency or pass-through entity at the end of the Federal award that the project or activity was completed or the level of effort was expended. If the required level of activity or effort was not carried out, the amount of the Federal award must be adjusted.

(4) Periodic reports may be established for each Federal award.

(5) Changes in principal investigator, project leader, project partner, or scope of effort must receive the prior written approval of the Federal awarding agency or pass-through entity.

§ 200.202 Requirement to provide public notice of Federal financial assistance programs.

(a) The Federal awarding agency must notify the public of Federal programs in the Catalog of Federal Domestic Assistance (CFDA), maintained by the General Services Administration (GSA).

(1) The CFDA, or any OMB-designated replacement, is the single, authoritative, governmentwide comprehensive source of Federal financial assistance program information produced by the executive branch of the Federal government.

(2) The information that the Federal awarding agency must submit to GSA for approval by OMB is listed in paragraph (b) of this section. GSA must prescribe the format for the submission.

(3) The Federal awarding agency may not award Federal financial assistance without assigning it to a program that

has been included in the CFDA as required in this section unless there are exigent circumstances requiring otherwise, such as timing requirements imposed by statute.

(b) For each program that awards discretionary Federal awards, non-discretionary Federal awards, loans, insurance, or any other type of Federal financial assistance, the Federal awarding agency must submit the following information to GSA:

(1) Program Description, Purpose, Goals and Measurement. A brief summary of the statutory or regulatory requirements of the program and its intended outcome. Where appropriate, the Program Description, Purpose, Goals, and Measurement should align with the strategic goals and objectives within the Federal awarding agency's performance plan and should support the Federal awarding agency's performance measurement, management, and reporting as required by Part 6 of OMB Circular A–11;

(2) Identification of whether the program makes Federal awards on a discretionary basis or the Federal awards are prescribed by Federal statute, such as in the case of formula grants.

(3) Projected total amount of funds available for the program. Estimates based on previous year funding are acceptable if current appropriations are not available at the time of the submission;

(4) Anticipated Source of Available Funds: The statutory authority for funding the program and, to the extent possible, agency, sub-agency, or, if known, the specific program unit that will issue the Federal awards, and associated funding identifier (e.g., Treasury Account Symbol(s));

(5) General Eligibility Requirements: The statutory, regulatory or other eligibility factors or considerations that determine the applicant's qualification for Federal awards under the program (e.g., type of non-Federal entity); and

(6) Applicability of Single Audit Requirements as required by Subpart F—Audit Requirements of this Part.

§ 200.203 Notices of funding opportunities.

For competitive grants and cooperative agreements, the Federal awarding agency must announce specific funding opportunities by providing the following information in a public notice:

(a) Summary Information in Notices of Funding Opportunities. The Federal awarding agency must display the following information posted on the OMB-designated governmentwide Web site for finding and applying for Federal financial assistance, in a location preceding the full text of the announcement:

(1) Federal Awarding Agency Name;

(2) Funding Opportunity Title;

(3) Announcement Type (whether the funding opportunity is the initial announcement of this funding opportunity or a modification of a previously announced opportunity);

(4) Funding Opportunity Number (required, if applicable). If the Federal awarding agency has assigned or will assign a number to the funding opportunity announcement, this number must be provided;

(5) Catalog of Federal Financial Assistance (CFDA) Number(s);

(6) Key Dates. Key dates include due dates for applications or Executive Order 12372 submissions, as well as for any letters of intent or pre-applications. For any announcement issued before a program's application materials are available, key dates also include the date on which those materials will be released; and any other additional information, as deemed applicable by the relevant Federal awarding agency.

(b) The Federal awarding agency must generally make all funding opportunities available for application for at least 60 calendar days. The Federal awarding agency may make a determination to have a less than 60 calendar day availability period but no funding opportunity should be available for less than 30 calendar days unless exigent circumstances require as determined by the Federal awarding agency head or delegate.

(c) Full Text of Funding Opportunities. The Federal awarding agency must include the following information in the full text of each funding opportunity. For specific instructions on the content required in this section, refer to Appendix I to Part 200—Full Text of Notice of Funding Opportunity to this Part.

(1) Full programmatic description of the funding opportunity.

(2) Federal award information, including sufficient information to help an applicant make an informed decision about whether to submit an application. (See also § 200.414 Indirect (F&A) costs, paragraph (b)).

(3) Specific eligibility information, including any factors or priorities that affect an applicant's or its application's eligibility for selection.

(4) Application Preparation and Submission Information, including the applicable submission dates and time.

(5) Application Review Information including the criteria and process to be used to evaluate applications. See also § 200.205 Federal awarding agency review of risk posed by applicants. See also 2 CFR Part 27.

(6) Federal Award Administration Information. See also § 200.210 Information contained in a Federal award.

§ 200.204 Federal awarding agency review of merit of proposals.

For competitive grants or cooperative agreements, unless prohibited by Federal statute, the Federal awarding agency must design and execute a merit review process for applications. This process must be described or incorporated by reference in the applicable funding opportunity (see Appendix I to this Part, Full text of the Funding Opportunity.) See also § 200.203 Notices of funding opportunities.

§ 200.205 Federal awarding agency review of risk posed by applicants.

(a) Prior to making a Federal award, the Federal awarding agency is required by 31 U.S.C. 3321 and 41 U.S.C. 2313 note to review information available through any OMB-designated repositories of governmentwide eligibility qualification or financial integrity information, such as Federal Awardee Performance and Integrity Information System (FAPIIS), Dun and Bradstreet, and ''Do Not Pay''. See also suspension and debarment requirements at 2 CFR Part 180 as well as individual Federal agency suspension and debarment regulations in title 2 of the Code of Federal Regulations.

(b) In addition, for competitive grants or cooperative agreements, the Federal awarding agency must have in place a framework for evaluating the risks posed by applicants before they receive Federal awards. This evaluation may incorporate results of the evaluation of the applicant's eligibility or the quality of its application. If the Federal awarding agency determines that a Federal award will be made, special conditions that correspond to the degree of risk assessed may be applied to the Federal award. Criteria to be evaluated must be described in the announcement of funding opportunity described in § 200.203 Notices of funding opportunities.

(c) In evaluating risks posed by applicants, the Federal awarding agency may use a risk-based approach and may consider any items such as the following:

(1) Financial stability;

(2) Quality of management systems and ability to meet the management standards prescribed in this Part;

(3) History of performance. The applicant's record in managing Federal

awards, if it is a prior recipient of Federal awards, including timeliness of compliance with applicable reporting requirements, conformance to the terms and conditions of previous Federal awards, and if applicable, the extent to which any previously awarded amounts will be expended prior to future awards;

(4) Reports and findings from audits performed under Subpart F—Audit Requirements of this Part or the reports and findings of any other available audits; and

(5) The applicant's ability to effectively implement statutory, regulatory, or other requirements imposed on non-Federal entities.

(d) In addition to this review, the Federal awarding agency must comply with the guidelines on governmentwide suspension and debarment in 2 CFR Part 180, and must require non-Federal entities to comply with these provisions. These provisions restrict Federal awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal programs or activities.

§ 200.206 Standard application requirements.

(a) Paperwork clearances. The Federal awarding agency may only use application information collections approved by OMB under the Paperwork Reduction Act of 1995 and OMB's implementing regulations in 5 CFR Part 1320, Controlling Paperwork Burdens on the Public. Consistent with these requirements, OMB will authorize additional information collections only on a limited basis.

(b) If applicable, the Federal awarding agency may inform applicants and recipients that they do not need to provide certain information otherwise required by the relevant information collection.

§ 200.207 Specific conditions.

(a) Based on the criteria set forth in § 200.205 Federal awarding agency review of risk posed by applicants or when an applicant or recipient has a history of failure to comply with the general or specific terms and conditions of a Federal award, or failure to meet expected performance goals as described in § 200.210 Information contained in a Federal award, or is not otherwise responsible, the Federal awarding agency or pass-through entity may impose additional specific award conditions as needed under the procedure specified in paragraph (b) of this section. These additional Federal award conditions may include items such as the following:

(1) Requiring payments as reimbursements rather than advance payments;

(2) Withholding authority to proceed to the next phase until receipt of evidence of acceptable performance within a given period of performance;

(3) Requiring additional, more detailed financial reports;

(4) Requiring additional project monitoring;

(5) Requiring the non-Federal entity to obtain technical or management assistance; or

(6) Establishing additional prior approvals.

(b) The Federal awarding agency or pass-through entity must notify the applicant or non-Federal entity as to:

(1) The nature of the additional requirements;

(2) The reason why the additional requirements are being imposed;

(3) The nature of the action needed to remove the additional requirement, if applicable;

(4) The time allowed for completing the actions if applicable, and

(5) The method for requesting reconsideration of the additional requirements imposed.

(c) Any special conditions must be promptly removed once the conditions that prompted them have been corrected.

§ 200.208 Certifications and representations.

Unless prohibited by Federal statutes or regulations, each Federal awarding agency or pass-through entity is authorized to require the non-Federal entity to submit certifications and representations required by Federal statutes, or regulations on an annual basis. Submission may be required more frequently if the non-Federal entity fails to meet a requirement of a Federal award.

§ 200.209 Pre-award costs.

For requirements on costs incurred by the applicant prior to the start date of the period of performance of the Federal award, see § 200.458 Pre-award costs.

§ 200.210 Information contained in a Federal award.

A Federal award must include the following information:

(a) General Federal Award Information. The Federal awarding agency must include the following general Federal award information in each Federal award:

(1) Recipient name (which must match registered name in DUNS);

(2) Recipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS) number);

(3) Unique Federal Award Identification Number (FAIN);

(4) Federal Award Date (see § 200.39 Federal award date);

(5) Period of Performance Start and End Date;

(6) Amount of Federal Funds Obligated by this action;

(7) Total Amount of Federal Funds Obligated;

(8) Total Amount of the Federal Award;

(9) Budget Approved by the Federal Awarding Agency;

(10) Total Approved Cost Sharing or Matching, where applicable;

(11) Federal award project description, (to comply with statutory requirements (e.g., FFATA));

(12) Name of Federal awarding agency and contact information for awarding official,

(13) CFDA Number and Name;

(14) Identification of whether the award is R&D; and

(15) Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs).

(b) General Terms and Conditions

(1) Federal awarding agencies must incorporate the following general terms and conditions either in the Federal award or by reference, as applicable:

(i) Administrative requirements implemented by the Federal awarding agency as specified in this Part.

(ii) National policy requirements. These include statutory, executive order, other Presidential directive, or regulatory requirements that apply by specific reference and are not program-specific. See § 200.300 Statutory and national policy requirements.

(2) The Federal award must include wording to incorporate, by reference, the applicable set of general terms and conditions. The reference must be to the Web site at which the Federal awarding agency maintains the general terms and conditions.

(3) If a non-Federal entity requests a copy of the full text of the general terms and conditions, the Federal awarding agency must provide it.

(4) Wherever the general terms and conditions are publicly available, the Federal awarding agency must maintain an archive of previous versions of the general terms and conditions, with effective dates, for use by the non-Federal entity, auditors, or others.

(c) Federal Awarding Agency, Program, or Federal Award Specific Terms and Conditions. The Federal awarding agency may include with each

Federal award any terms and conditions necessary to communicate requirements that are in addition to the requirements outlined in the Federal awarding agency's general terms and conditions. Whenever practicable, these specific terms and conditions also should be shared on a public Web site and in notices of funding opportunities (as outlined in § 200.203 Notices of funding opportunities) in addition to being included in a Federal award. See also § 200.206 Standard application requirements.

(d) Federal Award Performance Goals. The Federal awarding agency must include in the Federal award an indication of the timing and scope of expected performance by the non-Federal entity as related to the outcomes intended to be achieved by the program. In some instances (e.g., discretionary research awards), this may be limited to the requirement to submit technical performance reports (to be evaluated in accordance with Federal awarding agency policy). Where appropriate, the Federal award may include specific performance goals, indicators, milestones, or expected outcomes (such as outputs, or services performed or public impacts of any of these) with an expected timeline for accomplishment. Reporting requirements must be clearly articulated such that, where appropriate, performance during the execution of the Federal award has a standard against which non-Federal entity performance can be measured. The Federal awarding agency may include program-specific requirements, as applicable. These requirements should be aligned with agency strategic goals, strategic objectives or performance goals that are relevant to the program. See also OMB Circular A–11, Preparation, Submission and Execution of the Budget Part 6 for definitions of strategic objectives and performance goals.

(e) Any other information required by the Federal awarding agency.

§ 200.211 Public access to Federal award information.

(a) In accordance with statutory requirements for Federal spending transparency (e.g., FFATA), except as noted in this section, for applicable Federal awards the Federal awarding agency must announce all Federal awards publicly and publish the required information on a publicly available OMB-designated governmentwide Web site (at time of publication, *www.USAspending.gov*).

(b) Nothing in this section may be construed as requiring the publication of information otherwise exempt under the Freedom of Information Act (5 U.S.C 552), or controlled unclassified information pursuant to Executive Order 13556.

Subpart D—Post Federal Award Requirements Standards for Financial and Program Management

§ 200.300 Statutory and national policy requirements.

(a) The Federal awarding agency must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements: including, but not limited to, those protecting public welfare, the environment, and prohibiting discrimination. The Federal awarding agency must communicate to the non-Federal entity all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or by reference in the terms and conditions of the Federal award.

(b) The non-Federal entity is responsible for complying with all requirements of the Federal award. For all Federal awards, this includes the provisions of FFATA, which includes requirements on executive compensation, and also requirements implementing the Act for the non-Federal entity at 2 CFR Part 25 Financial Assistance Use of Universal Identifier and Central Contractor Registration and 2 CFR Part 170 Reporting Subaward and Executive Compensation Information. See also statutory requirements for whistleblower protections at 10 U.S.C. 2409, 41 U.S.C. 4712, and 10 U.S.C. 2324, 41 U.S.C. 4304 and 4310.

§ 200.301 Performance measurement.

The Federal awarding agency must require the recipient to use OMB-approved governmentwide standard information collections when providing financial and performance information. As appropriate and in accordance with above mentioned information collections, the Federal awarding agency must require the recipient to relate financial data to performance accomplishments of the Federal award. Also, in accordance with above mentioned governmentwide standard information collections, and when applicable, recipients must also provide cost information to demonstrate cost effective practices (e.g., through unit cost data). The recipient's performance should be measured in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes, share lessons learned, and spread the adoption of promising practices. The Federal awarding agency should provide recipients with clear performance goals, indicators, and milestones as described in § 200.210 Information contained in a Federal award. Performance reporting frequency and content should be established to not only allow the Federal awarding agency to understand the recipient progress but also to facilitate identification of promising practices among recipients and build the evidence upon which the Federal awarding agency's program and performance decisions are made.

§ 200.302 Financial management.

(a) Each state must expend and account for the Federal award in accordance with state laws and procedures for expending and accounting for the state's own funds. In addition, the state's and the other non-Federal entity's financial management systems, including records documenting compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the Federal statutes, regulations, and the terms and conditions of the Federal award. See also § 200.450 Lobbying.

(b) The financial management system of each non-Federal entity must provide for the following (see also §§ 200.333 Retention requirements for records, 200.334 Requests for transfer of records, 200.335 Methods for collection, transmission and storage of information, 200.336 Access to records, and 200.337 Restrictions on public access to records):

(1) Identification, in its accounts, of all Federal awards received and expended and the Federal programs under which they were received. Federal program and Federal award identification must include, as applicable, the CFDA title and number, Federal award identification number and year, name of the Federal agency, and name of the pass-through entity, if any.

(2) Accurate, current, and complete disclosure of the financial results of each Federal award or program in accordance with the reporting requirements set forth in §§ 200.327 Financial reporting and 200.328 Monitoring and reporting program performance. If a Federal awarding agency requires reporting on an accrual basis from a recipient that maintains its

records on other than an accrual basis, the recipient must not be required to establish an accrual accounting system. This recipient may develop accrual data for its reports on the basis of an analysis of the documentation on hand. Similarly, a pass-through entity must not require a subrecipient to establish an accrual accounting system and must allow the subrecipient to develop accrual data for its reports on the basis of an analysis of the documentation on hand.

(3) Records that identify adequately the source and application of funds for federally-funded activities. These records must contain information pertaining to Federal awards, authorizations, obligations, unobligated balances, assets, expenditures, income and interest and be supported by source documentation.

(4) Effective control over, and accountability for, all funds, property, and other assets. The non-Federal entity must adequately safeguard all assets and assure that they are used solely for authorized purposes. See § 200.303 Internal controls.

(5) Comparison of expenditures with budget amounts for each Federal award.

(6) Written procedures to implement the requirements of § 200.305 Payment.

(7) Written procedures for determining the allowability of costs in accordance with Subpart E—Cost Principles of this Part and the terms and conditions of the Federal award.

§ 200.303 Internal controls.

The non-Federal entity must:

(a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in ''Standards for Internal Control in the Federal Government'' issued by the Comptroller General of the United States and the ''Internal Control Integrated Framework'', issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(b) Comply with Federal statutes, regulations, and the terms and conditions of the Federal awards.

(c) Evaluate and monitor the non-Federal entity's compliance with statute, regulations and the terms and conditions of Federal awards.

(d) Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.

(e) Take reasonable measures to safeguard protected personally identifiable information and other information the Federal awarding agency or pass-through entity designates as sensitive or the non-Federal entity considers sensitive consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

§ 200.304 Bonds.

The Federal awarding agency may include a provision on bonding, insurance, or both in the following circumstances:

(a) Where the Federal government guarantees or insures the repayment of money borrowed by the recipient, the Federal awarding agency, at its discretion, may require adequate bonding and insurance if the bonding and insurance requirements of the non-Federal entity are not deemed adequate to protect the interest of the Federal government.

(b) The Federal awarding agency may require adequate fidelity bond coverage where the non-Federal entity lacks sufficient coverage to protect the Federal government's interest.

(c) Where bonds are required in the situations described above, the bonds must be obtained from companies holding certificates of authority as acceptable sureties, as prescribed in 31 CFR Part 223, ''Surety Companies Doing Business with the United States.''

§ 200.305 Payment.

(a) For states, payments are governed by Treasury-State CMIA agreements and default procedures codified at 31 CFR Part 205 ''Rules and Procedures for Efficient Federal-State Funds Transfers'' and TFM 4A–2000 Overall Disbursing Rules for All Federal Agencies.

(b) For non-Federal entities other than states, payments methods must minimize the time elapsing between the transfer of funds from the United States Treasury or the pass-through entity and the disbursement by the non-Federal entity whether the payment is made by electronic funds transfer, or issuance or redemption of checks, warrants, or payment by other means. See also § 200.302 Financial management paragraph (f). Except as noted elsewhere in this Part, Federal agencies must require recipients to use only OMB-approved standard governmentwide information collection requests to request payment.

(1) The non-Federal entity must be paid in advance, provided it maintains or demonstrates the willingness to maintain both written procedures that minimize the time elapsing between the transfer of funds and disbursement by the non-Federal entity, and financial management systems that meet the standards for fund control and accountability as established in this Part. Advance payments to a non-Federal entity must be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the non-Federal entity in carrying out the purpose of the approved program or project. The timing and amount of advance payments must be as close as is administratively feasible to the actual disbursements by the non-Federal entity for direct program or project costs and the proportionate share of any allowable indirect costs. The non-Federal entity must make timely payment to contractors in accordance with the contract provisions.

(2) Whenever possible, advance payments must be consolidated to cover anticipated cash needs for all Federal awards made by the Federal awarding agency to the recipient.

(i) Advance payment mechanisms include, but are not limited to, Treasury check and electronic funds transfer and should comply with applicable guidance in 31 CFR Part 208.

(ii) Non-Federal entities must be authorized to submit requests for advance payments and reimbursements at least monthly when electronic fund transfers are not used, and as often as they like when electronic transfers are used, in accordance with the provisions of the Electronic Fund Transfer Act (15 U.S.C. 1601).

(3) Reimbursement is the preferred method when the requirements in paragraph (b) cannot be met, when the Federal awarding agency sets a specific condition per § 200.207 Specific conditions, or when the non-Federal entity requests payment by reimbursement. This method may be used on any Federal award for construction, or if the major portion of the construction project is accomplished through private market financing or Federal loans, and the Federal award constitutes a minor portion of the project. When the reimbursement method is used, the Federal awarding agency or pass-through entity must make payment within 30 calendar days after receipt of the billing, unless the Federal awarding agency or pass-through entity reasonably believes the request to be improper.

(4) If the non-Federal entity cannot meet the criteria for advance payments and the Federal awarding agency or pass-through entity has determined that reimbursement is not feasible because the non-Federal entity lacks sufficient

working capital, the Federal awarding agency or pass-through entity may provide cash on a working capital advance basis. Under this procedure, the Federal awarding agency or pass-through entity must advance cash payments to the non-Federal entity to cover its estimated disbursement needs for an initial period generally geared to the non-Federal entity's disbursing cycle. Thereafter, the Federal awarding agency or pass-through entity must reimburse the non-Federal entity for its actual cash disbursements. Use of the working capital advance method of payment requires that the pass-through entity provide timely advance payments to any subrecipients in order to meet the subrecipient's actual cash disbursements. The working capital advance method of payment must not be used by the pass-through entity if the reason for using this method is the unwillingness or inability of the pass-through entity to provide timely advance payments to the subrecipient to meet the subrecipient's actual cash disbursements.

(5) Use of resources before requesting cash advance payments. To the extent available, the non-Federal entity must disburse funds available from program income (including repayments to a revolving fund), rebates, refunds, contract settlements, audit recoveries, and interest earned on such funds before requesting additional cash payments.

(6) Unless otherwise required by Federal statutes, payments for allowable costs by non-Federal entities must not be withheld at any time during the period of performance unless the conditions of §§ 200.207 Specific conditions, Subpart D—Post Federal Award Requirements of this Part, 200.338 Remedies for Noncompliance, or the following apply:

(i) The non-Federal entity has failed to comply with the project objectives, Federal statutes, regulations, or the terms and conditions of the Federal award.

(ii) The non-Federal entity is delinquent in a debt to the United States as defined in OMB Guidance A–129, ''Policies for Federal Credit Programs and Non-Tax Receivables.'' Under such conditions, the Federal awarding agency or pass-through entity may, upon reasonable notice, inform the non-Federal entity that payments must not be made for obligations incurred after a specified date until the conditions are corrected or the indebtedness to the Federal government is liquidated.

(iii) A payment withheld for failure to comply with Federal award conditions, but without suspension of the Federal award, must be released to the non-Federal entity upon subsequent compliance. When a Federal award is suspended, payment adjustments will be made in accordance with § 200.342 Effects of suspension and termination.

(iv) A payment must not be made to a non-Federal entity for amounts that are withheld by the non-Federal entity from payment to contractors to assure satisfactory completion of work. A payment must be made when the non-Federal entity actually disburses the withheld funds to the contractors or to escrow accounts established to assure satisfactory completion of work.

(7) Standards governing the use of banks and other institutions as depositories of advance payments under Federal awards are as follows.

(i) The Federal awarding agency and pass-through entity must not require separate depository accounts for funds provided to a non-Federal entity or establish any eligibility requirements for depositories for funds provided to the non-Federal entity. However, the non-Federal entity must be able to account for the receipt, obligation and expenditure of funds.

(ii) Advance payments of Federal funds must be deposited and maintained in insured accounts whenever possible.

(8) The non-Federal entity must maintain advance payments of Federal awards in interest-bearing accounts, unless the following apply.

(i) The non-Federal entity receives less than $120,000 in Federal awards per year.

(ii) The best reasonably available interest-bearing account would not be expected to earn interest in excess of $500 per year on Federal cash balances.

(iii) The depository would require an average or minimum balance so high that it would not be feasible within the expected Federal and non-Federal cash resources.

(iv) A foreign government or banking system prohibits or precludes interest bearing accounts.

(9) Interest earned on Federal advance payments deposited in interest-bearing accounts must be remitted annually to the Department of Health and Human Services, Payment Management System, Rockville, MD 20852. Interest amounts up to $500 per year may be retained by the non-Federal entity for administrative expense.

§ 200.306 Cost sharing or matching.

(a) Under Federal research proposals, voluntary committed cost sharing is not expected. It cannot be used as a factor during the merit review of applications or proposals, but may be considered if it is both in accordance with Federal awarding agency regulations and specified in a notice of funding opportunity. Criteria for considering voluntary committed cost sharing and any other program policy factors that may be used to determine who may receive a Federal award must be explicitly described in the notice of funding opportunity. Furthermore, only mandatory cost sharing or cost sharing specifically committed in the project budget must be included in the organized research base for computing the indirect (F&A) cost rate or reflected in any allocation of indirect costs. See also §§ 200.414 Indirect (F&A) costs, 200.203 Notices of funding opportunities, and Appendix I to Part 200—Full Text of Notice of Funding Opportunity.

(b) For all Federal awards, any shared costs or matching funds and all contributions, including cash and third party in-kind contributions, must be accepted as part of the non-Federal entity's cost sharing or matching when such contributions meet all of the following criteria:

(1) Are verifiable from the non-Federal entity's records;

(2) Are not included as contributions for any other Federal award;

(3) Are necessary and reasonable for accomplishment of project or program objectives;

(4) Are allowable under Subpart E—Cost Principles of this Part;

(5) Are not paid by the Federal government under another Federal award, except where the Federal statute authorizing a program specifically provides that Federal funds made available for such program can be applied to matching or cost sharing requirements of other Federal programs;

(6) Are provided for in the approved budget when required by the Federal awarding agency; and

(7) Conform to other provisions of this Part, as applicable.

(c) Unrecovered indirect costs, including indirect costs on cost sharing or matching may be included as part of cost sharing or matching only with the prior approval of the Federal awarding agency. Unrecovered indirect cost means the difference between the amount charged to the Federal award and the amount which could have been to the Federal award under the non-Federal entity's approved negotiated indirect cost rate.

(d) Values for non-Federal entity contributions of services and property must be established in accordance with § 200.434 Contributions and donations. If a Federal awarding agency authorizes the non-Federal entity to donate

buildings or land for construction/facilities acquisition projects or long-term use, the value of the donated property for cost sharing or matching must be the lesser of paragraphs (d)(1) or (2) of this section.

(1) The value of the remaining life of the property recorded in the non-Federal entity's accounting records at the time of donation.

(2) The current fair market value. However, when there is sufficient justification, the Federal awarding agency may approve the use of the current fair market value of the donated property, even if it exceeds the value described in (1) above at the time of donation.

(e) Volunteer services furnished by third-party professional and technical personnel, consultants, and other skilled and unskilled labor may be counted as cost sharing or matching if the service is an integral and necessary part of an approved project or program. Rates for third-party volunteer services must be consistent with those paid for similar work by the non-Federal entity. In those instances in which the required skills are not found in the non-Federal entity, rates must be consistent with those paid for similar work in the labor market in which the non-Federal entity competes for the kind of services involved. In either case, paid fringe benefits that are reasonable, necessary, allocable, and otherwise allowable may be included in the valuation.

(f) When a third-party organization furnishes the services of an employee, these services must be valued at the employee's regular rate of pay plus an amount of fringe benefits that is reasonable, necessary, allocable, and otherwise allowable, and indirect costs at either the third-party organization's approved federally negotiated indirect cost rate or, a rate in accordance with § 200.414 Indirect (F&A) costs, paragraph (d), provided these services employ the same skill(s) for which the employee is normally paid. Where donated services are treated as indirect costs, indirect cost rates will separate the value of the donated services so that reimbursement for the donated services will not be made.

(g) Donated property from third parties may include such items as equipment, office supplies, laboratory supplies, or workshop and classroom supplies. Value assessed to donated property included in the cost sharing or matching share must not exceed the fair market value of the property at the time of the donation.

(h) The method used for determining cost sharing or matching for third-party-donated equipment, buildings and land for which title passes to the non-Federal entity may differ according to the purpose of the Federal award, if paragraph (h)(1) or (2) of this section applies.

(1) If the purpose of the Federal award is to assist the non-Federal entity in the acquisition of equipment, buildings or land, the aggregate value of the donated property may be claimed as cost sharing or matching.

(2) If the purpose of the Federal award is to support activities that require the use of equipment, buildings or land, normally only depreciation charges for equipment and buildings may be made. However, the fair market value of equipment or other capital assets and fair rental charges for land may be allowed, provided that the Federal awarding agency has approved the charges. See also § 200.420 Considerations for selected items of cost.

(i) The value of donated property must be determined in accordance with the usual accounting policies of the non-Federal entity, with the following qualifications:

(1) The value of donated land and buildings must not exceed its fair market value at the time of donation to the non-Federal entity as established by an independent appraiser (e.g., certified real property appraiser or General Services Administration representative) and certified by a responsible official of the non-Federal entity as required by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (42 U.S.C. 4601–4655) (Uniform Act) except as provided in the implementing regulations at 49 CFR Part 24.

(2) The value of donated equipment must not exceed the fair market value of equipment of the same age and condition at the time of donation.

(3) The value of donated space must not exceed the fair rental value of comparable space as established by an independent appraisal of comparable space and facilities in a privately-owned building in the same locality.

(4) The value of loaned equipment must not exceed its fair rental value.

(j) For third-party in-kind contributions, the fair market value of goods and services must be documented and to the extent feasible supported by the same methods used internally by the non-Federal entity.

§ 200.307 Program income.

(a) General. Non-Federal entities are encouraged to earn income to defray program costs where appropriate.

(b) Cost of generating program income. If authorized by Federal regulations or the Federal award, costs incidental to the generation of program income may be deducted from gross income to determine program income, provided these costs have not been charged to the Federal award.

(c) Governmental revenues. Taxes, special assessments, levies, fines, and other such revenues raised by a non-Federal entity are not program income unless the revenues are specifically identified in the Federal award or Federal awarding agency regulations as program income.

(d) Property. Proceeds from the sale of real property or equipment are not program income; such proceeds will be handled in accordance with the requirements of Subpart D—Post Federal Award Requirements of this Part, Property Standards §§ 200.311 Real property and 200.313 Equipment, or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.

(e) Use of program income. If the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award, or give prior approval for how program income is to be used, paragraph (e)(1) of this section must apply. For Federal awards made to IHEs and nonprofit research institutions, if the Federal awarding agency does not specify in its regulations or the terms and conditions of the Federal award how program income is to be used, paragraph (e)(2) of this section must apply. In specifying alternatives to paragraphs (e)(1) and (2) of this section, the Federal awarding agency may distinguish between income earned by the recipient and income earned by subrecipients and between the sources, kinds, or amounts of income. When the Federal awarding agency authorizes the approaches in paragraphs (e)(2) and (3) of this section, program income in excess of any amounts specified must also be deducted from expenditures.

(1) Deduction. Ordinarily program income must be deducted from total allowable costs to determine the net allowable costs. Program income must be used for current costs unless the Federal awarding agency authorizes otherwise. Program income that the non-Federal entity did not anticipate at the time of the Federal award must be used to reduce the Federal award and non-Federal entity contributions rather than to increase the funds committed to the project.

(2) Addition. With prior approval of the Federal awarding agency, program income may be added to the Federal award by the Federal agency and the non-Federal entity. The program income

must be used for the purposes and under the conditions of the Federal award.

(3) Cost sharing or matching. With prior approval of the Federal awarding agency, program income may be used to meet the cost sharing or matching requirement of the Federal award. The amount of the Federal award remains the same.

(f) Income after the period of performance. There are no Federal requirements governing the disposition of income earned after the end of the period of performance for the Federal award, unless the Federal awarding agency regulations or the terms and conditions of the Federal award provide otherwise. The Federal awarding agency may negotiate agreements with recipients regarding appropriate uses of income earned after the period of performance as part of the grant closeout process. See also § 200.343 Closeout.

§ 200.308 Revision of budget and program plans.

(a) The approved budget for the Federal award summarizes the financial aspects of the project or program as approved during the Federal award process. It may include either the Federal and non-Federal share (see § 200.43 Federal share) or only the Federal share, depending upon Federal awarding agency requirements. It must be related to performance for program evaluation purposes whenever appropriate.

(b) Recipients are required to report deviations from budget or project scope or objective, and request prior approvals from Federal awarding agencies for budget and program plan revisions, in accordance with this section.

(c) For non-construction Federal awards, recipients must request prior approvals from Federal awarding agencies for one or more of the following program or budget-related reasons:

(1) Change in the scope or the objective of the project or program (even if there is no associated budget revision requiring prior written approval).

(2) Change in a key person specified in the application or the Federal award.

(3) The disengagement from the project for more than three months, or a 25 percent reduction in time devoted to the project, by the approved project director or principal investigator.

(4) The inclusion, unless waived by the Federal awarding agency, of costs that require prior approval in accordance with Subpart E—Cost Principles of this Part or 45 CFR Part 74 Appendix E, ''Principles for Determining Costs Applicable to Research and Development under Awards and Contracts with Hospitals,'' or 48 CFR Part 31, ''Contract Cost Principles and Procedures,'' as applicable.

(5) The transfer of funds budgeted for participant support costs as defined in § 200.75 Participant support costs to other categories of expense.

(6) Unless described in the application and funded in the approved Federal awards, the subawarding, transferring or contracting out of any work under a Federal award. This provision does not apply to the acquisition of supplies, material, equipment or general support services.

(7) Changes in the amount of approved cost-sharing or matching provided by the non-Federal entity. No other prior approval requirements for specific items may be imposed unless a deviation has been approved by OMB. See also §§ 200.102 Exceptions and 200.407 Prior written approval (prior approval).

(d) Except for requirements listed in paragraph (c)(1) of this section, the Federal awarding agency are authorized, at their option, to waive prior written approvals required by paragraph (c) this section. Such waivers may include authorizing recipients to do any one or more of the following:

(1) Incur project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of the Federal awarding agency. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's risk (i.e., the Federal awarding agency is under no obligation to reimburse such costs if for any reason the recipient does not receive a Federal award or if the Federal award is less than anticipated and inadequate to cover such costs). See also § 200.458 Pre-award costs.

(2) Initiate a one-time extension of the period of performance by up to 12 months unless one or more of the conditions outlined in paragraphs (d)(2)(i) through (iii) of this section apply. For one-time extensions, the recipient must notify the Federal awarding agency in writing with the supporting reasons and revised period of performance at least 10 calendar days before the end of the period of performance specified in the Federal award. This one-time extension may not be exercised merely for the purpose of using unobligated balances. Extensions require explicit prior Federal awarding agency approval when:

(i) The terms and conditions of the Federal award prohibit the extension.

(ii) The extension requires additional Federal funds.

(iii) The extension involves any change in the approved objectives or scope of the project.

(3) Carry forward unobligated balances to subsequent periods of performance.

(4) For Federal awards that support research, unless the Federal awarding agency provides otherwise in the Federal award or in the Federal awarding agency's regulations, the prior approval requirements described in paragraph (d) are automatically waived (i.e., recipients need not obtain such prior approvals) unless one of the conditions included in paragraph (d)(2) applies.

(e) The Federal awarding agency may, at its option, restrict the transfer of funds among direct cost categories or programs, functions and activities for Federal awards in which the Federal share of the project exceeds the Simplified Acquisition Threshold and the cumulative amount of such transfers exceeds or is expected to exceed 10 percent of the total budget as last approved by the Federal awarding agency. The Federal awarding agency cannot permit a transfer that would cause any Federal appropriation to be used for purposes other than those consistent with the appropriation.

(f) All other changes to non-construction budgets, except for the changes described in paragraph (c) of this section, do not require prior approval (see also § 200.407 Prior written approval (prior approval)).

(g) For construction Federal awards, the recipient must request prior written approval promptly from the Federal awarding agency for budget revisions whenever paragraph (g)(1), (2), or (3) of this section applies.

(1) The revision results from changes in the scope or the objective of the project or program.

(2) The need arises for additional Federal funds to complete the project.

(3) A revision is desired which involves specific costs for which prior written approval requirements may be imposed consistent with applicable OMB cost principles listed in Subpart E—Cost Principles of this Part.

(4) No other prior approval requirements for budget revisions may be imposed unless a deviation has been approved by OMB.

(5) When a Federal awarding agency makes a Federal award that provides support for construction and non-construction work, the Federal awarding agency may require the recipient to

obtain prior approval from the Federal awarding agency before making any fund or budget transfers between the two types of work supported.

(h) When requesting approval for budget revisions, the recipient must use the same format for budget information that was used in the application, unless the Federal awarding agency indicates a letter of request suffices.

(i) Within 30 calendar days from the date of receipt of the request for budget revisions, the Federal awarding agency must review the request and notify the recipient whether the budget revisions have been approved. If the revision is still under consideration at the end of 30 calendar days, the Federal awarding agency must inform the recipient in writing of the date when the recipient may expect the decision.

§ 200.309 Period of performance.

A non-Federal entity may charge to the Federal award only allowable costs incurred during the period of performance and any costs incurred before the Federal awarding agency or pass-through entity made the Federal award that were authorized by the Federal awarding agency or pass-through entity.

Property Standards

§ 200.310 Insurance coverage.

The non-Federal entity must, at a minimum, provide the equivalent insurance coverage for real property and equipment acquired or improved with Federal funds as provided to property owned by the non-Federal entity. Federally-owned property need not be insured unless required by the terms and conditions of the Federal award.

§ 200.311 Real property.

(a) Title. Subject to the obligations and conditions set forth in this section, title to real property acquired or improved under a Federal award will vest upon acquisition in the non-Federal entity.

(b) Use. Except as otherwise provided by Federal statutes or by the Federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the non-Federal entity must not dispose of or encumber its title or other interests.

(c) Disposition. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from the Federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

(1) Retain title after compensating the Federal awarding agency. The amount paid to the Federal awarding agency will be computed by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and costs of any improvements) to the fair market value of the property. However, in those situations where non-Federal entity is disposing of real property acquired or improved with a Federal award and acquiring replacement real property under the same Federal award, the net proceeds from the disposition may be used as an offset to the cost of the replacement property.

(2) Sell the property and compensate the Federal awarding agency. The amount due to the Federal awarding agency will be calculated by applying the Federal awarding agency's percentage of participation in the cost of the original purchase (and cost of any improvements) to the proceeds of the sale after deduction of any actual and reasonable selling and fixing-up expenses. If the Federal award has not been closed out, the net proceeds from sale may be offset against the original cost of the property. When non-Federal entity is directed to sell property, sales procedures must be followed that provide for competition to the extent practicable and result in the highest possible return.

(3) Transfer title to the Federal awarding agency or to a third party designated/approved by the Federal awarding agency. The non-Federal entity is entitled to be paid an amount calculated by applying the non-Federal entity's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

§ 200.312 Federally-owned and exempt property.

(a) Title to federally-owned property remains vested in the Federal government. The non-Federal entity must submit annually an inventory listing of federally-owned property in its custody to the Federal awarding agency. Upon completion of the Federal award or when the property is no longer needed, the non-Federal entity must report the property to the Federal awarding agency for further Federal agency utilization.

(b) If the Federal awarding agency has no further need for the property, it must declare the property excess and report it for disposal to the appropriate Federal disposal authority, unless the Federal awarding agency has statutory authority to dispose of the property by alternative methods (e.g., the authority provided by the Federal Technology Transfer Act (15 U.S.C. 3710 (i)) to donate research equipment to educational and non-profit organizations in accordance with Executive Order 12999, ''Educational Technology: Ensuring Opportunity for All Children in the Next Century.''). The Federal awarding agency must issue appropriate instructions to the non-Federal entity.

(c) Exempt federally-owned property means property acquired under a Federal award the title based upon the explicit terms and conditions of the Federal award that indicate the Federal awarding agency has chosen to vest in the non-Federal entity without further obligation to the Federal government or under conditions the Federal agency considers appropriate. The Federal awarding agency may exercise this option when statutory authority exists. Absent statutory authority and specific terms and conditions of the Federal award, title to exempt federally-owned property acquired under the Federal award remains with the Federal government.

§ 200.313 Equipment.

See also § 200.439 Equipment and other capital expenditures.

(a) Title. Subject to the obligations and conditions set forth in this section, title to equipment acquired under a Federal award will vest upon acquisition in the non-Federal entity. Unless a statute specifically authorizes the Federal agency to vest title in the non-Federal entity without further obligation to the Federal government, and the Federal agency elects to do so, the title must be a conditional title. Title must vest in the non-Federal entity subject to the following conditions:

(1) Use the equipment for the authorized purposes of the project until funding for the project ceases, or until the property is no longer needed for the purposes of the project.

(2) Not encumber the property without approval of the Federal awarding agency or pass-through entity.

(3) Use and dispose of the property in accordance with paragraphs (b), (c) and (e) of this section.

(b) A state must use, manage and dispose of equipment acquired under a Federal award by the state in accordance with state laws and procedures. Other non-Federal entities must follow paragraphs (c) through (e) of this section.

(c) Use.

(1) Equipment must be used by the non-Federal entity in the program or project for which it was acquired as long as needed, whether or not the project or program continues to be supported by

the Federal award, and the non-Federal entity must not encumber the property without prior approval of the Federal awarding agency. When no longer needed for the original program or project, the equipment may be used in other activities supported by the Federal awarding agency, in the following order of priority:

(i) Activities under a Federal award from the Federal awarding agency which funded the original program or project, then

(ii) Activities under Federal awards from other Federal awarding agencies. This includes consolidated equipment for information technology systems.

(2) During the time that equipment is used on the project or program for which it was acquired, the non-Federal entity must also make equipment available for use on other projects or programs currently or previously supported by the Federal government, provided that such use will not interfere with the work on the projects or program for which it was originally acquired. First preference for other use must be given to other programs or projects supported by Federal awarding agency that financed the equipment and second preference must be given to programs or projects under Federal awards from other Federal awarding agencies. Use for non-federally-funded programs or projects is also permissible. User fees should be considered if appropriate.

(3) Notwithstanding the encouragement in § 200.307 Program income to earn program income, the non-Federal entity must not use equipment acquired with the Federal award to provide services for a fee that is less than private companies charge for equivalent services unless specifically authorized by Federal statute for as long as the Federal government retains an interest in the equipment.

(4) When acquiring replacement equipment, the non-Federal entity may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement property.

(d) Management requirements. Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a Federal award, until disposition takes place will, as a minimum, meet the following requirements:

(1) Property records must be maintained that include a description of the property, a serial number or other identification number, the source of funding for the property (including the FAIN), who holds title, the acquisition date, and cost of the property, percentage of Federal participation in the project costs for the Federal award under which the property was acquired, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

(2) A physical inventory of the property must be taken and the results reconciled with the property records at least once every two years.

(3) A control system must be developed to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft must be investigated.

(4) Adequate maintenance procedures must be developed to keep the property in good condition.

(5) If the non-Federal entity is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

(e) Disposition. When original or replacement equipment acquired under a Federal award is no longer needed for the original project or program or for other activities currently or previously supported by a Federal awarding agency, except as otherwise provided in Federal statutes, regulations, or Federal awarding agency disposition instructions, the non-Federal entity must request disposition instructions from the Federal awarding agency if required by the terms and conditions of the Federal award. Disposition of the equipment will be made as follows, in accordance with Federal awarding agency disposition instructions:

(1) Items of equipment with a current per unit fair market value of $5,000 or less may be retained, sold or otherwise disposed of with no further obligation to the Federal awarding agency.

(2) Except as provided in § 200.312 Federally-owned and exempt property, paragraph (b), or if the Federal awarding agency fails to provide requested disposition instructions within 120 days, items of equipment with a current per-unit fair-market value in excess of $5,000 may be retained by the non-Federal entity or sold. The Federal awarding agency is entitled to an amount calculated by multiplying the current market value or proceeds from sale by the Federal awarding agency's percentage of participation in the cost of the original purchase. If the equipment is sold, the Federal awarding agency may permit the non-Federal entity to deduct and retain from the Federal share $500 or ten percent of the proceeds, whichever is less, for its selling and handling expenses.

(3) The non-Federal entity may transfer title to the property to the Federal Government or to an eligible third party provided that, in such cases, the non-Federal entity must be entitled to compensation for its attributable percentage of the current fair market value of the property.

(4) In cases where a non-Federal entity fails to take appropriate disposition actions, the Federal awarding agency may direct the non-Federal entity to take disposition actions.

§ 200.314 Supplies.

See also § 200.453 Materials and supplies costs, including costs of computing devices.

(a) Title to supplies will vest in the non-Federal entity upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other Federal award, the non-Federal entity must retain the supplies for use on other activities or sell them, but must, in either case, compensate the Federal government for its share. The amount of compensation must be computed in the same manner as for equipment. See § 200.313 Equipment, paragraph (e)(2) for the calculation methodology.

(b) As long as the Federal government retains an interest in the supplies, the non-Federal entity must not use supplies acquired under a Federal award to provide services to other organizations for a fee that is less than private companies charge for equivalent services, unless specifically authorized by Federal statute.

§ 200.315 Intangible property.

(a) Title to intangible property (see § 200.59 Intangible property) acquired under a Federal award vests upon acquisition in the non-Federal entity. The non-Federal entity must use that property for the originally-authorized purpose, and must not encumber the property without approval of the Federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in § 200.313 Equipment paragraph (e).

(b) The non-Federal entity may copyright any work that is subject to copyright and was developed, or for which ownership was acquired, under a Federal award. The Federal awarding agency reserves a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so.

(c) The non-Federal entity is subject to applicable regulations governing patents and inventions, including governmentwide regulations issued by the Department of Commerce at 37 CFR Part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Awards, Contracts and Cooperative Agreements.''

(d) The Federal government has the right to:

(1) Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and

(2) Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

(e) Freedom of Information Act (FOIA).

(1) In addition, in response to a Freedom of Information Act (FOIA) request for research data relating to published research findings produced under a Federal award that were used by the Federal government in developing an agency action that has the force and effect of law, the Federal awarding agency must request, and the non-Federal entity must provide, within a reasonable time, the research data so that they can be made available to the public through the procedures established under the FOIA. If the Federal awarding agency obtains the research data solely in response to a FOIA request, the Federal awarding agency may charge the requester a reasonable fee equaling the full incremental cost of obtaining the research data. This fee should reflect costs incurred by the Federal agency and the non-Federal entity. This fee is in addition to any fees the Federal awarding agency may assess under the FOIA (5 U.S.C. 552(a)(4)(A)).

(2) Published research findings means when:

(i) Research findings are published in a peer-reviewed scientific or technical journal; or

(ii) A Federal agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law. ''Used by the Federal government in developing an agency action that has the force and effect of law'' is defined as when an agency publicly and officially cites the research findings in support of an agency action that has the force and effect of law.

(3) Research data means the recorded factual material commonly accepted in the scientific community as necessary to validate research findings, but not any of the following: preliminary analyses, drafts of scientific papers, plans for future research, peer reviews, or communications with colleagues. This ''recorded'' material excludes physical objects (e.g., laboratory samples). Research data also do not include:

(i) Trade secrets, commercial information, materials necessary to be held confidential by a researcher until they are published, or similar information which is protected under law; and

(ii) Personnel and medical information and similar information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, such as information that could be used to identify a particular person in a research study.

§ 200.316 Property trust relationship.

Real property, equipment, and intangible property, that are acquired or improved with a Federal award must be held in trust by the non-Federal entity as trustee for the beneficiaries of the project or program under which the property was acquired or improved. The Federal awarding agency may require the non-Federal entity to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a Federal award and that use and disposition conditions apply to the property.

Procurement Standards

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered *materials* and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow §§ 200.318 General procurement standards through 200.326 Contract provisions.

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)(1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a ''brand name'' product instead of allowing ''an equal'' product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a ''brand name or equivalent'' description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed $3,000 (or $2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

(ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;

(iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(v) Any or all bids may be rejected if there is a sound documented reason.

(d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

(1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(2) Proposals must be solicited from an adequate number of qualified sources;

(3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

(4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

(5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

(f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

(1) The item is available only from a single source;

(2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;

(3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or

(4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired by the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed,

the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this Part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this Part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a ''brand name'' product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this Part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The ''bid guarantee'' must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A ''performance bond'' is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A ''payment bond'' is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

Performance and Financial Monitoring and Reporting

§ 200.327 Financial reporting.

Unless otherwise approved by OMB, the Federal awarding agency may solicit only the standard, OMB-approved governmentwide data elements for collection of financial information (at time of publication the Federal Financial Report or such future collections as may be approved by OMB and listed on the OMB Web site). This information must be collected with the frequency required by the terms and conditions of the Federal award, but no less frequently than annually nor more frequently than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes, and preferably in coordination with performance reporting.

200.328 Monitoring and reporting program performance.

(a) Monitoring by the non-Federal entity. The non-Federal entity is responsible for oversight of the operations of the Federal award supported activities. The non-Federal entity must monitor its activities under Federal awards to assure compliance with applicable Federal requirements and performance expectations are being achieved. Monitoring by the non-Federal entity must cover each program, function or activity. See also § 200.331 Requirements for pass-through *entities.*

(b) Non-construction performance reports. The Federal awarding agency must use standard, OMB-approved data elements for collection of performance information (including performance progress reports, Research Performance Progress Report, or such future collections as may be approved by OMB and listed on the OMB Web site).

(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity

to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Annual reports must be due 90 calendar days after the reporting period; quarterly or semiannual reports must be due 30 calendar days after the reporting period. Alternatively, the Federal awarding agency or pass-through entity may require annual reports before the anniversary dates of multiple year Federal awards. The final performance report will be due 90 calendar days after the period of performance end date. If a justified request is submitted by a non-Federal entity, the Federal agency may extend the due date for any performance report.

(2) The non-Federal entity must submit performance reports using OMB-approved governmentwide standard information collections when providing performance information. As appropriate in accordance with above mentioned information collections, these reports will contain, for each Federal award, brief information on the following unless other collections are approved by OMB:

(i) A comparison of actual accomplishments to the objectives of the Federal award established for the period. Where the accomplishments of the Federal award can be quantified, a computation of the cost (for example, related to units of accomplishment) may be required if that information will be useful. Where performance trend data and analysis would be informative to the Federal awarding agency program, the Federal awarding agency should include this as a performance reporting requirement.

(ii) The reasons why established goals were not met, if appropriate.

(iii) Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

(c) Construction performance reports. For the most part, onsite technical inspections and certified percentage of completion data are relied on heavily by Federal awarding agencies and pass-through entities to monitor progress under Federal awards and subawards for construction. The Federal awarding agency may require additional performance reports only when considered necessary.

(d) Significant developments. Events may occur between the scheduled performance reporting dates that have significant impact upon the supported activity. In such cases, the non-Federal entity must inform the Federal awarding agency or pass-through entity as soon as the following types of conditions become known:

(1) Problems, delays, or adverse conditions which will materially impair the ability to meet the objective of the Federal award. This disclosure must include a statement of the action taken, or contemplated, and any assistance needed to resolve the situation.

(2) Favorable developments which enable meeting time schedules and objectives sooner or at less cost than anticipated or producing more or different beneficial results than originally planned.

(e) The Federal awarding agency may make site visits as warranted by program needs.

(f) The Federal awarding agency may waive any performance report required by this Part if not needed.

§ 200.329 Reporting on real property.

The Federal awarding agency or pass-through entity must require a non-Federal entity to submit reports at least annually on the status of real property in which the Federal government retains an interest, unless the Federal interest in the real property extends 15 years or longer. In those instances where the Federal interest attached is for a period of 15 years or more, the Federal awarding agency or pass-through entity, at its option, may require the non-Federal entity to report at various multi-year frequencies (e.g., every two years or every three years, not to exceed a five-year reporting period; or a Federal awarding agency or pass-through entity may require annual reporting for the first three years of a Federal award and thereafter require reporting every five years).

Subrecipient Monitoring and Management

§ 200.330 Subrecipient and contractor determinations.

The non-Federal entity may concurrently receive Federal awards as a recipient, a subrecipient, and a contractor, depending on the substance of its agreements with Federal awarding agencies and pass-through entities. Therefore, a pass-through entity must make case-by-case determinations whether each agreement it makes for the disbursement of Federal program funds casts the party receiving the funds in the role of a subrecipient or a contractor. The Federal awarding agency may supply and require recipients to comply with additional guidance to support these determinations provided such guidance does not conflict with this section.

(a) Subrecipients. A subaward is for the purpose of carrying out a portion of a Federal award and creates a Federal assistance relationship with the subrecipient. See § 200.92 Subaward. Characteristics which support the classification of the non-Federal entity as a subrecipient include when the non-Federal entity:

(1) Determines who is eligible to receive what Federal assistance;

(2) Has its performance measured in relation to whether objectives of a Federal program were met;

(3) Has responsibility for programmatic decision making;

(4) Is responsible for adherence to applicable Federal program requirements specified in the Federal award; and

(5) In accordance with its agreement, uses the Federal funds to carry out a program for a public purpose specified in authorizing statute, as opposed to providing goods or services for the benefit of the pass-through entity.

(b) Contractors. A contract is for the purpose of obtaining goods and services for the non-Federal entity's own use and creates a procurement relationship with the contractor. See § 200.22 Contract. Characteristics indicative of a procurement relationship between the non-Federal entity and a contractor are when the non-Federal entity receiving the Federal funds:

(1) Provides the goods and services within normal business operations;

(2) Provides similar goods or services to many different purchasers;

(3) Normally operates in a competitive environment;

(4) Provides goods or services that are ancillary to the operation of the Federal program; and

(5) Is not subject to compliance requirements of the Federal program as a result of the agreement, though similar requirements may apply for other reasons.

(c) Use of judgment in making determination. In determining whether an agreement between a pass-through entity and another non-Federal entity casts the latter as a subrecipient or a contractor, the substance of the relationship is more important than the form of the agreement. All of the characteristics listed above may not be present in all cases, and the pass-through entity must use judgment in classifying each agreement as a subaward or a procurement contract.

§ 200.331 Requirements for pass-through entities.

All pass-through entities must:

(a) Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:

(1) Federal Award Identification.

(i) Subrecipient name (which must match registered name in DUNS);

(ii) Subrecipient's DUNS number (see § 200.32 Data Universal Numbering System (DUNS) *number*);

(iii) Federal Award Identification Number (FAIN);

(iv) Federal Award Date (see § 200.39 Federal award date);

(v) Subaward Period of Performance Start and End Date;

(vi) Amount of Federal Funds Obligated by this action;

(vii) Total Amount of Federal Funds Obligated to the subrecipient;

(viii) Total Amount of the Federal Award;

(ix) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);

(x) Name of Federal awarding agency, pass-through entity, and contact information for awarding official,

(xi) CFDA Number and Name; the pass-through entity must identify the dollar amount made available under each Federal award and the CFDA number at time of disbursement;

(xii) Identification of whether the award is R&D; and

(xiii) Indirect cost rate for the Federal award (including if the de minimis rate is charged per § 200.414 Indirect (F&A) costs).

(2) All requirements imposed by the pass-through entity on the subrecipient so that the Federal award is used in accordance with Federal statutes, regulations and the terms and conditions of the Federal award.

(3) Any additional requirements that the pass-through entity imposes on the subrecipient in order for the pass-through entity to meet its own responsibility to the Federal awarding agency including identification of any required financial and performance reports;

(4) An approved federally recognized indirect cost rate negotiated between the subrecipient and the Federal government or, if no such rate exists, either a rate negotiated between the pass-through entity and the subrecipient (in compliance with this Part), or a de minimis indirect cost rate as defined in § 200.414 Indirect (F&A) costs, paragraph (b) of this Part.

(5) A requirement that the subrecipient permit the pass-through entity and auditors to have access to the subrecipient's records and financial statements as necessary for the pass-through entity to meet the requirements of this section, §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance, and Subpart F—Audit Requirements of this Part; and

(6) Appropriate terms and conditions concerning closeout of the subaward.

(b) Evaluate each subrecipient's risk of noncompliance with Federal statutes, regulations, and the terms and conditions of the subaward for purposes of determining the appropriate subrecipient monitoring described in paragraph (e) of this section, which may include consideration of such factors as:

(1) The subrecipient's prior experience with the same or similar subawards;

(2) The results of previous audits including whether or not the subrecipient receives a Single Audit in accordance with Subpart F—Audit Requirements of this Part, and the extent to which the same or similar subaward has been audited as a major program;

(3) Whether the subrecipient has new personnel or new or substantially changed systems; and

(4) The extent and results of Federal awarding agency monitoring (e.g., if the subrecipient also receives Federal awards directly from a Federal awarding agency).

(c) Consider imposing specific subaward conditions upon a subrecipient if appropriate as described in § 200.207 Specific conditions.

(d) Monitor the activities of the subrecipient as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of the subaward; and that subaward performance goals are achieved. Pass-through entity monitoring of the subrecipient must include:

(1) Reviewing financial and programmatic reports required by the pass-through entity.

(2) Following-up and ensuring that the subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews, and other means.

(3) Issuing a management decision for audit findings pertaining to the Federal award provided to the subrecipient from the pass-through entity as required by § 200.521 Management decision.

(e) Depending upon the pass-through entity's assessment of risk posed by the subrecipient (as described in paragraph (b) of this section), the following monitoring tools may be useful for the pass-through entity to ensure proper accountability and compliance with program requirements and achievement of performance goals:

(1) Providing subrecipients with training and technical assistance on program-related matters; and

(2) Performing on-site reviews of the subrecipient's program operations;

(3) Arranging for agreed-upon-procedures engagements as described in § 200.425 Audit services.

(f) Verify that every subrecipient is audited as required by Subpart F—Audit Requirements of this Part when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in § 200.501 Audit requirements.

(g) Consider whether the results of the subrecipient's audits, on-site reviews, or other monitoring indicate conditions that necessitate adjustments to the pass-through entity's own records.

(h) Consider taking enforcement action against noncompliant subrecipients as described in § 200.338 Remedies for noncompliance of this Part and in program regulations.

§ 200.332 Fixed amount subawards.

With prior written approval from the Federal awarding agency, a pass-through entity may provide subawards based on fixed amounts up to the Simplified Acquisition Threshold, provided that the subawards meet the requirements for fixed amount awards in § 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

Record Retention and Access

§ 200.333 Retention requirements for records.

Financial records, supporting documents, statistical records, and all other non-Federal entity records pertinent to a Federal award must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the Federal awarding agency or pass-through entity in the case of a

subrecipient. Federal awarding agencies and pass-through entities must not impose any other record retention requirements upon non-Federal entities. The only exceptions are the following:

(a) If any litigation, claim, or audit is started before the expiration of the 3-year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.

(b) When the non-Federal entity is notified in writing by the Federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period.

(c) Records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition.

(d) When records are transferred to or maintained by the Federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the non-Federal entity.

(e) Records for program income transactions after the period of performance. In some cases recipients must report program income after the period of performance. Where there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the non-Federal entity's fiscal year in which the program income is earned.

(f) Indirect cost rate proposals and cost allocations plans. This paragraph applies to the following types of documents and their supporting records: indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable (such as computer usage chargeback rates or composite fringe benefit rates).

(1) If submitted for negotiation. If the proposal, plan, or other computation is required to be submitted to the Federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the 3-year retention period for its supporting records starts from the date of such submission.

(2) If not submitted for negotiation. If the proposal, plan, or other computation is not required to be submitted to the Federal government (or to the pass-through entity) for negotiation purposes, then the 3-year retention period for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or other computation.

§ 200.334 Requests for transfer of records.

The Federal awarding agency must request transfer of certain records to its custody from the non-Federal entity when it determines that the records possess long-term retention value. However, in order to avoid duplicate recordkeeping, the Federal awarding agency may make arrangements for the non-Federal entity to retain any records that are continuously needed for joint use.

§ 200.335 Methods for collection, transmission and storage of information.

In accordance with the May 2013 Executive Order on Making Open and Machine Readable the New Default for Government Information, the Federal awarding agency and the non-Federal entity should, whenever practicable, collect, transmit, and store Federal award-related information in open and machine readable formats rather than in closed formats or on paper. The Federal awarding agency or pass-through entity must always provide or accept paper versions of Federal award-related information to and from the non-Federal entity upon request. If paper copies are submitted, the Federal awarding agency or pass-through entity must not require more than an original and two copies. When original records are electronic and cannot be altered, there is no need to create and retain paper copies. When original records are paper, electronic versions may be substituted through the use of duplication or other forms of electronic media provided that they are subject to periodic quality control reviews, provide reasonable safeguards against alteration, and remain readable.

§ 200.336 Access to records.

(a) Records of non-Federal entities. The Federal awarding agency, Inspectors General, the Comptroller General of the United States, and the pass-through entity, or any of their authorized representatives, must have the right of access to any documents, papers, or other records of the non-Federal entity which are pertinent to the Federal award, in order to make audits, examinations, excerpts, and transcripts. The right also includes timely and reasonable access to the non-Federal entity's personnel for the purpose of interview and discussion related to such documents.

(b) Only under extraordinary and rare circumstances would such access include review of the true name of victims of a crime. Routine monitoring cannot be considered extraordinary and rare circumstances that would necessitate access to this information. When access to the true name of victims of a crime is necessary, appropriate steps to protect this sensitive information must be taken by both the non-Federal entity and the Federal awarding agency. Any such access, other than under a court order or subpoena pursuant to a bona fide confidential investigation, must be approved by the head of the Federal awarding agency or delegate.

(c) Expiration of right of access. The rights of access in this section are not limited to the required retention period but last as long as the records are retained. Federal awarding agencies and pass-through entities must not impose any other access requirements upon non-Federal entities.

§ 200.337 Restrictions on public access to records

No Federal awarding agency may place restrictions on the non-Federal entity that limit public access to the records of the non-Federal entity pertinent to a Federal award, except for protected personally identifiable information (PII) or when the Federal awarding agency can demonstrate that such records will be kept confidential and would have been exempted from disclosure pursuant to the Freedom of Information Act (5 U.S.C. 552) or controlled unclassified information pursuant to Executive Order 13556 if the records had belonged to the Federal awarding agency. The Freedom of Information Act (5 U.S.C. 552) (FOIA) does not apply to those records that remain under a non-Federal entity's control except as required under § 200.315 Intangible property. Unless required by Federal, state, or local statute, non-Federal entities are not required to permit public access to their records. The non-Federal entity's records provided to a Federal agency generally will be subject to FOIA and applicable exemptions.

Remedies for Noncompliance

§ 200.338 Remedies for noncompliance.

If a non-Federal entity fails to comply with Federal statutes, regulations or the terms and conditions of a Federal award, the Federal awarding agency or pass-through entity may impose additional conditions, as described in § 200.207 Specific conditions. If the Federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the Federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

(a) Temporarily withhold cash payments pending correction of the

deficiency by the non-Federal entity or more severe enforcement action by the Federal awarding agency or pass-through entity.

(b) Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.

(c) Wholly or partly suspend or terminate the Federal award.

(d) Initiate suspension or debarment proceedings as authorized under 2 CFR Part 180 and Federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a Federal awarding agency).

(e) Withhold further Federal awards for the project or program.

(f) Take other remedies that may be legally available.

§ 200.339 Termination

(a) The Federal award may be terminated in whole or in part as follows:

(1) By the Federal awarding agency or pass-through entity, if a non-Federal entity fails to comply with the terms and conditions of a Federal award;

(2) By the Federal awarding agency or pass-through entity for cause;

(3) By the Federal awarding agency or pass-through entity with the consent of the non-Federal entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated; or

(4) By the non-Federal entity upon sending to the Federal awarding agency or pass-through entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal awarding agency or pass-through entity determines in the case of partial termination that the reduced or modified portion of the Federal award or subaward will not accomplish the purposes for which the Federal award was made, the Federal awarding agency or pass-through entity may terminate the Federal award in its entirety.

(b) When a Federal award is terminated or partially terminated, both the Federal awarding agency or pass-through entity and the non-Federal entity remain responsible for compliance with the requirements in §§ 200.343 Closeout and 200.344 Post-closeout adjustments and continuing responsibilities.

§ 200.340 Notification of termination requirement.

(a) The Federal agency or pass-through entity must provide to the non-Federal entity a notice of termination.

(b) If the Federal award is terminated for the non-Federal entity's failure to comply with the Federal statutes, regulations, or terms and conditions of the Federal award, the notification must state that the termination decision may be considered in evaluating future applications received from the non-Federal entity.

(c) Upon termination of a Federal award, the Federal awarding agency must provide the information required under FFATA to the Federal Web site established to fulfill the requirements of FFATA, and update or notify any other relevant governmentwide systems or entities of any indications of poor performance as required by 41 U.S.C. 417b and 31 U.S.C. 3321 and implementing guidance at 2 CFR Part 77. See also the requirements for Suspension and Debarment at 2 CFR Part 180.

§ 200.341 Opportunities to object, hearings and appeals.

Upon taking any remedy for non-compliance, the Federal awarding agency must provide the non-Federal entity an opportunity to object and provide information and documentation challenging the suspension or termination action, in accordance with written processes and procedures published by the Federal awarding agency. The Federal awarding agency or pass-through entity must comply with any requirements for hearings, appeals or other administrative proceedings which the non-Federal entity is entitled under any statute or regulation applicable to the action involved.

§ 200.342 Effects of suspension and termination.

Costs to the non-Federal entity resulting from obligations incurred by the non-Federal entity during a suspension or after termination of a Federal award or subaward are not allowable unless the Federal awarding agency or pass-through entity expressly authorizes them in the notice of suspension or termination or subsequently. However, costs during suspension or after termination are allowable if:

(a) The costs result from obligations which were properly incurred by the non-Federal entity before the effective date of suspension or termination, are not in anticipation of it; and

(b) The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.

Closeout

§ 200.343 Closeout.

The Federal agency or pass-through entity will close-out the Federal award when it determines that all applicable administrative actions and all required work of the Federal award have been completed by the non-Federal entity. This section specifies the actions the non-Federal entity and Federal awarding agency or pass-through entity must take to complete this process at the end of the period of performance.

(a) The non-Federal entity must submit, no later than 90 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by or the terms and conditions of the Federal award. The Federal awarding agency or pass-through entity may approve extensions when requested by the non-Federal entity.

(b) Unless the Federal awarding agency or pass-through entity authorizes an extension, a non-Federal entity must liquidate all obligations incurred under the Federal award not later than 90 calendar days after the end date of the period of performance as specified in the terms and conditions of the Federal award.

(c) The Federal awarding agency or pass-through entity must make prompt payments to the non-Federal entity for allowable reimbursable costs under the Federal award being closed out.

(d) The non-Federal entity must promptly refund any balances of unobligated cash that the Federal awarding agency or pass-through entity paid in advance or paid and that is not authorized to be retained by the non-Federal entity for use in other projects. See OMB Circular A–129 and see § 200.345 Collection of amounts due for requirements regarding unreturned amounts that become delinquent debts.

(e) Consistent with the terms and conditions of the Federal award, the Federal awarding agency or pass-through entity must make a settlement for any upward or downward adjustments to the Federal share of costs after closeout reports are received.

(f) The non-Federal entity must account for any real and personal property acquired with Federal funds or received from the Federal government in accordance with §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.329 Reporting on real property.

(g) The Federal awarding agency or pass-through entity should complete all

closeout actions for Federal awards no later than one year after receipt and acceptance of all required final reports.

Post-Closeout Adjustments and Continuing Responsibilities

§ 200.344 Post-closeout adjustments and continuing responsibilities.

(a) The closeout of a Federal award does not affect any of the following.

(1) The right of the Federal awarding agency or pass-through entity to disallow costs and recover funds on the basis of a later audit or other review. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify the non-Federal entity within the record retention period.

(2) The obligation of the non-Federal entity to return any funds due as a result of later refunds, corrections, or other transactions including final indirect cost rate adjustments.

(3) Audit requirements in Subpart F—Audit Requirements of this Part.

(4) Property management and disposition requirements in Subpart D—Post Federal Award Requirements of this Part, §§ 200.310 Insurance Coverage through 200.316 Property trust relationship.

(5) Records retention as required in Subpart D—Post Federal Award Requirements of this Part, §§ 200.333 Retention requirements for records through 200.337 Restrictions on public access to records.

(b) After closeout of the Federal award, a relationship created under the Federal award may be modified or ended in whole or in part with the consent of the Federal awarding agency or pass-through entity and the non-Federal entity, provided the responsibilities of the non-Federal entity referred to in paragraph (a) of this section including those for property management as applicable, are considered and provisions made for continuing responsibilities of the non-Federal entity, as appropriate.

Collection of Amounts Due

§ 200.345 Collection of amounts due.

(a) Any funds paid to the non-Federal entity in excess of the amount to which the non-Federal entity is finally determined to be entitled under the terms of the Federal award constitute a debt to the Federal government. If not paid within 90 calendar days after demand, the Federal awarding agency may reduce the debt by:

(1) Making an administrative offset against other requests for reimbursements;

(2) Withholding advance payments otherwise due to the non-Federal entity; or

(3) Other action permitted by Federal statute.

(b) Except where otherwise provided by statutes or regulations, the Federal awarding agency will charge interest on an overdue debt in accordance with the Federal Claims Collection Standards (31 CFR Parts 900 through 999). The date from which interest is computed is not extended by litigation or the filing of any form of appeal.

Subpart E—Cost Principles

General Provisions

§ 200.400 Policy guide.

The application of these cost principles is based on the fundamental premises that:

(a) The non-Federal entity is responsible for the efficient and effective administration of the Federal award through the application of sound management practices.

(b) The non-Federal entity assumes responsibility for administering Federal funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the Federal award.

(c) The non-Federal entity, in recognition of its own unique combination of staff, facilities, and experience, has the primary responsibility for employing whatever form of sound organization and management techniques may be necessary in order to assure proper and efficient administration of the Federal award.

(d) The application of these cost principles should require no significant changes in the internal accounting policies and practices of the non-Federal entity. However, the accounting practices of the non-Federal entity must be consistent with these cost principles and support the accumulation of costs as required by the principles, and must provide for adequate documentation to support costs charged to the Federal award.

(e) In reviewing, negotiating and approving cost allocation plans or indirect cost proposals, the cognizant agency for indirect costs should generally assure that the non-Federal entity is applying these cost accounting principles on a consistent basis during their review and negotiation of indirect cost proposals. Where wide variations exist in the treatment of a given cost item by the non-Federal entity, the reasonableness and equity of such treatments should be fully considered. See § 200.56 Indirect (facilities & administrative (F&A)) costs.

(f) For non-Federal entities that educate and engage students in research, the dual role of students as both trainees and employees contributing to the completion of Federal awards for research must be recognized in the application of these principles.

(g) The non-Federal entity may not earn or keep any profit resulting from Federal financial assistance, unless expressly authorized by the terms and conditions of the Federal award. See also § 200.307 Program income.

§ 200.401 Application.

(a) General. These principles must be used in determining the allowable costs of work performed by the non-Federal entity under Federal awards. These principles also must be used by the non-Federal entity as a guide in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate price. The principles do not apply to:

(1) Arrangements under which Federal financing is in the form of loans, scholarships, fellowships, traineeships, or other fixed amounts based on such items as education allowance or published tuition rates and fees.

(2) For IHEs, capitation awards, which are awards based on case counts or number of beneficiaries according to the terms and conditions of the Federal award.

(3) Fixed amount awards. See also Subpart A—Acronyms and Definitions, §§ 200.45 Fixed amount awards and 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts.

(4) Federal awards to hospitals (see Appendix IX to Part 200—Hospital Cost Principles).

(5) Other awards under which the non-Federal entity is not required to account to the Federal government for actual costs incurred.

(b) Federal Contract. Where a Federal contract awarded to a non-Federal entity is subject to the Cost Accounting Standards (CAS), it incorporates the applicable CAS clauses, Standards, and CAS administration requirements per the 48 CFR Chapter 99 and 48 CFR Part 30 (FAR Part 30). CAS applies directly to the CAS-covered contract and the Cost Accounting Standards at 48 CFR Parts 9904 or 9905 takes precedence over the cost principles in this Subpart E—Cost Principles of this Part with respect to the allocation of costs. When a contract with a non-Federal entity is subject to full CAS coverage, the allowability of certain costs under the

cost principles will be affected by the allocation provisions of the Cost Accounting Standards (e.g., CAS 414—48 CFR 9904.414, Cost of Money as an Element of the Cost of Facilities Capital, and CAS 417—48 CFR 9904.417, Cost of Money as an Element of the Cost of Capital Assets Under Construction), apply rather the allowability provisions of § 200.449 Interest. In complying with those requirements, the non-Federal entity's application of cost accounting practices for estimating, accumulating, and reporting costs for other Federal awards and other cost objectives under the CAS-covered contract still must be consistent with its cost accounting practices for the CAS-covered contracts. In all cases, only one set of accounting records needs to be maintained for the allocation of costs by the non-Federal entity.

(c) Exemptions. Some nonprofit organizations, because of their size and nature of operations, can be considered to be similar to for-profit entities for purpose of applicability of cost principles. Such nonprofit organizations must operate under Federal cost principles applicable to for-profit entities located at 48 CFR 31.2. A listing of these organizations is contained in Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E—Cost Principles of this Part. Other organizations, as approved by the cognizant agency for indirect costs, may be added from time to time.

Basic Considerations

§ 200.402 Composition of costs.

Total cost. The total cost of a Federal award is the sum of the allowable direct and allocable indirect costs less any applicable credits.

§ 200.403 Factors affecting allowability of costs.

Except where otherwise authorized by statute, costs must meet the following general criteria in order to be allowable under Federal awards:

(a) Be necessary and reasonable for the performance of the Federal award and be allocable thereto under these principles.

(b) Conform to any limitations or exclusions set forth in these principles or in the Federal award as to types or amount of cost items.

(c) Be consistent with policies and procedures that apply uniformly to both federally-financed and other activities of the non-Federal entity.

(d) Be accorded consistent treatment. A cost may not be assigned to a Federal award as a direct cost if any other cost incurred for the same purpose in like circumstances has been allocated to the Federal award as an indirect cost.

(e) Be determined in accordance with generally accepted accounting principles (GAAP), except, for state and local governments and Indian tribes only, as otherwise provided for in this Part.

(f) Not be included as a cost or used to meet cost sharing or matching requirements of any other federally-financed program in either the current or a prior period. See also § 200.306 Cost sharing or matching paragraph (b).

(g) Be adequately documented. See also §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance of this Part.

§ 200.404 Reasonable costs.

A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. The question of reasonableness is particularly important when the non-Federal entity is predominantly federally-funded. In determining reasonableness of a given cost, consideration must be given to:

(a) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the non-Federal entity or the proper and efficient performance of the Federal award.

(b) The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; Federal, state and other laws and regulations; and terms and conditions of the Federal award.

(c) Market prices for comparable goods or services for the geographic area.

(d) Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to the non-Federal entity, its employees, where applicable its students or membership, the public at large, and the Federal government.

(e) Whether the non-Federal entity significantly deviates from its established practices and policies regarding the incurrence of costs, which may unjustifiably increase the Federal award's cost.

§ 200.405 Allocable costs.

(a) A cost is allocable to a particular Federal award or other cost objective if the goods or services involved are chargeable or assignable to that Federal award or cost objective in accordance with relative benefits received. This standard is met if the cost:

(1) Is incurred specifically for the Federal award;

(2) Benefits both the Federal award and other work of the non-Federal entity and can be distributed in proportions that may be approximated using reasonable methods; and

(3) Is necessary to the overall operation of the non-Federal entity and is assignable in part to the Federal award in accordance with the principles in this subpart.

(b) All activities which benefit from the non-Federal entity's indirect (F&A) cost, including unallowable activities and donated services by the non-Federal entity or third parties, will receive an appropriate allocation of indirect costs.

(c) Any cost allocable to a particular Federal award under the principles provided for in this Part may not be charged to other Federal awards to overcome fund deficiencies, to avoid restrictions imposed by Federal statutes, regulations, or terms and conditions of the Federal awards, or for other reasons. However, this prohibition would not preclude the non-Federal entity from shifting costs that are allowable under two or more Federal awards in accordance with existing Federal statutes, regulations, or the terms and conditions of the Federal awards.

(d) Direct cost allocation principles. If a cost benefits two or more projects or activities in proportions that can be determined without undue effort or cost, the cost should be allocated to the projects based on the proportional benefit. If a cost benefits two or more projects or activities in proportions that cannot be determined because of the interrelationship of the work involved, then, notwithstanding paragraph (c) of this section, the costs may be allocated or transferred to benefitted projects on any reasonable documented basis. Where the purchase of equipment or other capital asset is specifically authorized under a Federal award, the costs are assignable to the Federal award regardless of the use that may be made of the equipment or other capital asset involved when no longer needed for the purpose for which it was originally required. See also §§ 200.310 Insurance coverage through 200.316 Property trust relationship and 200.439 Equipment and other capital expenditures.

(e) If the contract is subject to CAS, costs must be allocated to the contract pursuant to the Cost Accounting Standards. To the extent that CAS is applicable, the allocation of costs in accordance with CAS takes precedence over the allocation provisions in this Part.

§ 200.406 Applicable credits.

(a) Applicable credits refer to those receipts or reduction-of-expenditure-

type transactions that offset or reduce expense items allocable to the Federal award as direct or indirect (F&A) costs. Examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds or rebates, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing to or received by the non-Federal entity relate to allowable costs, they must be credited to the Federal award either as a cost reduction or cash refund, as appropriate.

(b) In some instances, the amounts received from the Federal government to finance activities or service operations of the non-Federal entity should be treated as applicable credits. Specifically, the concept of netting such credit items (including any amounts used to meet cost sharing or matching requirements) should be recognized in determining the rates or amounts to be charged to the Federal award. (See §§ 200.436 Depreciation and 200.468 Specialized service facilities, for areas of potential application in the matter of Federal financing of activities.)

§ 200.407 Prior written approval (prior approval).

Under any given Federal award, the reasonableness and allocability of certain items of costs may be difficult to determine. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, the non-Federal entity may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of the incurrence of special or unusual costs. Prior written approval should include the timeframe or scope of the agreement. The absence of prior written approval on any element of cost will not, in itself, affect the reasonableness or allocability of that element, unless prior approval is specifically required for allowability as described under certain circumstances in the following sections of this Part:

(a) § 200.201 Use of grant agreements (including fixed amount awards), cooperative agreements, and contracts, paragraph (b)(5);

(b) § 200.306 Cost sharing or matching;

(c) § 200.307 Program income;

(d) § 200.308 Revision of budget and program plans;

(e) § 200.332 Fixed amount subawards;

(f) § 200.413 Direct costs, paragraph (c);

(g) § 200.430 Compensation—personal services, paragraph (h);

(h) § 200.431 Compensation—fringe benefits;

(i) § 200.438 Entertainment costs;

(j) § 200.439 Equipment and other capital expenditures;

(k) § 200.440 Exchange rates;

(l) § 200.441 Fines, penalties, damages and other settlements;

(m) § 200.442 Fund raising and investment management costs;

(n) § 200.445 Goods or services for personal use;

(o) § 200.447 Insurance and indemnification;

(p) § 200.454 Memberships, subscriptions, and professional activity costs, paragraph (c);

(q) § 200.455 Organization costs;

(r) § 200.456 Participant support costs;

(s) § 200.458 Pre-award costs;

(t) § 200.462 Rearrangement and reconversion costs;

(u) § 200.467 Selling and marketing costs; and

(v) § 200.474 Travel costs.

§ 200.408 Limitation on allowance of costs.

The Federal award may be subject to statutory requirements that limit the allowability of costs. When the maximum amount allowable under a limitation is less than the total amount determined in accordance with the principles in this Part, the amount not recoverable under the Federal award may not be charged to the Federal award.

§ 200.409 Special considerations.

In addition to the basic considerations regarding the allowability of costs highlighted in this subtitle, other subtitles in this Part describe special considerations and requirements applicable to states, local governments, Indian tribes, and IHEs. In addition, certain provisions among the items of cost in this subpart, are only applicable to certain types of non-Federal entities, as specified in the following sections:

(a) Direct and Indirect (F&A) Costs (§§ 200.412 Classification of costs through 200.415 Required certifications) of this subpart;

(b) Special Considerations for States, Local Governments and Indian Tribes (§§ 200.416 Cost allocation plans and indirect cost proposals and 200.417 Interagency service) of this subpart; and

(c) Special Considerations for Institutions of Higher Education (§§ 200.418 Costs incurred by states and local governments and 200.419 Cost accounting standards and disclosure statement) of this subpart.

§ 200.410 Collection of unallowable costs.

Payments made for costs determined to be unallowable by either the Federal awarding agency, cognizant agency for indirect costs, or pass-through entity, either as direct or indirect costs, must be refunded (including interest) to the Federal government in accordance with instructions from the Federal agency that determined the costs are unallowable unless Federal statute or regulation directs otherwise. See also Subpart D—Post Federal Award Requirements of this Part, §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance.

§ 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs.

(a) Negotiated indirect (F&A) cost rates based on a proposal later found to have included costs that:

(1) Are unallowable as specified by Federal statutes, regulations or the terms and conditions of a Federal award; or

(2) Are unallowable because they are not allocable to the Federal award(s), must be adjusted, or a refund must be made, in accordance with the requirements of this section. These adjustments or refunds are designed to correct the proposals used to establish the rates and do not constitute a reopening of the rate negotiation. The adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

(b) For rates covering a future fiscal year of the non-Federal entity, the unallowable costs will be removed from the indirect (F&A) cost pools and the rates appropriately adjusted.

(c) For rates covering a past period, the Federal share of the unallowable costs will be computed for each year involved and a cash refund (including interest chargeable in accordance with applicable regulations) will be made to the Federal government. If cash refunds are made for past periods covered by provisional or fixed rates, appropriate adjustments will be made when the rates are finalized to avoid duplicate recovery of the unallowable costs by the Federal government.

(d) For rates covering the current period, either a rate adjustment or a refund, as described in paragraphs (b) and (c) of this section, must be required by the cognizant agency for indirect costs. The choice of method must be at the discretion of the cognizant agency for indirect costs, based on its judgment as to which method would be most practical.

(e) The amount or proportion of unallowable costs included in each year's rate will be assumed to be the same as the amount or proportion of

unallowable costs included in the base year proposal used to establish the rate.

Direct and Indirect (F&A) Costs

§ 200.412 Classification of costs.

There is no universal rule for classifying certain costs as either direct or indirect (F&A) under every accounting system. A cost may be direct with respect to some specific service or function, but indirect with respect to the Federal award or other final cost objective. Therefore, it is essential that each item of cost incurred for the same purpose be treated consistently in like circumstances either as a direct or an indirect (F&A) cost in order to avoid possible double-charging of Federal awards. Guidelines for determining direct and indirect (F&A) costs charged to Federal awards are provided in this subpart.

§ 200.413 Direct costs.

(a) General. Direct costs are those costs that can be identified specifically with a particular final cost objective, such as a Federal award, or other internally or externally funded activity, or that can be directly assigned to such activities relatively easily with a high degree of accuracy. Costs incurred for the same purpose in like circumstances must be treated consistently as either direct or indirect (F&A) costs. See also § 200.405 Allocable costs.

(b) Application to Federal awards. Identification with the Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards. Typical costs charged directly to a Federal award are the compensation of employees who work on that award, their related fringe benefit costs, the costs of materials and other items of expense incurred for the Federal award. If directly related to a specific award, certain costs that otherwise would be treated as indirect costs may also include extraordinary utility consumption, the cost of materials supplied from stock or services rendered by specialized facilities or other institutional service operations.

(c) The salaries of administrative and clerical staff should normally be treated as indirect (F&A) costs. Direct charging of these costs may be appropriate only if all of the following conditions are met:

(1) Administrative or clerical services are integral to a project or activity;

(2) Individuals involved can be specifically identified with the project or activity;

(3) Such costs are explicitly included in the budget or have the prior written approval of the Federal awarding agency; and

(4) The costs are not also recovered as indirect costs.

(d) Minor items. Any direct cost of minor amount may be treated as an indirect (F&A) cost for reasons of practicality where such accounting treatment for that item of cost is consistently applied to all Federal and non-Federal cost objectives.

(e) The costs of certain activities are not allowable as charges to Federal awards. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they nonetheless must be treated as direct costs for purposes of determining indirect (F&A) cost rates and be allocated their equitable share of the non-Federal entity's indirect costs if they represent activities which:

(1) Include the salaries of personnel,

(2) Occupy space, and

(3) Benefit from the non-Federal entity's indirect (F&A) costs.

(f) For nonprofit organizations, the costs of activities performed by the non-Federal entity primarily as a service to members, clients, or the general public when significant and necessary to the non-Federal entity's mission must be treated as direct costs whether or not allowable, and be allocated an equitable share of indirect (F&A) costs. Some examples of these types of activities include:

(1) Maintenance of membership rolls, subscriptions, publications, and related functions. See also § 200.454 Memberships, subscriptions, and professional activity costs.

(2) Providing services and information to members, legislative or administrative bodies, or the public. See also §§ 200.454 Memberships, subscriptions, and professional activity costs and 200.450 Lobbying.

(3) Promotion, lobbying, and other forms of public relations. See also §§ 200.421 Advertising and public relations and 200.450 Lobbying.

(4) Conferences except those held to conduct the general administration of the non-Federal entity. See also § 200.432 Conferences.

(5) Maintenance, protection, and investment of special funds not used in operation of the non-Federal entity.

(6) Administration of group benefits on behalf of members or clients, including life and hospital insurance, annuity or retirement plans, and financial aid. See also § 200.431 Compensation—fringe benefits.

§ 200.414 Indirect (F&A) costs.

(a) Facilities and Administration Classification. For major IHEs and major nonprofit organizations, indirect (F&A) costs must be classified within two broad categories: ''Facilities'' and ''Administration.'' ''Facilities'' is defined as depreciation on buildings, equipment and capital improvement, interest on debt associated with certain buildings, equipment and capital improvements, and operations and maintenance expenses. ''Administration'' is defined as general administration and general expenses such as the director's office, accounting, personnel and all other types of expenditures not listed specifically under one of the subcategories of ''Facilities'' (including cross allocations from other pools, where applicable). For nonprofit organizations, library expenses are included in the ''Administration'' category; for institutions of higher education, they are included in the ''Facilities'' category. Major IHEs are defined as those required to use the Standard Format for Submission as noted in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs) paragraph C. 11. Major nonprofit organizations are those which receive more than $10 million dollars in direct Federal funding.

(b) Diversity of nonprofit organizations. Because of the diverse characteristics and accounting practices of nonprofit organizations, it is not possible to specify the types of cost which may be classified as indirect (F&A) cost in all situations. Identification with a Federal award rather than the nature of the goods and services involved is the determining factor in distinguishing direct from indirect (F&A) costs of Federal awards. However, typical examples of indirect (F&A) cost for many nonprofit organizations may include depreciation on buildings and equipment, the costs of operating and maintaining facilities, and general administration and general expenses, such as the salaries and expenses of executive officers, personnel administration, and accounting.

(c) Federal Agency Acceptance of Negotiated Indirect Cost Rates. (See also § 200.306 Cost sharing or matching.)

(1) The negotiated rates must be accepted by all Federal awarding agencies. A Federal awarding agency may use a rate different from the negotiated rate for a class of Federal awards or a single Federal award only when required by Federal statute or regulation, or when approved by a Federal awarding agency head or delegate based on documented

justification as described in paragraph (c)(3) of this section.

(2) The Federal awarding agency head or delegate must notify OMB of any approved deviations.

(3) The Federal awarding agency must implement, and make publicly available, the policies, procedures and general decision making criteria that their programs will follow to seek and justify deviations from negotiated rates.

(4) As required under § 200.203 Notices of funding opportunities, the Federal awarding agency must include in the notice of funding opportunity the policies relating to indirect cost rate reimbursement, matching, or cost share as approved under paragraph (e)(1) of this section. As appropriate, the Federal agency should incorporate discussion of these policies into Federal awarding agency outreach activities with non-Federal entities prior to the posting of a notice of funding opportunity.

(d) Pass-through entities are subject to the requirements in § 200.331 Requirements for pass-through entities, paragraph (a)(4).

(e) Requirements for development and submission of indirect (F&A) cost rate proposals and cost allocation plans are contained in Appendices III–VII as follows:

(1) Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for

(2) Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations;

(3) Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans;

(4) Appendix VI to Part 200—Public Assistance Cost Allocation Plans; and

(5) Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

(f) In addition to the procedures outlined in the appendices in paragraph (e) of this section, any non-Federal entity that has never received a negotiated indirect cost rate, except for those non-Federal entities described in Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals, paragraph (d)(1)(B) may elect to charge a de minimis rate of) 10% of modified total direct costs (MTDC) which may be used indefinitely. As described in § 200.403 Factors affecting allowability of costs, costs must be consistently charged as either indirect or direct costs, but may not be double charged or inconsistently charged as both. If chosen, this methodology once elected must be used consistently for all Federal awards until such time as a non-Federal entity chooses to negotiate for a rate, which the non-Federal entity may apply to do at any time.

(g) Any non-Federal entity that has a federally negotiated indirect cost rate may apply for a one-time extension of a current negotiated indirect cost rates for a period of up to four years. This extension will be subject to the review and approval of the cognizant agency for indirect costs. If an extension is granted the non-Federal entity may not request a rate review until the extension period ends. At the end of the 4-year extension, the non-Federal entity must re-apply to negotiate a rate.

§ 200.415 Required certifications.

Required certifications include:

(a) To assure that expenditures are proper and in accordance with the terms and conditions of the Federal award and approved project budgets, the annual and final fiscal reports or vouchers requesting payment under the agreements must include a certification, signed by an official who is authorized to legally bind the non-Federal entity, which reads as follows: ''By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and objectives set forth in the terms and conditions of the Federal award. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code Title 18, Section 1001 and Title 31, Sections 3729–3730 and 3801–3812).''

(b) Certification of cost allocation plan or indirect (F&A) cost rate proposal. Each cost allocation plan or indirect (F&A) cost rate proposal must comply with the following:

(1) A proposal to establish a cost allocation plan or an indirect (F&A) cost rate, whether submitted to a Federal cognizant agency for indirect costs or maintained on file by the non-Federal entity, must be certified by the non-Federal entity using the Certificate of Cost Allocation Plan or Certificate of Indirect Costs as set forth in Appendices III through VII. The certificate must be signed on behalf of the non-Federal entity by an individual at a level no lower than vice president or chief financial officer of the non-Federal entity that submits the proposal.

(2) Unless the non-Federal entity has elected the option under § 200.414 Indirect (F&A) costs, paragraph (f), the Federal government may either disallow all indirect (F&A) costs or unilaterally establish such a plan or rate when the non-Federal entity fails to submit a certified proposal for establishing such a plan or rate in accordance with the requirements. Such a plan or rate may be based upon audited historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When a cost allocation plan or indirect cost rate is unilaterally established by the Federal government because the non-Federal entity failed to submit a certified proposal, the plan or rate established will be set to ensure that potentially unallowable costs will not be reimbursed.

(c) Certifications by non-profit organizations as appropriate that they did not meet the definition of a major corporation as defined in § 200.414 Indirect (F&A) costs, paragraph (a).

(d) See also § 200.450 Lobbying for another required certification.

Special Considerations for States, Local Governments and Indian Tribes

§ 200.416 Cost allocation plans and indirect cost proposals.

(a) For states, local governments and Indian tribes, certain services, such as motor pools, computer centers, purchasing, accounting, etc., are provided to operating agencies on a centralized basis. Since Federal awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process.

(b) Individual operating agencies (governmental department or agency), normally charge Federal awards for indirect costs through an indirect cost rate. A separate indirect cost rate(s) proposal for each operating agency is usually necessary to claim indirect costs under Federal awards. Indirect costs include:

(1) The indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (2) The costs of central governmental services distributed through the central service cost allocation plan and not otherwise treated as direct costs.

(c) The requirements for development and submission of cost allocation plans (for central service costs and public assistance programs) and indirect cost rate proposals are contained in Appendices IV, V and VI to this part.

§ 200.417 Interagency service.

The cost of services provided by one agency to another within the governmental unit may include allowable direct costs of the service plus a pro-rated share of indirect costs. A standard indirect cost allowance equal to ten percent of the direct salary and wage cost of providing the service (excluding overtime, shift premiums, and fringe benefits) may be used in lieu of determining the actual indirect costs of the service. These services do not include centralized services included in central service cost allocation plans as described in Appendix V to Part 200—State/Local Government and Indian Tribe- Wide Central Service Cost Allocation Plans.

Special Considerations For Institutions Of Higher Education

§ 200.418 Costs incurred by states and local government

Costs incurred or paid by a state or local government on behalf of its IHEs for fringe benefit programs, such as pension costs and FICA and any other costs specifically incurred on behalf of, and in direct benefit to, the IHEs, are allowable costs of such IHEs whether or not these costs are recorded in the accounting records of the institutions, subject to the following:

(a) The costs meet the requirements of §§ 200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs, of this subpart;

(b) The costs are properly supported by approved cost allocation plans in accordance with applicable Federal cost accounting principles in this Part; and

(c) The costs are not otherwise borne directly or indirectly by the Federal government.

§ 200.419 Cost accounting standards and disclosure statement.

(a) An IHE that receives aggregate Federal awards totaling $50 million or more in Federal awards subject to this Part in its most recently completed fiscal year must comply with the Cost Accounting Standards Board's cost accounting standards located at 48 CFR 9905.501, 9905.502, 9905.505, and 9905.506. CAS-covered contracts awarded to the IHEs are subject to the CAS requirements at 48 CFR 9900 through 9999 and 48 CFR Part 30 (FAR Part 30).

(b) Disclosure statement. An IHE that receives aggregate Federal awards totaling $50 million or more subject to this Part during its most recently completed fiscal year must disclose their cost accounting practices by filing a Disclosure Statement (DS–2), which is reproduced in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs). With the approval of the cognizant agency for indirect costs, an IHE may meet the DS–2 submission by submitting the DS–2 for each business unit that received $50 million or more in Federal awards.

(1) The DS–2 must be submitted to the cognizant agency for indirect costs with a copy to the IHE's cognizant agency for audit.

(2) An IHE is responsible for maintaining an accurate DS–2 and complying with disclosed cost accounting practices. An IHE must file amendments to the DS–2 to the cognizant agency for indirect costs six months in advance of a disclosed practices being changed to comply with a new or modified standard, or when practices are changed for other reasons. An IHE may proceed with implementing the change only if it has not been notified by the Federal cognizant agency for indirect costs that either a longer period will be needed for review or there are concerns with the potential change within the six months period. Amendments of a DS–2 may be submitted at any time. Resubmission of a complete, updated DS–2 is discouraged except when there are extensive changes to disclosed practices.

(3) Cost and funding adjustments. Cost adjustments must be made by the cognizant agency for indirect costs if an IHE fails to comply with the cost policies in this Part or fails to consistently follow its established or disclosed cost accounting practices when estimating, accumulating or reporting the costs of Federal awards, and the aggregate cost impact on Federal awards is material. The cost adjustment must normally be made on an aggregate basis for all affected Federal awards through an adjustment of the IHE's future F&A costs rates or other means considered appropriate by the cognizant agency for indirect costs. Under the terms of CAS covered contracts, adjustments in the amount of funding provided may also be required when the estimated proposal costs were not determined in accordance with established cost accounting practices.

(4) Overpayments. Excess amounts paid in the aggregate by the Federal government under Federal awards due to a noncompliant cost accounting practice used to estimate, accumulate, or report costs must be credited or refunded, as deemed appropriate by the cognizant agency for indirect costs. Interest applicable to the excess amounts paid in the aggregate during the period of noncompliance must also be determined and collected in accordance with applicable Federal agency regulations.

(5) Compliant cost accounting practice changes. Changes from one compliant cost accounting practice to another compliant practice that are approved by the cognizant agency for indirect costs may require cost adjustments if the change has a material effect on Federal awards and the changes are deemed appropriate by the cognizant agency for indirect costs.

(6) Responsibilities. The cognizant agency for indirect cost must:

(i) Determine cost adjustments for all Federal awards in the aggregate on behalf of the Federal Government. Actions of the cognizant agency for indirect cost in making cost adjustment determinations must be coordinated with all affected Federal awarding agencies to the extent necessary.

(ii) Prescribe guidelines and establish internal procedures to promptly determine on behalf of the Federal Government that a DS–2 adequately discloses the IHE's cost accounting practices and that the disclosed practices are compliant with applicable CAS and the requirements of this Part.

(iii) Distribute to all affected Federal awarding agencies any DS–2 determination of adequacy or noncompliance.

General Provisions for Selected Items of Cost

§ 200.420 Considerations for selected items of cost.

This section provides principles to be applied in establishing the allowability of certain items involved in determining cost, in addition to the requirements of Subtitle II. Basic Considerations of this subpart. These principles apply whether or not a particular item of cost is properly treated as direct cost or indirect (F&A) cost. Failure to mention a particular item of cost is not intended to imply that it is either allowable or unallowable; rather, determination as to allowability in each case should be based on the treatment provided for similar or related items of cost, and based on the principles described in §§ 200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs. In case of a discrepancy between the provisions of a specific Federal award and the provisions below, the Federal award governs. Criteria outlined in § 200.403 Factors affecting allowability of *costs*

must be applied in determining allowability. See also § 200.102 Exceptions.

§ 200.421 Advertising and public relations.

(a) The term advertising costs means the costs of advertising media and corollary administrative costs. Advertising media include magazines, newspapers, radio and television, direct mail, exhibits, electronic or computer transmittals, and the like.

(b) The only allowable advertising costs are those which are solely for:

(1) The recruitment of personnel required by the non-Federal entity for performance of a Federal award (See also § 200.463 Recruiting costs);

(2) The procurement of goods and services for the performance of a Federal award;

(3) The disposal of scrap or surplus materials acquired in the performance of a Federal award except when non-Federal entities are reimbursed for disposal costs at a predetermined amount; or

(4) Program outreach and other specific purposes necessary to meet the requirements of the Federal award.

(c) The term ''public relations'' includes community relations and means those activities dedicated to maintaining the image of the non-Federal entity or maintaining or promoting understanding and favorable relations with the community or public at large or any segment of the public.

(d) The only allowable public relations costs are:

(1) Costs specifically required by the Federal award;

(2) Costs of communicating with the public and press pertaining to specific activities or accomplishments which result from performance of the Federal award (these costs are considered necessary as part of the outreach effort for the Federal award); or

(3) Costs of conducting general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of funding opportunities, financial matters, etc.

(e) Unallowable advertising and public relations costs include the following:

(1) All advertising and public relations costs other than as specified in paragraphs (b) and (d) of this section;

(2) Costs of meetings, conventions, convocations, or other events related to other activities of the entity (see also § 200.432 Conferences), including:

(i) Costs of displays, demonstrations, and exhibits;

(ii) Costs of meeting rooms, hospitality suites, and other special facilities used in conjunction with shows and other special events; and

(iii) Salaries and wages of employees engaged in setting up and displaying exhibits, making demonstrations, and providing briefings;

(3) Costs of promotional items and memorabilia, including models, gifts, and souvenirs;

(4) Costs of advertising and public relations designed solely to promote the non-Federal entity.

§ 200.422 Advisory councils.

Costs incurred by advisory councils or committees are unallowable unless authorized by statute, the Federal awarding agency or as an indirect cost where allocable to Federal awards. See § 200.444 General costs of government, applicable to states, local governments and Indian tribes.

§ 200.423 Alcoholic beverages.

Costs of alcoholic beverages are unallowable.

§ 200.424 Alumni/ae activities.

Costs incurred by IHEs for, or in support of, alumni/ae activities are unallowable.

§ 200.425 Audit services.

(a) A reasonably proportionate share of the costs of audits required by, and performed in accordance with, the Single Audit Act Amendments of 1996 (31 U.S.C. 7501–7507), as implemented by requirements of this Part, are allowable. However, the following audit costs are unallowable:

(1) Any costs when audits required by the Single Audit Act and Subpart F—Audit Requirements of this Part have not been conducted or have been conducted but not in accordance therewith; and

(2) Any costs of auditing a non-Federal entity that is exempted from having an audit conducted under the Single Audit Act and Subpart F—Audit Requirements of this Part because its expenditures under Federal awards are less than $750,000 during the non-Federal entity's fiscal year.

(b) The costs of a financial statement audit of a non-Federal entity that does not currently have a Federal award may be included in the indirect cost pool for a cost allocation plan or indirect cost proposal.

(c) Pass-through entities may charge Federal awards for the cost of agreed-upon-procedures engagements to monitor subrecipients (in accordance with Subpart D—Post Federal Award Requirements of this Part, §§ 200.330 Subrecipient and contractor determinations through 200.332 Fixed Amount Subawards) who are exempted from the requirements of the Single Audit Act and Subpart F—Audit Requirements of this Part. This cost is allowable only if the agreed-upon-procedures engagements are:

(1) Conducted in accordance with GAGAS attestation standards;

(2) Paid for and arranged by the pass-through entity; and

(3) Limited in scope to one or more of the following types of compliance requirements: activities allowed or unallowed; allowable costs/cost principles; eligibility; and reporting.

§ 200.426 Bad debts.

Bad debts (debts which have been determined to be uncollectable), including losses (whether actual or estimated) arising from uncollectable accounts and other claims, are unallowable. Related collection costs, and related legal costs, arising from such debts after they have been determined to be uncollectable are also unallowable. See also § 200.428 Collections of improper payments.

§ 200.427 Bonding costs.

(a) Bonding costs arise when the Federal awarding agency requires assurance against financial loss to itself or others by reason of the act or default of the non-Federal entity. They arise also in instances where the non-Federal entity requires similar assurance, including: bonds as bid, performance, payment, advance payment, infringement, and fidelity bonds for employees and officials.

(b) Costs of bonding required pursuant to the terms and conditions of the Federal award are allowable.

(c) Costs of bonding required by the non-Federal entity in the general conduct of its operations are allowable as an indirect cost to the extent that such bonding is in accordance with sound business practice and the rates and premiums are reasonable under the circumstances.

§ 200.428 Collections of improper payments.

The costs incurred by a non-Federal entity to recover improper payments are allowable as either direct or indirect costs, as appropriate. Amounts collected may be used by the non-Federal entity in accordance with cash management standards set forth in § 200.305 *Payment.*

§ 200.429 Commencement and convocation costs.

For IHEs, costs incurred for commencements and convocations are

unallowable, except as provided for in Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs), paragraph (B)(9) Student Administration and Services, as student activity costs.

§ 200.430 Compensation—personal services.

(a) General. Compensation for personal services includes all remuneration, paid currently or accrued, for services of employees rendered during the period of performance under the Federal award, including but not necessarily limited to wages and salaries. Compensation for personal services may also include fringe benefits which are addressed in § 200.431 Compensation—fringe benefits. Costs of compensation are allowable to the extent that they satisfy the specific requirements of this Part, and that the total compensation for individual employees:

(1) Is reasonable for the services rendered and conforms to the established written policy of the non-Federal entity consistently applied to both Federal and non-Federal activities;

(2) Follows an appointment made in accordance with a non-Federal entity's laws and/or rules or written policies and meets the requirements of Federal statute, where applicable; and

(3) Is determined and supported as provided in paragraph (i) of this section, Standards for Documentation of Personnel Expenses, when applicable.

(b) Reasonableness. Compensation for employees engaged in work on Federal awards will be considered reasonable to the extent that it is consistent with that paid for similar work in other activities of the non-Federal entity. In cases where the kinds of employees required for Federal awards are not found in the other activities of the non-Federal entity, compensation will be considered reasonable to the extent that it is comparable to that paid for similar work in the labor market in which the non-Federal entity competes for the kind of employees involved.

(c) Professional activities outside the non-Federal entity. Unless an arrangement is specifically authorized by a Federal awarding agency, a non-Federal entity must follow its written non-Federal entity-wide policies and practices concerning the permissible extent of professional services that can be provided outside the non-Federal entity for non-organizational compensation. Where such non-Federal entity-wide written policies do not exist or do not adequately define the permissible extent of consulting or other non-organizational activities undertaken for extra outside pay, the Federal government may require that the effort of professional staff working on Federal awards be allocated between:

(1) Non-Federal entity activities, and

(2) Non-organizational professional activities. If the Federal awarding agency considers the extent of non-organizational professional effort excessive or inconsistent with the conflicts-of-interest terms and conditions of the Federal award, appropriate arrangements governing compensation will be negotiated on a case-by-case basis.

(d) Unallowable costs.

(1) Costs which are unallowable under other sections of these principles must not be allowable under this section solely on the basis that they constitute personnel compensation.

(2) The allowable compensation for certain employees is subject to a ceiling in accordance with statute. For the amount of the ceiling for cost-reimbursement contracts, the covered compensation subject to the ceiling, the covered employees, and other relevant provisions, see 10 U.S.C. 2324(e)(1)(P), and 41 U.S.C. 1127 and 4304(a)(16). For other types of Federal awards, other statutory ceilings may apply.

(e) Special considerations. Special considerations in determining allowability of compensation will be given to any change in a non-Federal entity's compensation policy resulting in a substantial increase in its employees' level of compensation (particularly when the change was concurrent with an increase in the ratio of Federal awards to other activities) or any change in the treatment of allowability of specific types of compensation due to changes in Federal policy.

(f) Incentive compensation. Incentive compensation to employees based on cost reduction, or efficient performance, suggestion awards, safety awards, etc., is allowable to the extent that the overall compensation is determined to be reasonable and such costs are paid or accrued pursuant to an agreement entered into in good faith between the non-Federal entity and the employees before the services were rendered, or pursuant to an established plan followed by the non-Federal entity so consistently as to imply, in effect, an agreement to make such payment.

(g) Nonprofit organizations. For compensation to members of nonprofit organizations, trustees, directors, associates, officers, or the immediate families thereof, determination should be made that such compensation is reasonable for the actual personal services rendered rather than a distribution of earnings in excess of costs. This may include director's and executive committee member's fees, incentive awards, allowances for off-site pay, incentive pay, location allowances, hardship pay, and cost-of-living differentials.

(h) Institutions of higher education (IHEs).

(1) Certain conditions require special consideration and possible limitations in determining allowable personnel compensation costs under Federal awards. Among such conditions are the following:

(i) Allowable activities. Charges to Federal awards may include reasonable amounts for activities contributing and directly related to work under an agreement, such as delivering special lectures about specific aspects of the ongoing activity, writing reports and articles, developing and maintaining protocols (human, animals, etc.), managing substances/chemicals, managing and securing project-specific data, coordinating research subjects, participating in appropriate seminars, consulting with colleagues and graduate students, and attending meetings and conferences.

(ii) Incidental activities. Incidental activities for which supplemental compensation is allowable under written institutional policy (at a rate not to exceed institutional base salary) need not be included in the records described in paragraph (h)(9) of this section to directly charge payments of incidental activities, such activities must either be specifically provided for in the Federal award budget or receive prior written approval by the Federal awarding agency.

(2) Salary basis. Charges for work performed on Federal awards by faculty members during the academic year are allowable at the IBS rate. Except as noted in paragraph (h)(1)(ii) of this section, in no event will charges to Federal awards, irrespective of the basis of computation, exceed the proportionate share of the IBS for that period. This principle applies to all members of faculty at an institution. IBS is defined as the annual compensation paid by an IHE for an individual's appointment, whether that individual's time is spent on research, instruction, administration, or other activities. IBS excludes any income that an individual earns outside of duties performed for the IHE. Unless there is prior approval by the Federal awarding agency, charges of a faculty member's salary to a Federal award must not exceed the proportionate share of the IBS for the

period during which the faculty member worked on the award.

(3) Intra-Institution of Higher Education (IHE) consulting. Intra-IHE consulting by faculty is assumed to be undertaken as an IHE obligation requiring no compensation in addition to IBS. However, in unusual cases where consultation is across departmental lines or involves a separate or remote operation, and the work performed by the faculty member is in addition to his or her regular responsibilities, any charges for such work representing additional compensation above IBS are allowable provided that such consulting arrangements are specifically provided for in the Federal award or approved in writing by the Federal awarding agency.

(4) Extra Service Pay normally represents overload compensation, subject to institutional compensation policies for services above and beyond IBS. Where extra service pay is a result of Intra-IHE consulting, it is subject to the same requirements of paragraph (b) above. It is allowable if all of the following conditions are met:

(i) The non-Federal entity establishes consistent written policies which apply uniformly to all faculty members, not just those working on Federal awards.

(ii) The non-Federal entity establishes a consistent written definition of work covered by IBS which is specific enough to determine conclusively when work beyond that level has occurred. This may be described in appointment letters or other documentations.

(iii) The supplementation amount paid is commensurate with the IBS rate of pay and the amount of additional work performed. See paragraph (h)(2) of this section.

(iv) The salaries, as supplemented, fall within the salary structure and pay ranges established by and documented in writing or otherwise applicable to the non-Federal entity.

(v) The total salaries charged to Federal awards including extra service pay are subject to the Standards of Documentation as described in paragraph (i) of this section.

(5) Periods outside the academic year.

(i) Except as specified for teaching activity in paragraph (h)(5)(ii) of this section, charges for work performed by faculty members on Federal awards during periods not included in the base salary period will be at a rate not in excess of the IBS.

(ii) Charges for teaching activities performed by faculty members on Federal awards during periods not included in IBS period will be based on the normal written policy of the IHE governing compensation to faculty members for teaching assignments during such periods.

(6) Part-time faculty. Charges for work performed on Federal awards by faculty members having only part-time appointments will be determined at a rate not in excess of that regularly paid for part-time assignments.

(7) Sabbatical leave costs. Rules for sabbatical leave are as follow:

(i) Costs of leaves of absence by employees for performance of graduate work or sabbatical study, travel, or research are allowable provided the IHE has a uniform written policy on sabbatical leave for persons engaged in instruction and persons engaged in research. Such costs will be allocated on an equitable basis among all related activities of the IHE.

(ii) Where sabbatical leave is included in fringe benefits for which a cost is determined for assessment as a direct charge, the aggregate amount of such assessments applicable to all work of the institution during the base period must be reasonable in relation to the IHE's actual experience under its sabbatical leave policy.

(8) Salary rates for non-faculty members. Non-faculty full-time professional personnel may also earn ''extra service pay'' in accordance with the non-Federal entity's written policy and consistent with paragraph (h)(1)(i) of this section.

(i) Standards for Documentation of Personnel Expenses

(1) Charges to Federal awards for salaries and wages must be based on records that accurately reflect the work performed. These records must:

(i) Be supported by a system of internal control which provides reasonable assurance that the charges are accurate, allowable, and properly allocated;

(ii) Be incorporated into the official records of the non-Federal entity;

(iii) Reasonably reflect the total activity for which the employee is compensated by the non-Federal entity, not exceeding 100% of compensated activities (for IHE, this per the IHE's definition of IBS);

(iv) Encompass both federally assisted and all other activities compensated by the non-Federal entity on an integrated basis, but may include the use of subsidiary records as defined in the non-Federal entity's written policy;

(v) Comply with the established accounting policies and practices of the non-Federal entity (See paragraph (h)(1)(ii) above for treatment of incidental work for IHEs.); and

(vii) Support the distribution of the employee's salary or wages among specific activities or cost objectives if the employee works on more than one Federal award; a Federal award and non-Federal award; an indirect cost activity and a direct cost activity; two or more indirect activities which are allocated using different allocation bases; or an unallowable activity and a direct or indirect cost activity.

(viii) Budget estimates (i.e., estimates determined before the services are performed) alone do not qualify as support for charges to Federal awards, but may be used for interim accounting purposes, provided that:

(A) The system for establishing the estimates produces reasonable approximations of the activity actually performed;

(B) Significant changes in the corresponding work activity (as defined by the non-Federal entity's written policies) are identified and entered into the records in a timely manner. Short term (such as one or two months) fluctuation between workload categories need not be considered as long as the distribution of salaries and wages is reasonable over the longer term; and

(C) The non-Federal entity's system of internal controls includes processes to review after-the-fact interim charges made to a Federal awards based on budget estimates. All necessary adjustment must be made such that the final amount charged to the Federal award is accurate, allowable, and properly allocated.

(ix) Because practices vary as to the activity constituting a full workload (for IHEs, IBS), records may reflect categories of activities expressed as a percentage distribution of total activities.

(x) It is recognized that teaching, research, service, and administration are often inextricably intermingled in an academic setting. When recording salaries and wages charged to Federal awards for IHEs, a precise assessment of factors that contribute to costs is therefore not always feasible, nor is it expected.

(2) For records which meet the standards required in paragraph (i)(1) of this section, the non-Federal entity will not be required to provide additional support or documentation for the work performed, other than that referenced in paragraph (i)(3) of this section.

(3) In accordance with Department of Labor regulations implementing the Fair Labor Standards Act (FLSA) (29 CFR Part 516), charges for the salaries and wages of nonexempt employees, in addition to the supporting documentation described in this section, must also be supported by records indicating the total number of hours worked each day.

(4) Salaries and wages of employees used in meeting cost sharing or matching requirements on Federal awards must be supported in the same manner as salaries and wages claimed for reimbursement from Federal awards.

(5) For states, local governments and Indian tribes, substitute processes or systems for allocating salaries and wages to Federal awards may be used in place of or in addition to the records described in paragraph (1) if approved by the cognizant agency for indirect cost. Such systems may include, but are not limited to, random moment sampling, ''rolling'' time studies, case counts, or other quantifiable measures of work performed.

(i) Substitute systems which use sampling methods (primarily for Temporary Assistance for Needy Families (TANF), the Supplemental Nutrition Assistance Program (SNAP), Medicaid, and other public assistance programs) must meet acceptable statistical sampling standards including:

(A) The sampling universe must include all of the employees whose salaries and wages are to be allocated based on sample results except as provided in paragraph (i)(5)(iii) of this section;

(B) The entire time period involved must be covered by the sample; and

(C) The results must be statistically valid and applied to the period being sampled.

(ii) Allocating charges for the sampled employees' supervisors, clerical and support staffs, based on the results of the sampled employees, will be acceptable.

(iii) Less than full compliance with the statistical sampling standards noted in subsection (5)(i) may be accepted by the cognizant agency for indirect costs if it concludes that the amounts to be allocated to Federal awards will be minimal, or if it concludes that the system proposed by the non-Federal entity will result in lower costs to Federal awards than a system which complies with the standards.

(6) Cognizant agencies for indirect costs are encouraged to approve alternative proposals based on outcomes and milestones for program performance where these are clearly documented. Where approved by the Federal cognizant agency for indirect costs, these plans are acceptable as an alternative to the requirements of paragraph (i)(1) of this section.

(7) For Federal awards of similar purpose activity or instances of approved blended funding, a non-Federal entity may submit performance plans that incorporate funds from multiple Federal awards and account for their combined use based on performance-oriented metrics, provided that such plans are approved in advance by all involved Federal awarding agencies. In these instances, the non-Federal entity must submit a request for waiver of the requirements based on documentation that describes the method of charging costs, relates the charging of costs to the specific activity that is applicable to all fund sources, and is based on quantifiable measures of the activity in relation to time charged.

(8) For a non-Federal entity where the records do not meet the standards described in this section, the Federal government may require personnel activity reports, including prescribed certifications, or equivalent documentation that support the records as required in this section.

§ 200.431 Compensation—fringe benefits.

(a) Fringe benefits are allowances and services provided by employers to their employees as compensation in addition to regular salaries and wages. Fringe benefits include, but are not limited to, the costs of leave (vacation, family-related, sick or military), employee insurance, pensions, and unemployment benefit plans. Except as provided elsewhere in these principles, the costs of fringe benefits are allowable provided that the benefits are reasonable and are required by law, non-Federal entity-employee agreement, or an established policy of the non-Federal entity.

(b) Leave. The cost of fringe benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, family-related leave, sick leave, holidays, court leave, military leave, administrative leave, and other similar benefits, are allowable if all of the following criteria are met:

(1) They are provided under established written leave policies;

(2) The costs are equitably allocated to all related activities, including Federal awards; and,

(3) The accounting basis (cash or accrual) selected for costing each type of leave is consistently followed by the non-Federal entity or specified grouping of employees.

(i) When a non-Federal entity uses the cash basis of accounting, the cost of leave is recognized in the period that the leave is taken and paid for. Payments for unused leave when an employee retires or terminates employment are allowable as indirect costs in the year of payment.

(ii) The accrual basis may be only used for those types of leave for which a liability as defined by GAAP exists when the leave is earned. When a non-Federal entity uses the accrual basis of accounting, allowable leave costs are the lesser of the amount accrued or funded.

(c) The cost of fringe benefits in the form of employer contributions or expenses for social security; employee life, health, unemployment, and worker's compensation insurance (except as indicated in § 200.447 Insurance and indemnification); pension plan costs (see paragraph (i) of this section); and other similar benefits are allowable, provided such benefits are granted under established written policies. Such benefits, must be allocated to Federal awards and all other activities in a manner consistent with the pattern of benefits attributable to the individuals or group(s) of employees whose salaries and wages are chargeable to such Federal awards and other activities, and charged as direct or indirect costs in accordance with the non-Federal entity's accounting practices.

(d) Fringe benefits may be assigned to cost objectives by identifying specific benefits to specific individual employees or by allocating on the basis of entity-wide salaries and wages of the employees receiving the benefits. When the allocation method is used, separate allocations must be made to selective groupings of employees, unless the non-Federal entity demonstrates that costs in relationship to salaries and wages do not differ significantly for different groups of employees.

(e) Insurance. See also § 200.447 Insurance and indemnification, paragraphs (d)(1) and (2).

(1) Provisions for a reserve under a self-insurance program for unemployment compensation or workers' compensation are allowable to the extent that the provisions represent reasonable estimates of the liabilities for such compensation, and the types of coverage, extent of coverage, and rates and premiums would have been allowable had insurance been purchased to cover the risks. However, provisions for self-insured liabilities which do not become payable for more than one year after the provision is made must not exceed the present value of the liability.

(2) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibility are allowable only to the extent that the insurance represents additional compensation. The costs of such insurance when the non-Federal entity is named as beneficiary are unallowable.

(3) Actual claims paid to or on behalf of employees or former employees for

workers' compensation, unemployment compensation, severance pay, and similar employee benefits (e.g., post-retirement health benefits), are allowable in the year of payment provided that the non-Federal entity follows a consistent costing policy and they are allocated as indirect costs.

(f) Automobiles. That portion of automobile costs furnished by the entity that relates to personal use by employees (including transportation to and from work) is unallowable as fringe benefit or indirect (F&A) costs regardless of whether the cost is reported as taxable income to the employees.

(g) Pension Plan Costs. Pension plan costs which are incurred in accordance with the established policies of the non-Federal entity are allowable, provided that:

(1) Such policies meet the test of reasonableness.

(2) The methods of cost allocation are not discriminatory.

(3) For entities using accrual based accounting, the cost assigned to each fiscal year is determined in accordance with GAAP.

(4) The costs assigned to a given fiscal year are funded for all plan participants within six months after the end of that year. However, increases to normal and past service pension costs caused by a delay in funding the actuarial liability beyond 30 calendar days after each quarter of the year to which such costs are assignable are unallowable. Non-Federal entity may elect to follow the ''Cost Accounting Standard for Composition and Measurement of Pension Costs'' (48 CFR 9904.412).

(5) Pension plan termination insurance premiums paid pursuant to the Employee Retirement Income Security Act (ERISA) of 1974 (29 U.S.C. 1301–1461) are allowable. Late payment charges on such premiums are unallowable. Excise taxes on accumulated funding deficiencies and other penalties imposed under ERISA are unallowable.

(6) Pension plan costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(i) For pension plans financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(ii) Pension costs calculated using an actuarial cost-based method recognized by GAAP are allowable for a given fiscal year if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency for indirect costs) are allowable in the year funded. The cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal government and related Federal reimbursement and the non-Federal entity's contribution to the pension fund. Adjustments may be made by cash refund or other equitable procedures to compensate the Federal government for the time value of Federal reimbursements in excess of contributions to the pension fund.

(iii) Amounts funded by the non-Federal entity in excess of the actuarially determined amount for a fiscal year may be used as the non-Federal entity's contribution in future periods.

(iv) When a non-Federal entity converts to an acceptable actuarial cost method, as defined by GAAP, and funds pension costs in accordance with this method, the unfunded liability at the time of conversion is allowable if amortized over a period of years in accordance with GAAP.

(v) The Federal government must receive an equitable share of any previously allowed pension costs (including earnings thereon) which revert or inure to the non-Federal entity in the form of a refund, withdrawal, or other credit.

(h) Post-Retirement Health. Post-retirement health plans (PRHP) refers to costs of health insurance or health services not included in a pension plan covered by paragraph (g) of this section for retirees and their spouses, dependents, and survivors. PRHP costs may be computed using a pay-as-you-go method or an acceptable actuarial cost method in accordance with established written policies of the non-Federal entity.

(1) For PRHP financed on a pay-as-you-go method, allowable costs will be limited to those representing actual payments to retirees or their beneficiaries.

(2) PRHP costs calculated using an actuarial cost method recognized by GAAP are allowable if they are funded for that year within six months after the end of that year. Costs funded after the six month period (or a later period agreed to by the cognizant agency) are allowable in the year funded. The Federal cognizant agency for indirect costs may agree to an extension of the six month period if an appropriate adjustment is made to compensate for the timing of the charges to the Federal government and related Federal reimbursements and the non-Federal entity's contributions to the PRHP fund. Adjustments may be made by cash refund, reduction in current year's PRHP costs, or other equitable procedures to compensate the Federal government for the time value of Federal reimbursements in excess of contributions to the PRHP fund.

(3) Amounts funded in excess of the actuarially determined amount for a fiscal year may be used as the Federal government's contribution in a future period.

(4) When a non-Federal entity converts to an acceptable actuarial cost method and funds PRHP costs in accordance with this method, the initial unfunded liability attributable to prior years is allowable if amortized over a period of years in accordance with GAAP, or, if no such GAAP period exists, over a period negotiated with the cognizant agency for indirect costs.

(5) To be allowable in the current year, the PRHP costs must be paid either to:

(i) An insurer or other benefit provider as current year costs or premiums, or

(ii) An insurer or trustee to maintain a trust fund or reserve for the sole purpose of providing post-retirement benefits to retirees and other beneficiaries.

(6) The Federal government must receive an equitable share of any amounts of previously allowed post-retirement benefit costs (including earnings thereon) which revert or inure to the entity in the form of a refund, withdrawal, or other credit.

(i) Severance Pay.

(1) Severance pay, also commonly referred to as dismissal wages, is a payment in addition to regular salaries and wages, by non-Federal entities to workers whose employment is being terminated. Costs of severance pay are allowable only to the extent that in each case, it is required by (a) law, (b) employer-employee agreement, (c) established policy that constitutes, in effect, an implied agreement on the non-Federal entity's part, or (d) circumstances of the particular employment.

(2) Costs of severance payments are divided into two categories as follows:

(i) Actual normal turnover severance payments must be allocated to all activities; or, where the non-Federal entity provides for a reserve for normal severances, such method will be acceptable if the charge to current operations is reasonable in light of payments actually made for normal severances over a representative past period, and if amounts charged are

allocated to all activities of the non-Federal entity.

(ii) Measurement of costs of abnormal or mass severance pay by means of an accrual will not achieve equity to both parties. Thus, accruals for this purpose are not allowable. However, the Federal government recognizes its obligation to participate, to the extent of its fair share, in any specific payment. Prior approval by the Federal awarding agency or cognizant agency for indirect cost, as appropriate, is required.

(3) Costs incurred in certain severance pay packages which are in an amount in excess of the normal severance pay paid by the non-Federal entity to an employee upon termination of employment and are paid to the employee contingent upon a change in management control over, or ownership of, the non-Federal entity's assets, are unallowable.

(4) Severance payments to foreign nationals employed by the non-Federal entity outside the United States, to the extent that the amount exceeds the customary or prevailing practices for the non-Federal entity in the United States, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(5) Severance payments to foreign nationals employed by the non-Federal entity outside the United States due to the termination of the foreign national as a result of the closing of, or curtailment of activities by, the non-Federal entity in that country, are unallowable, unless they are necessary for the performance of Federal programs and approved by the Federal awarding agency.

(j)(1) For IHEs only. Fringe benefits in the form of tuition or remission of tuition for individual employees are allowable, provided such benefits are granted in accordance with established non-Federal entity policies, and are distributed to all non-Federal entity activities on an equitable basis. Tuition benefits for family members other than the employee are unallowable.

(2) Fringe benefits in the form of tuition or remission of tuition for individual employees not employed by IHEs are limited to the tax-free amount allowed per section 127 of the Internal Revenue Code as amended.

(3) IHEs may offer employees tuition waivers or tuition reductions for undergraduate education under IRC Section 117(d) as amended, provided that the benefit does not discriminate in favor of highly compensated employees. Federal reimbursement of tuition or remission of tuition is also limited to the institution for which the employee works. See § 200.466 Scholarships and student aid costs, for treatment of tuition remission provided to students.

(k) For IHEs whose costs are paid by state or local governments, fringe benefit programs (such as pension costs and FICA) and any other benefits costs specifically incurred on behalf of, and in direct benefit to, the non-Federal entity, are allowable costs of such non-Federal entities whether or not these costs are recorded in the accounting records of the non-Federal entities, subject to the following:

(1) The costs meet the requirements of Basic Considerations in §§ 200.402 Composition of costs through 200.411 Adjustment of previously negotiated indirect (F&A) cost rates containing unallowable costs of this subpart;

(2) The costs are properly supported by approved cost allocation plans in accordance with applicable Federal cost accounting principles; and

(3) The costs are not otherwise borne directly or indirectly by the Federal government.

§ 200.432 Conferences.

A conference is defined as a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal award. Allowable conference costs paid by the non-Federal entity as a sponsor or host of the conference may include rental of facilities, speakers' fees, costs of meals and refreshments, local transportation, and other items incidental to such conferences unless further restricted by the terms and conditions of the Federal award. As needed, the costs of identifying, but not providing, locally available dependent-care resources are allowable. Conference hosts/sponsors must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary and managed in a manner that minimizes costs to the Federal award. The Federal awarding agency may authorize exceptions where appropriate for programs including Indian tribes, children, and the elderly. See also §§ 200.438 Entertainment costs, 200.456 Participant support costs, 200.474 Travel costs, and 200.475 Trustees.

§ 200.433 Contingency provisions.

(a) Contingency is that part of a budget estimate of future costs (typically of large construction projects, IT systems, or other items as approved by the Federal awarding agency) which is associated with possible events or conditions arising from causes the precise outcome of which is indeterminable at the time of estimate, and that experience shows will likely result, in aggregate, in additional costs for the approved activity or project. Amounts for major project scope changes, unforeseen risks, or extraordinary events may not be included.

(b) It is permissible for contingency amounts other than those excluded in paragraph (b)(1) of this section to be explicitly included in budget estimates, to the extent they are necessary to improve the precision of those estimates. Amounts must be estimated using broadly-accepted cost estimating methodologies, specified in the budget documentation of the Federal award, and accepted by the Federal awarding agency. As such, contingency amounts are to be included in the Federal award. In order for actual costs incurred to be allowable, they must comply with the cost principles and other requirements in this Part (see also §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance of Subpart D of this Part and 200.403 Factors affecting allowability of costs); be necessary and reasonable for proper and efficient accomplishment of project or program objectives, and be verifiable from the non-Federal entity's records.

(c) Payments made by the Federal awarding agency to the non-Federal entity's ''contingency reserve'' or any similar payment made for events the occurrence of which cannot be foretold with certainty as to the time or intensity, or with an assurance of their happening, are unallowable, except as noted in §§ 200.431 Compensation—fringe benefits regarding self-insurance, pensions, severance and post-retirement health costs and 200.447 Insurance and indemnification.

§ 200.434 Contributions and donations.

(a) Costs of contributions and donations, including cash, property, and services, from the non-Federal entity to other entities, are unallowable.

(b) The value of services and property donated to the non-Federal entity may not be charged to the Federal award either as a direct or indirect (F&A) cost. The value of donated services and property may be used to meet cost sharing or matching requirements (see § 200.306 Cost sharing or matching). Depreciation on donated assets is permitted in accordance with § 200.436 Depreciation, as long as the donated property is not counted towards cost sharing or matching requirements.

(c) Services donated or volunteered to the non-Federal entity may be furnished

to a non-Federal entity by professional and technical personnel, consultants, and other skilled and unskilled labor. The value of these services is not allowable either as a direct or indirect cost. However, the value of donated services may be used to meet cost sharing or matching requirements in accordance with the provisions of § 200.306 Cost sharing or matching.

(d) To the extent feasible, services donated to the non-Federal entity will be supported by the same methods used to support the allocability of regular personnel services.

(e) The following provisions apply to nonprofit organizations. The value of services donated to the nonprofit organization utilized in the performance of a direct cost activity must be considered in the determination of the non-Federal entity's indirect cost rate(s) and, accordingly, must be allocated a proportionate share of applicable indirect costs when the following circumstances exist:

(1) The aggregate value of the services is material;

(2) The services are supported by a significant amount of the indirect costs incurred by the non-Federal entity;

(i) In those instances where there is no basis for determining the fair market value of the services rendered, the non-Federal entity and the cognizant agency for indirect costs must negotiate an appropriate allocation of indirect cost to the services.

(ii) Where donated services directly benefit a project supported by the Federal award, the indirect costs allocated to the services will be considered as a part of the total costs of the project. Such indirect costs may be reimbursed under the Federal award or used to meet cost sharing or matching requirements.

(f) Fair market value of donated services must be computed as described in § 200.306 Cost sharing or matching.

(g) Personal Property and Use of Space.

(1) Donated personal property and use of space may be furnished to a non-Federal entity. The value of the personal property and space is not reimbursable either as a direct or indirect cost.

(2) The value of the donations may be used to meet cost sharing or matching share requirements under the conditions described in §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance of Subpart D of this Part. The value of the donations must be determined in accordance with §§ 200.300 Statutory and national policy requirements through 200.309 Period of performance. Where donations are treated as indirect costs, indirect cost rates will separate the value of the donations so that reimbursement will not be made.

§ 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(a) Definitions for the purposes of this section.

(1) *Conviction* means a judgment or conviction of a criminal offense by any court of competent jurisdiction, whether entered upon verdict or a plea, including a conviction due to a plea of nolo contendere.

(2) *Costs* include the services of in-house or private counsel, accountants, consultants, or others engaged to assist the non-Federal entity before, during, and after commencement of a judicial or administrative proceeding, that bear a direct relationship to the proceeding.

(3) *Fraud* means:

(i) Acts of fraud or corruption or attempts to defraud the Federal government or to corrupt its agents,

(ii) Acts that constitute a cause for debarment or suspension (as specified in agency regulations), and

(iii) Acts which violate the False Claims Act (31 U.S.C. 3729–3732) or the Anti-kickback Act (41 U.S.C. 1320a–7b(b)).

(4) *Penalty* does not include restitution, reimbursement, or compensatory damages.

(5) *Proceeding* includes an investigation.

(b) Costs.

(1) Except as otherwise described herein, costs incurred in connection with any criminal, civil or administrative proceeding (including filing of a false certification) commenced by the Federal government, a state, local government, or foreign government, or joined by the Federal government (including a proceeding under the False Claims Act), against the non-Federal entity, (or commenced by third parties or a current or former employee of the non-Federal entity who submits a whistleblower complaint of reprisal in accordance with 10 U.S.C. 2409 or 41 U.S.C. 4712), are not allowable if the proceeding:

(i) Relates to a violation of, or failure to comply with, a Federal, state, local or foreign statute, regulation or the terms and conditions of the Federal award, by the non-Federal entity (including its agents and employees); and

(ii) Results in any of the following dispositions:

(A) In a criminal proceeding, a conviction.

(B) In a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of non-Federal entity liability.

(C) In the case of any civil or administrative proceeding, the disallowance of costs or the imposition of a monetary penalty, or an order issued by the Federal awarding agency head or delegate to the non-Federal entity to take corrective action under 10 U.S.C. 2409 or 41 U.S.C. 4712.

(D) A final decision by an appropriate Federal official to debar or suspend the non-Federal entity, to rescind or void a Federal award, or to terminate a Federal award for default by reason of a violation or failure to comply with a statute, regulation, or the terms and conditions of the Federal award.

(E) A disposition by consent or compromise, if the action could have resulted in any of the dispositions described in paragraphs (b)(1)(ii)(A) through (D) of this section.

(2) If more than one proceeding involves the same alleged misconduct, the costs of all such proceedings are unallowable if any results in one of the dispositions shown in paragraph (b) of this section.

(c) If a proceeding referred to in paragraph (b) of this section is commenced by the Federal government and is resolved by consent or compromise pursuant to an agreement by the non-Federal entity and the Federal government, then the costs incurred may be allowed to the extent specifically provided in such agreement.

(d) If a proceeding referred to in paragraph (b) of this section is commenced by a state, local or foreign government, the authorized Federal official may allow the costs incurred if such authorized official determines that the costs were incurred as a result of:

(1) A specific term or condition of the Federal award, or

(2) Specific written direction of an authorized official of the Federal awarding agency.

(e) Costs incurred in connection with proceedings described in paragraph (b) of this section, which are not made unallowable by that subsection, may be allowed but only to the extent that:

(1) The costs are reasonable and necessary in relation to the administration of the Federal award and activities required to deal with the proceeding and the underlying cause of action;

(2) Payment of the reasonable, necessary, allocable and otherwise allowable costs incurred is not prohibited by any other provision(s) of the Federal award;

(3) The costs are not recovered from the Federal Government or a third party,

either directly as a result of the proceeding or otherwise; and,

(4) An authorized Federal official must determine the percentage of costs allowed considering the complexity of litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States, and such other factors as may be appropriate. Such percentage must not exceed 80 percent. However, if an agreement reached under paragraph (c) of this section has explicitly considered this 80 percent limitation and permitted a higher percentage, then the full amount of costs resulting from that agreement are allowable.

(f) Costs incurred by the non-Federal entity in connection with the defense of suits brought by its employees or ex-employees under section 2 of the Major Fraud Act of 1988 (18 U.S.C. 1031), including the cost of all relief necessary to make such employee whole, where the non-Federal entity was found liable or settled, are unallowable.

(g) Costs of prosecution of claims against the Federal government, including appeals of final Federal agency decisions, are unallowable.

(h) Costs of legal, accounting, and consultant services, and related costs, incurred in connection with patent infringement litigation, are unallowable unless otherwise provided for in the Federal award.

(i) Costs which may be unallowable under this section, including directly associated costs, must be segregated and accounted for separately. During the pendency of any proceeding covered by paragraphs (b) and (f) of this section, the Federal government must generally withhold payment of such costs. However, if in its best interests, the Federal government may provide for conditional payment upon provision of adequate security, or other adequate assurance, and agreement to repay all unallowable costs, plus interest, if the costs are subsequently determined to be unallowable.

§ 200.436 Depreciation.

(a) Depreciation is the method for allocating the cost of fixed assets to periods benefitting from asset use. The non-Federal entity may be compensated for the use of its buildings, capital improvements, equipment, and software projects capitalized in accordance with GAAP, provided that they are used, needed in the non-Federal entity's activities, and properly allocated to Federal awards. Such compensation must be made by computing depreciation.

(b) The allocation for depreciation must be made in accordance with Appendices IV through VIII.

(c) Depreciation is computed applying the following rules. The computation of depreciation must be based on the acquisition cost of the assets involved. For an asset donated to the non-Federal entity by a third party, its fair market value at the time of the donation must be considered as the acquisition cost. Such assets may be depreciated or claimed as matching but not both. For this purpose, the acquisition cost will exclude:

(1) The cost of land;

(2) Any portion of the cost of buildings and equipment borne by or donated by the Federal government, irrespective of where title was originally vested or where it is presently located;

(3) Any portion of the cost of buildings and equipment contributed by or for the non-Federal entity, or where law or agreement prohibits recovery; and

(4) Any asset acquired solely for the performance of a non-Federal award.

(d) When computing depreciation charges, the following must be observed:

(1) The period of useful service or useful life established in each case for usable capital assets must take into consideration such factors as type of construction, nature of the equipment, technological developments in the particular area, historical data, and the renewal and replacement policies followed for the individual items or classes of assets involved.

(2) The depreciation method used to charge the cost of an asset (or group of assets) to accounting periods must reflect the pattern of consumption of the asset during its useful life. In the absence of clear evidence indicating that the expected consumption of the asset will be significantly greater in the early portions than in the later portions of its useful life, the straight-line method must be presumed to be the appropriate method. Depreciation methods once used may not be changed unless approved in advance by the cognizant agency. The depreciation methods used to calculate the depreciation amounts for indirect (F&A) rate purposes must be the same methods used by the non-Federal entity for its financial statements.

(3) The entire building, including the shell and all components, may be treated as a single asset and depreciated over a single useful life. A building may also be divided into multiple components. Each component item may then be depreciated over its estimated useful life. The building components must be grouped into three general components of a building: building shell (including construction and design costs), building services systems (e.g., elevators, HVAC, plumbing system and heating and air-conditioning system) and fixed equipment (e.g., sterilizers, casework, fume hoods, cold rooms and glassware/washers). In exceptional cases, a cognizant agency may authorize a non-Federal entity to use more than these three groupings. When a non-Federal entity elects to depreciate its buildings by its components, the same depreciation methods must be used for indirect (F&A) purposes and financial statements purposes, as described in paragraphs (d)(1) and (2) of this section.

(4) No depreciation may be allowed on any assets that have outlived their depreciable lives.

(5) Where the depreciation method is introduced to replace the use allowance method, depreciation must be computed as if the asset had been depreciated over its entire life (i.e., from the date the asset was acquired and ready for use to the date of disposal or withdrawal from service). The total amount of use allowance and depreciation for an asset (including imputed depreciation applicable to periods prior to the conversion from the use allowance method as well as depreciation after the conversion) may not exceed the total acquisition cost of the asset.

(e) Charges for depreciation must be supported by adequate property records, and physical inventories must be taken at least once every two years to ensure that the assets exist and are usable, used, and needed. Statistical sampling techniques may be used in taking these inventories. In addition, adequate depreciation records showing the amount of depreciation taken each period must also be maintained.

§ 200.437 Employee health and welfare costs.

(a) Costs incurred in accordance with the non-Federal entity's documented policies for the improvement of working conditions, employer-employee relations, employee health, and employee performance are allowable.

(b) Such costs will be equitably apportioned to all activities of the non-Federal entity. Income generated from any of these activities will be credited to the cost thereof unless such income has been irrevocably sent to employee welfare organizations.

(c) Losses resulting from operating food services are allowable only if the non-Federal entity's objective is to operate such services on a break-even basis. Losses sustained because of operating objectives other than the above are allowable only:

(1) Where the non-Federal entity can demonstrate unusual circumstances; and

(2) With the approval of the cognizant agency for indirect costs.

§ 200.438 Entertainment costs.

Costs of entertainment, including amusement, diversion, and social activities and any associated costs are unallowable, except where specific costs that might otherwise be considered entertainment have a programmatic purpose and are authorized either in the approved budget for the Federal award or with prior written approval of the Federal awarding agency.

§ 200.439 Equipment and other capital expenditures.

(a) See §§ 200.13 Capital expenditures, 200.33 Equipment, 200.89 Special purpose equipment, 200.48 General purpose equipment, 200.2 Acquisition cost, and 200.12 Capital assets.

(b) The following rules of allowability must apply to equipment and other capital expenditures:

(1) Capital expenditures for general purpose equipment, buildings, and land are unallowable as direct charges, except with the prior written approval of the Federal awarding agency or pass-through entity.

(2) Capital expenditures for special purpose equipment are allowable as direct costs, provided that items with a unit cost of $5,000 or more have the prior written approval of the Federal awarding agency or pass-through entity.

(3) Capital expenditures for improvements to land, buildings, or equipment which materially increase their value or useful life are unallowable as a direct cost except with the prior written approval of the Federal awarding agency, or pass-through entity. See § 200.436 Depreciation, for rules on the allowability of depreciation on buildings, capital improvements, and equipment. See also § 200.465 Rental costs of real property and equipment.

(4) When approved as a direct charge pursuant to paragraphs (b)(1) through (3) of this section, capital expenditures will be charged in the period in which the expenditure is incurred, or as otherwise determined appropriate and negotiated with the Federal awarding agency.

(5) The unamortized portion of any equipment written off as a result of a change in capitalization levels may be recovered by continuing to claim the otherwise allowable depreciation on the equipment, or by amortizing the amount to be written off over a period of years negotiated with the Federal cognizant agency for indirect cost.

(6) Cost of equipment disposal. If the non-Federal entity is instructed by the Federal awarding agency to otherwise dispose of or transfer the equipment the costs of such disposal or transfer are allowable.

§ 200.440 Exchange rates.

(a) Cost increases for fluctuations in exchange rates are allowable costs subject to the availability of funding, and prior approval by the Federal awarding agency. The Federal awarding agency must however ensure that adequate funds are available to cover currency fluctuations in order to avoid a violation of the Anti-Deficiency Act.

(b) The non-Federal entity is required to make reviews of local currency gains to determine the need for additional federal funding before the expiration date of the Federal award. Subsequent adjustments for currency increases may be allowable only when the non-Federal entity provides the Federal awarding agency with adequate source documentation from a commonly used source in effect at the time the expense was made, and to the extent that sufficient Federal funds are available.

§ 200.441 Fines, penalties, damages and other settlements.

Costs resulting from non-Federal entity violations of, alleged violations of, or failure to comply with, Federal, state, tribal, local or foreign laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award, or with prior written approval of the Federal awarding agency. See also § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

§ 200.442 Fund raising and investment management costs.

(a) Costs of organized fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred to raise capital or obtain contributions are unallowable. Fund raising costs for the purposes of meeting the Federal program objectives are allowable with prior written approval from the Federal awarding agency. Proposal costs are covered in § 200.460 Proposal costs.

(b) Costs of investment counsel and staff and similar expenses incurred to enhance income from investments are unallowable except when associated with investments covering pension, self-insurance, or other funds which include Federal participation allowed by this Part.

(c) Costs related to the physical custody and control of monies and securities are allowable.

(d) Both allowable and unallowable fund raising and investment activities must be allocated as an appropriate share of indirect costs under the conditions described in § 200.413 Direct costs.

§ 200.443 Gains and losses on disposition of depreciable assets.

(a) Gains and losses on the sale, retirement, or other disposition of depreciable property must be included in the year in which they occur as credits or charges to the asset cost grouping(s) in which the property was included. The amount of the gain or loss to be included as a credit or charge to the appropriate asset cost grouping(s) is the difference between the amount realized on the property and the undepreciated basis of the property.

(b) Gains and losses from the disposition of depreciable property must not be recognized as a separate credit or charge under the following conditions:

(1) The gain or loss is processed through a depreciation account and is reflected in the depreciation allowable under §§ 200.436 Depreciation and 200.439 Equipment and other capital expenditures.

(2) The property is given in exchange as part of the purchase price of a similar item and the gain or loss is taken into account in determining the depreciation cost basis of the new item.

(3) A loss results from the failure to maintain permissible insurance, except as otherwise provided in § 46*200.447 Insurance and indemnification.

(4) Compensation for the use of the property was provided through use allowances in lieu of depreciation.

(5) Gains and losses arising from mass or extraordinary sales, retirements, or other dispositions must be considered on a case-by-case basis.

(c) Gains or losses of any nature arising from the sale or exchange of property other than the property covered in paragraph (a) of this section, e.g., land, must be excluded in computing Federal award costs.

(d) When assets acquired with Federal funds, in part or wholly, are disposed of, the distribution of the proceeds must be made in accordance with §§ 200.310 Insurance Coverage through 200.316 Property trust relationship.

§ 200.444 General costs of government.

(a) For states, local governments, and Indian Tribes, the general costs of government are unallowable (except as provided in § 200.474 Travel costs). Unallowable costs include:

(1) Salaries and expenses of the Office of the Governor of a state or the chief executive of a local government or the chief executive of an Indian tribe;

(2) Salaries and other expenses of a state legislature, tribal council, or similar local governmental body, such as a county supervisor, city council, school board, etc., whether incurred for purposes of legislation or executive direction;

(3) Costs of the judicial branch of a government;

(4) Costs of prosecutorial activities unless treated as a direct cost to a specific program if authorized by statute or regulation (however, this does not preclude the allowability of other legal activities of the Attorney General as described in § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements); and

(5) Costs of other general types of government services normally provided to the general public, such as fire and police, unless provided for as a direct cost under a program statute or regulation.

(b) For Indian tribes and Councils Of Governments (COGs) (see § 200.64 Local government), the portion of salaries and expenses directly attributable to managing and operating Federal programs by the chief executive and his or her staff is allowable. Up to 50% of these costs can be included in the indirect cost calculation without documentation.

§ 200.445 Goods or services for personal use.

(a) Costs of goods or services for personal use of the non-Federal entity's employees are unallowable regardless of whether the cost is reported as taxable income to the employees.

(b) Costs of housing (e.g., depreciation, maintenance, utilities, furnishings, rent), housing allowances and personal living expenses are only allowable as direct costs regardless of whether reported as taxable income to the employees. In addition, to be allowable direct costs must be approved in advance by a Federal awarding agency.

§ 200.446 Idle facilities and idle capacity.

(a) As used in this section the following terms have the meanings set forth in this section:

(1) Facilities means land and buildings or any portion thereof, equipment individually or collectively, or any other tangible capital asset, wherever located, and whether owned or leased by the non-Federal entity.

(2) Idle facilities means completely unused facilities that are excess to the non-Federal entity's current needs.

(3) Idle capacity means the unused capacity of partially used facilities. It is the difference between:

(i) That which a facility could achieve under 100 percent operating time on a one-shift basis less operating interruptions resulting from time lost for repairs, setups, unsatisfactory materials, and other normal delays and;

(ii) The extent to which the facility was actually used to meet demands during the accounting period. A multi-shift basis should be used if it can be shown that this amount of usage would normally be expected for the type of facility involved.

(4) Cost of idle facilities or idle capacity means costs such as maintenance, repair, housing, rent, and other related costs, e.g., insurance, interest, and depreciation. These costs could include the costs of idle public safety emergency facilities, telecommunications, or information technology system capacity that is built to withstand major fluctuations in load, e.g., consolidated data centers.

(b) The costs of idle facilities are unallowable except to the extent that:

(1) They are necessary to meet workload requirements which may fluctuate and are allocated appropriately to all benefiting programs; or

(2) Although not necessary to meet fluctuations in workload, they were necessary when acquired and are now idle because of changes in program requirements, efforts to achieve more economical operations, reorganization, termination, or other causes which could not have been reasonably foreseen. Under the exception stated in this subsection, costs of idle facilities are allowable for a reasonable period of time, ordinarily not to exceed one year, depending on the initiative taken to use, lease, or dispose of such facilities.

(c) The costs of idle capacity are normal costs of doing business and are a factor in the normal fluctuations of usage or indirect cost rates from period to period. Such costs are allowable, provided that the capacity is reasonably anticipated to be necessary to carry out the purpose of the Federal award or was originally reasonable and is not subject to reduction or elimination by use on other Federal awards, subletting, renting, or sale, in accordance with sound business, economic, or security practices. Widespread idle capacity throughout an entire facility or among a group of assets having substantially the same function may be considered idle facilities.

§ 200.447 Insurance and indemnification.

(a) Costs of insurance required or approved and maintained, pursuant to the Federal award, are allowable.

(b) Costs of other insurance in connection with the general conduct of activities are allowable subject to the following limitations:

(1) Types and extent and cost of coverage are in accordance with the non-Federal entity's policy and sound business practice.

(2) Costs of insurance or of contributions to any reserve covering the risk of loss of, or damage to, Federal government property are unallowable except to the extent that the Federal awarding agency has specifically required or approved such costs.

(3) Costs allowed for business interruption or other similar insurance must exclude coverage of management fees.

(4) Costs of insurance on the lives of trustees, officers, or other employees holding positions of similar responsibilities are allowable only to the extent that the insurance represents additional compensation (see § 200.431 Compensation—fringe benefits). The cost of such insurance when the non-Federal entity is identified as the beneficiary is unallowable.

(5) Insurance against defects. Costs of insurance with respect to any costs incurred to correct defects in the non-Federal entity's materials or workmanship are unallowable.

(6) Medical liability (malpractice) insurance. Medical liability insurance is an allowable cost of Federal research programs only to the extent that the Federal research programs involve human subjects or training of participants in research techniques. Medical liability insurance costs must be treated as a direct cost and must be assigned to individual projects based on the manner in which the insurer allocates the risk to the population covered by the insurance.

(c) Actual losses which could have been covered by permissible insurance (through a self-insurance program or otherwise) are unallowable, unless expressly provided for in the Federal award. However, costs incurred because of losses not covered under nominal deductible insurance coverage provided in keeping with sound management practice, and minor losses not covered by insurance, such as spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations, are allowable.

(d) Contributions to a reserve for certain self-insurance programs including workers' compensation, unemployment compensation, and

severance pay are allowable subject to the following provisions:

(1) The type of coverage and the extent of coverage and the rates and premiums would have been allowed had insurance (including reinsurance) been purchased to cover the risks. However, provision for known or reasonably estimated self-insured liabilities, which do not become payable for more than one year after the provision is made, must not exceed the discounted present value of the liability. The rate used for discounting the liability must be determined by giving consideration to such factors as the non-Federal entity's settlement rate for those liabilities and its investment rate of return.

(2) Earnings or investment income on reserves must be credited to those reserves.

(3)(i) Contributions to reserves must be based on sound actuarial principles using historical experience and reasonable assumptions. Reserve levels must be analyzed and updated at least biennially for each major risk being insured and take into account any reinsurance, coinsurance, etc. Reserve levels related to employee-related coverages will normally be limited to the value of claims:

(A) Submitted and adjudicated but not paid;

(B) Submitted but not adjudicated; and

(C) Incurred but not submitted.

(ii) Reserve levels in excess of the amounts based on the above must be identified and justified in the cost allocation plan or indirect cost rate proposal.

(4) Accounting records, actuarial studies, and cost allocations (or billings) must recognize any significant differences due to types of insured risk and losses generated by the various insured activities or agencies of the non-Federal entity. If individual departments or agencies of the non-Federal entity experience significantly different levels of claims for a particular risk, those differences are to be recognized by the use of separate allocations or other techniques resulting in an equitable allocation.

(5) Whenever funds are transferred from a self-insurance reserve to other accounts (e.g., general fund or unrestricted account), refunds must be made to the Federal government for its share of funds transferred, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for indirect cost, claims collection regulations.

(e) Insurance refunds must be credited against insurance costs in the year the refund is received.

(f) Indemnification includes securing the non-Federal entity against liabilities to third persons and other losses not compensated by insurance or otherwise. The Federal government is obligated to indemnify the non-Federal entity only to the extent expressly provided for in the Federal award, except as provided in paragraph (c) of this section.

§ 200.448 Intellectual property.

(a) Patent costs.

(1) The following costs related to securing patents and copyrights are allowable:

(i) Costs of preparing disclosures, reports, and other documents required by the Federal award, and of searching the art to the extent necessary to make such disclosures;

(ii) Costs of preparing documents and any other patent costs in connection with the filing and prosecution of a United States patent application where title or royalty-free license is required by the Federal government to be conveyed to the Federal government; and

(iii) General counseling services relating to patent and copyright matters, such as advice on patent and copyright laws, regulations, clauses, and employee intellectual property agreements (See also § 200.459 Professional service costs).

(2) The following costs related to securing patents and copyrights are unallowable:

(i) Costs of preparing disclosures, reports, and other documents, and of searching the art to make disclosures not required by the Federal award;

(ii) Costs in connection with filing and prosecuting any foreign patent application, or any United States patent application, where the Federal award does not require conveying title or a royalty-free license to the Federal government.

(b) Royalties and other costs for use of patents and copyrights.

(1) Royalties on a patent or copyright or amortization of the cost of acquiring by purchase a copyright, patent, or rights thereto, necessary for the proper performance of the Federal award are allowable unless:

(i) The Federal government already has a license or the right to free use of the patent or copyright.

(ii) The patent or copyright has been adjudicated to be invalid, or has been administratively determined to be invalid.

(iii) The patent or copyright is considered to be unenforceable.

(iv) The patent or copyright is expired.

(2) Special care should be exercised in determining reasonableness where the royalties may have been arrived at as a result of less-than-arm's-length bargaining, such as:

(i) Royalties paid to persons, including corporations, affiliated with the non-Federal entity.

(ii) Royalties paid to unaffiliated parties, including corporations, under an agreement entered into in contemplation that a Federal award would be made.

(iii) Royalties paid under an agreement entered into after a Federal award is made to a non-Federal entity.

(3) In any case involving a patent or copyright formerly owned by the non-Federal entity, the amount of royalty allowed should not exceed the cost which would have been allowed had the non-Federal entity retained title thereto.

§ 200.449 Interest.

(a) General. Costs incurred for interest on borrowed capital, temporary use of endowment funds, or the use of the non-Federal entity's own funds, however represented, are unallowable. Financing costs (including interest) to acquire, construct, or replace capital assets are allowable, subject to the conditions in this section.

(b)(1) Capital assets is defined as noted in § 200.12 Capital assets. An asset cost includes (as applicable) acquisition costs, construction costs, and other costs capitalized in accordance with GAAP.

(2) For non-Federal entity fiscal years beginning on or after January 1, 2016, intangible assets include patents and computer software. For software development projects, only interest attributable to the portion of the project costs capitalized in accordance with GAAP is allowable.

(c) Conditions for all non-Federal entities.

(1) The non-Federal entity uses the capital assets in support of Federal awards;

(2) The allowable asset costs to acquire facilities and equipment are limited to a fair market value available to the non-Federal entity from an unrelated (arm's length) third party.

(3) The non-Federal entity obtains the financing via an arm's-length transaction (that is, a transaction with an unrelated third party); or claims reimbursement of actual interest cost at a rate available via such a transaction.

(4) The non-Federal entity limits claims for Federal reimbursement of interest costs to the least expensive alternative. For example, a capital lease

may be determined less costly than purchasing through debt financing, in which case reimbursement must be limited to the amount of interest determined if leasing had been used.

(5) The non-Federal entity expenses or capitalizes allowable interest cost in accordance with GAAP.

(6) Earnings generated by the investment of borrowed funds pending their disbursement for the asset costs are used to offset the current period's allowable interest cost, whether that cost is expensed or capitalized. Earnings subject to being reported to the Federal Internal Revenue Service under arbitrage requirements are excludable.

(7) The following conditions must apply to debt arrangements over $1 million to purchase or construct facilities, unless the non-Federal entity makes an initial equity contribution to the purchase of 25 percent or more. For this purpose, ''initial equity contribution'' means the amount or value of contributions made by the non-Federal entity for the acquisition of facilities prior to occupancy.

(i) The non-Federal entity must reduce claims for reimbursement of interest cost by an amount equal to imputed interest earnings on excess cash flow attributable to the portion of the facility used for Federal awards.

(ii) The non-Federal entity must impute interest on excess cash flow as follows:

(A) Annually, the non-Federal entity must prepare a cumulative (from the inception of the project) report of monthly cash inflows and outflows, regardless of the funding source. For this purpose, inflows consist of Federal reimbursement for depreciation, amortization of capitalized construction interest, and annual interest cost. Outflows consist of initial equity contributions, debt principal payments (less the pro-rata share attributable to the cost of land), and interest payments.

(B) To compute monthly cash inflows and outflows, the non-Federal entity must divide the annual amounts determined in step (i) by the number of months in the year (usually 12) that the building is in service.

(C) For any month in which cumulative cash inflows exceed cumulative outflows, interest must be calculated on the excess inflows for that month and be treated as a reduction to allowable interest cost. The rate of interest to be used must be the three-month Treasury bill closing rate as of the last business day of that month.

(8) Interest attributable to a fully depreciated asset is unallowable.

(d) Additional conditions for states, local governments and Indian tribes. For costs to be allowable, the non-Federal entity must have incurred the interest costs for buildings after October 1, 1980, or for land and equipment after September 1, 1995.

(1) The requirement to offset interest earned on borrowed funds against current allowable interest cost (paragraph (c)(5), above) also applies to earnings on debt service reserve funds.

(2) The non-Federal entity will negotiate the amount of allowable interest cost related to the acquisition of facilities with asset costs of $1 million or more, as outlined in paragraph (c)(7) of this section. For this purpose, a non-Federal entity must consider only cash inflows and outflows attributable to that portion of the real property used for Federal awards.

(e) Additional conditions for IHEs. For costs to be allowable, the IHE must have incurred the interest costs after September 23, 1982, in connection with acquisitions of capital assets that occurred after that date.

(f) Additional condition for nonprofit organizations. For costs to be allowable, the nonprofit organization incurred the interest costs after September 29, 1995, in connection with acquisitions of capital assets that occurred after that date.

(g) The interest allowability provisions of this section do not apply to a nonprofit organization subject to ''full coverage'' under the Cost Accounting Standards (CAS), as defined at 48 CFR 9903.201–2(a). The non-Federal entity's Federal awards are instead subject to CAS 414 (48 CFR 9904.414), ''Cost of Money as an Element of the Cost of Facilities Capital'', and CAS 417 (48 CFR 9904.417), ''Cost of Money as an Element of the Cost of Capital Assets Under Construction''.

§ 200.450 Lobbying.

(a) The cost of certain influencing activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost. Lobbying with respect to certain grants, contracts, cooperative agreements, and loans is governed by relevant statutes, including among others, the provisions of 31 U.S.C. 1352, as well as the common rule, ''New Restrictions on Lobbying'' published at 55 FR 6736 (February 26, 1990), including definitions, and the Office of Management and Budget ''Governmentwide Guidance for New Restrictions on Lobbying'' and notices published at 54 FR 52306 (December 20, 1989), 55 FR 24540 (June 15, 1990), 57 FR 1772 (January 15, 1992), and 61 FR 1412 (January 19, 1996).

(b) Executive lobbying costs. Costs incurred in attempting to improperly influence either directly or indirectly, an employee or officer of the executive branch of the Federal government to give consideration or to act regarding a Federal award or a regulatory matter are unallowable. Improper influence means any influence that induces or tends to induce a Federal employee or officer to give consideration or to act regarding a Federal award or regulatory matter on any basis other than the merits of the matter.

(c) In addition to the above, the following restrictions are applicable to nonprofit organizations and IHEs:

(1) Costs associated with the following activities are unallowable:

(i) Attempts to influence the outcomes of any Federal, state, or local election, referendum, initiative, or similar procedure, through in-kind or cash contributions, endorsements, publicity, or similar activity;

(ii) Establishing, administering, contributing to, or paying the expenses of a political party, campaign, political action committee, or other organization established for the purpose of influencing the outcomes of elections in the United States;

(iii) Any attempt to influence:

(A)The introduction of Federal or state legislation;

(B) The enactment or modification of any pending Federal or state legislation through communication with any member or employee of the Congress or state legislature (including efforts to influence state or local officials to engage in similar lobbying activity);

(C) The enactment or modification of any pending Federal or state legislation by preparing, distributing, or using publicity or propaganda, or by urging members of the general public, or any segment thereof, to contribute to or participate in any mass demonstration, march, rally, fund raising drive, lobbying campaign or letter writing or telephone campaign; or

(D) Any government official or employee in connection with a decision to sign or veto enrolled legislation;

(iv) Legislative liaison activities, including attendance at legislative sessions or committee hearings, gathering information regarding legislation, and analyzing the effect of legislation, when such activities are carried on in support of or in knowing preparation for an effort to engage in unallowable lobbying.

(2) The following activities are excepted from the coverage of paragraph (c)(1) of this section:

(i) Technical and factual presentations on topics directly related to the

performance of a grant, contract, or other agreement (through hearing testimony, statements, or letters to the Congress or a state legislature, or subdivision, member, or cognizant staff member thereof), in response to a documented request (including a Congressional Record notice requesting testimony or statements for the record at a regularly scheduled hearing) made by the non-Federal entity's member of congress, legislative body or a subdivision, or a cognizant staff member thereof, provided such information is readily obtainable and can be readily put in deliverable form, and further provided that costs under this section for travel, lodging or meals are unallowable unless incurred to offer testimony at a regularly scheduled Congressional hearing pursuant to a written request for such presentation made by the Chairman or Ranking Minority Member of the Committee or Subcommittee conducting such hearings;

(ii) Any lobbying made unallowable by paragraph (c)(1)(iii) of this section to influence state legislation in order to directly reduce the cost, or to avoid material impairment of the non-Federal entity's authority to perform the grant, contract, or other agreement; or

(iii) Any activity specifically authorized by statute to be undertaken with funds from the Federal award.

(iv) Any activity excepted from the definitions of ''lobbying'' or ''influencing legislation'' by the Internal Revenue Code provisions that require nonprofit organizations to limit their participation in direct and ''grass roots'' lobbying activities in order to retain their charitable deduction status and avoid punitive excise taxes, I.R.C. §§ 501(c)(3), 501(h), 4911(a), including:

(A) Nonpartisan analysis, study, or research reports;

(B) Examinations and discussions of broad social, economic, and similar problems; and

(C) Information provided upon request by a legislator for technical advice and assistance, as defined by I.R.C. § 4911(d)(2) and 26 CFR 56.4911–2(c)(1)–(c)(3).

(v) When a non-Federal entity seeks reimbursement for indirect (F&A) costs, total lobbying costs must be separately identified in the indirect (F&A) cost rate proposal, and thereafter treated as other unallowable activity costs in accordance with the procedures of § 200.413 Direct costs.

(vi) The non-Federal entity must submit as part of its annual indirect (F&A) cost rate proposal a certification that the requirements and standards of this section have been complied with. (See also § 200.415 Required certifications.)

(vii)(A) Time logs, calendars, or similar records are not required to be created for purposes of complying with the record keeping requirements in § 200.302 Financial management with respect to lobbying costs during any particular calendar month when:

(*1*) The employee engages in lobbying (as defined in paragraphs (c)(1) and (c)(2) of this section) 25 percent or less of the employee's compensated hours of employment during that calendar month; and

(*2*) Within the preceding five-year period, the non-Federal entity has not materially misstated allowable or unallowable costs of any nature, including legislative lobbying costs.

(B) When conditions in paragraph (c)(2)(vii)(A)(*1*) and (*2*) of this section are met, non-Federal entities are not required to establish records to support the allowability of claimed costs in addition to records already required or maintained. Also, when conditions in paragraphs (c)(2)(vii)(A)(*1*) and (*2*) of this section are met, the absence of time logs, calendars, or similar records will not serve as a basis for disallowing costs by contesting estimates of lobbying time spent by employees during a calendar month.

(viii) The Federal awarding agency must establish procedures for resolving in advance, in consultation with OMB, any significant questions or disagreements concerning the interpretation or application of this section. Any such advance resolutions must be binding in any subsequent settlements, audits, or investigations with respect to that grant or contract for purposes of interpretation of this Part, provided, however, that this must not be construed to prevent a contractor or non-Federal entity from contesting the lawfulness of such a determination.

§ 200.451 Losses on other awards or contracts.

Any excess of costs over income under any other award or contract of any nature is unallowable. This includes, but is not limited to, the non-Federal entity's contributed portion by reason of cost-sharing agreements or any under-recoveries through negotiation of flat amounts for indirect (F&A) costs. Also, any excess of costs over authorized funding levels transferred from any award or contract to another award or contract is unallowable. All losses are not allowable indirect (F&A) costs and are required to be included in the appropriate indirect cost rate base for allocation of indirect costs.

§ 200.452 Maintenance and repair costs.

Costs incurred for utilities, insurance, security, necessary maintenance, janitorial services, repair, or upkeep of buildings and equipment (including Federal property unless otherwise provided for) which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition, are allowable. Costs incurred for improvements which add to the permanent value of the buildings and equipment or appreciably prolong their intended life must be treated as capital expenditures (see § 200.439 Equipment and other capital expenditures). These costs are only allowable to the extent not paid through rental or other agreements.

§ 200.453 Materials and supplies costs, including costs of computing devices.

(a) Costs incurred for materials, supplies, and fabricated parts necessary to carry out a Federal award are allowable.

(b) Purchased materials and supplies must be charged at their actual prices, net of applicable credits. Withdrawals from general stores or stockrooms should be charged at their actual net cost under any recognized method of pricing inventory withdrawals, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

(c) Materials and supplies used for the performance of a Federal award may be charged as direct costs. In the specific case of computing devices, charging as direct costs is allowable for devices that are essential and allocable, but not solely dedicated, to the performance of a Federal award.

(d) Where federally-donated or furnished materials are used in performing the Federal award, such materials will be used without charge.

§ 200.454 Memberships, subscriptions, and professional activity costs.

(a) Costs of the non-Federal entity's membership in business, technical, and professional organizations are allowable.

(b) Costs of the non-Federal entity's subscriptions to business, professional, and technical periodicals are allowable.

(c) Costs of membership in any civic or community organization are allowable with prior approval by the Federal awarding agency or pass-through entity.

(d) Costs of membership in any country club or social or dining club or organization are unallowable.

(e) Costs of membership in organizations whose primary purpose is

lobbying are unallowable. See also § 200.450 Lobbying.

§ 200.455 Organization costs.

Costs such as incorporation fees, brokers' fees, fees to promoters, organizers or management consultants, attorneys, accountants, or investment counselor, whether or not employees of the non-Federal entity in connection with establishment or reorganization of an organization, are unallowable except with prior approval of the Federal awarding agency.

§ 200.456 Participant support costs.

Participant support costs as defined in § 200.75 Participant support costs are allowable with the prior approval of the Federal awarding agency.

§ 200.457 Plant and security costs.

Necessary and reasonable expenses incurred for routine and security to protect facilities, personnel, and work products are allowable. Such costs include, but are not limited to, wages and uniforms of personnel engaged in security activities; equipment; barriers; protective (non-military) gear, devices, and equipment; contractual security services; and consultants. Capital expenditures for plant security purposes are subject to § 200.439 Equipment and other capital expenditures.

§ 200.458 Pre-award costs.

Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with the written approval of the Federal awarding agency.

§ 200.459 Professional service costs.

(a) Costs of professional and consultant services rendered by persons who are members of a particular profession or possess a special skill, and who are not officers or employees of the non-Federal entity, are allowable, subject to paragraphs (b) and (c) when reasonable in relation to the services rendered and when not contingent upon recovery of the costs from the Federal government. In addition, legal and related services are limited under § 200.435 Defense and prosecution of criminal and civil proceedings, claims, appeals and patent infringements.

(b) In determining the allowability of costs in a particular case, no single factor or any special combination of factors is necessarily determinative. However, the following factors are relevant:

(1) The nature and scope of the service rendered in relation to the service required.

(2) The necessity of contracting for the service, considering the non-Federal entity's capability in the particular area.

(3) The past pattern of such costs, particularly in the years prior to Federal awards.

(4) The impact of Federal awards on the non-Federal entity's business (i.e., what new problems have arisen).

(5) Whether the proportion of Federal work to the non-Federal entity's total business is such as to influence the non-Federal entity in favor of incurring the cost, particularly where the services rendered are not of a continuing nature and have little relationship to work under Federal awards.

(6) Whether the service can be performed more economically by direct employment rather than contracting.

(7) The qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-federally funded activities.

(8) Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, rate of compensation, and termination provisions).

(c) In addition to the factors in paragraph (b) of this section, to be allowable, retainer fees must be supported by evidence of bona fide services available or rendered.

§ 200.460 Proposal costs.

Proposal costs are the costs of preparing bids, proposals, or applications on potential Federal and non-Federal awards or projects, including the development of data necessary to support the non-Federal entity's bids or proposals. Proposal costs of the current accounting period of both successful and unsuccessful bids and proposals normally should be treated as indirect (F&A) costs and allocated currently to all activities of the non-Federal entity. No proposal costs of past accounting periods will be allocable to the current period.

§ 200.461 Publication and printing costs.

(a) Publication costs for electronic and print media, including distribution, promotion, and general handling are allowable. If these costs are not identifiable with a particular cost objective, they should be allocated as indirect costs to all benefiting activities of the non-Federal entity.

(b) Page charges for professional journal publications are allowable where:

(1) The publications report work supported by the Federal government; and

(2) The charges are levied impartially on all items published by the journal, whether or not under a Federal award.

(3) The non-Federal entity may charge the Federal award before closeout for the costs of publication or sharing of research results if the costs are not incurred during the period of performance of the Federal award.

§ 200.462 Rearrangement and reconversion costs.

(a) Costs incurred for ordinary and normal rearrangement and alteration of facilities are allowable as indirect costs. Special arrangements and alterations costs incurred specifically for a Federal award are allowable as a direct cost with the prior approval of the Federal awarding agency or pass-through entity.

(b) Costs incurred in the restoration or rehabilitation of the non-Federal entity's facilities to approximately the same condition existing immediately prior to commencement of Federal awards, less costs related to normal wear and tear, are allowable.

§ 200.463 Recruiting costs.

(a) Subject to paragraphs (b) and (c) of this section, and provided that the size of the staff recruited and maintained is in keeping with workload requirements, costs of ''help wanted'' advertising, operating costs of an employment office necessary to secure and maintain an adequate staff, costs of operating an aptitude and educational testing program, travel costs of employees while engaged in recruiting personnel, travel costs of applicants for interviews for prospective employment, and relocation costs incurred incident to recruitment of new employees, are allowable to the extent that such costs are incurred pursuant to the non-Federal entity's standard recruitment program. Where the non-Federal entity uses employment agencies, costs not in excess of standard commercial rates for such services are allowable.

(b) Special emoluments, fringe benefits, and salary allowances incurred to attract professional personnel that do not meet the test of reasonableness or do not conform with the established practices of the non-Federal entity, are unallowable.

(c) Where relocation costs incurred incident to recruitment of a new employee have been funded in whole or in part as a direct cost to a Federal award, and the newly hired employee

resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity will be required to refund or credit the Federal share of such relocation costs to the Federal government. See also § 200.464 Relocation costs of employees.

(d) Short-term, travel visa costs (as opposed to longer-term, immigration visas) are generally allowable expenses that may be proposed as a direct cost. Since short-term visas are issued for a specific period and purpose, they can be clearly identified as directly connected to work performed on a Federal award. For these costs to be directly charged to a Federal award, they must:

(1) Be critical and necessary for the conduct of the project;

(2) Be allowable under the applicable cost principles;

(3) Be consistent with the non-Federal entity's cost accounting practices and non-Federal entity policy; and

(4) Meet the definition of ''direct cost'' as described in the applicable cost principles.

§ 200.464 Relocation costs of employees.

(a) Relocation costs are costs incident to the permanent change of duty assignment (for an indefinite period or for a stated period of not less than 12 months) of an existing employee or upon recruitment of a new employee. Relocation costs are allowable, subject to the limitations described in paragraphs (b), (c), and (d) of this section, provided that:

(1) The move is for the benefit of the employer.

(2) Reimbursement to the employee is in accordance with an established written policy consistently followed by the employer.

(3) The reimbursement does not exceed the employee's actual (or reasonably estimated) expenses.

(b) Allowable relocation costs for current employees are limited to the following:

(1) The costs of transportation of the employee, members of his or her immediate family and his household, and personal effects to the new location.

(2) The costs of finding a new home, such as advance trips by employees and spouses to locate living quarters and temporary lodging during the transition period, up to maximum period of 30 calendar days.

(3) Closing costs, such as brokerage, legal, and appraisal fees, incident to the disposition of the employee's former home. These costs, together with those described in (4), are limited to 8 per cent of the sales price of the employee's former home.

(4) The continuing costs of ownership (for up to six months) of the vacant former home after the settlement or lease date of the employee's new permanent home, such as maintenance of buildings and grounds (exclusive of fixing-up expenses), utilities, taxes, and property insurance.

(5) Other necessary and reasonable expenses normally incident to relocation, such as the costs of canceling an unexpired lease, transportation of personal property, and purchasing insurance against loss of or damages to personal property. The cost of canceling an unexpired lease is limited to three times the monthly rental.

(c) Allowable relocation costs for new employees are limited to those described in paragraphs (b)(1) and (2) of this section. When relocation costs incurred incident to the recruitment of new employees have been allowed either as a direct or indirect cost and the employee resigns for reasons within the employee's control within 12 months after hire, the non-Federal entity must refund or credit the Federal government for its share of the cost. However, the costs of travel to an overseas location must be considered travel costs in accordance with § 200.474 Travel costs, and not this § 200.464 Relocation costs of employees, for the purpose of this paragraph if dependents are not permitted at the location for any reason and the costs do not include costs of transporting household goods.

(d) The following costs related to relocation are unallowable:

(1) Fees and other costs associated with acquiring a new home.

(2) A loss on the sale of a former home.

(3) Continuing mortgage principal and interest payments on a home being sold.

(4) Income taxes paid by an employee related to reimbursed relocation costs.

§ 200.465 Rental costs of real property and equipment.

(a) Subject to the limitations described in paragraphs (b) through (d) of this section, rental costs are allowable to the extent that the rates are reasonable in light of such factors as: rental costs of comparable property, if any; market conditions in the area; alternatives available; and the type, life expectancy, condition, and value of the property leased. Rental arrangements should be reviewed periodically to determine if circumstances have changed and other options are available.

(b) Rental costs under ''sale and lease back'' arrangements are allowable only up to the amount that would be allowed had the non-Federal entity continued to own the property. This amount would include expenses such as depreciation, maintenance, taxes, and insurance.

(c) Rental costs under ''less-than-arm's-length'' leases are allowable only up to the amount (as explained in paragraph (b) of this section). For this purpose, a less-than-arm's-length lease is one under which one party to the lease agreement is able to control or substantially influence the actions of the other. Such leases include, but are not limited to those between:

(1) Divisions of the non-Federal entity;

(2) The non-Federal entity under common control through common officers, directors, or members; and

(3) The non-Federal entity and a director, trustee, officer, or key employee of the non-Federal entity or an immediate family member, either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest. For example, the non-Federal entity may establish a separate corporation for the sole purpose of owning property and leasing it back to the non-Federal entity.

(4) Family members include one party with any of the following relationships to another party:

(i) Spouse, and parents thereof;

(ii) Children, and spouses thereof;

(iii) Parents, and spouses thereof;

(iv) Siblings, and spouses thereof;

(v) Grandparents and grandchildren, and spouses thereof;

(vi) Domestic partner and parents thereof, including domestic partners of any individual in 2 through 5 of this definition; and

(vii) Any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

(5) Rental costs under leases which are required to be treated as capital leases under GAAP are allowable only up to the amount (as explained in paragraph (b) of this section) that would be allowed had the non-Federal entity purchased the property on the date the lease agreement was executed. The provisions of GAAP must be used to determine whether a lease is a capital lease. Interest costs related to capital leases are allowable to the extent they meet the criteria in § 200.449 Interest. Unallowable costs include amounts paid for profit, management fees, and taxes that would not have been incurred had the non-Federal entity purchased the property.

(6) The rental of any property owned by any individuals or entities affiliated with the non-Federal entity, to include commercial or residential real estate, for purposes such as the home office workspace is unallowable.

§ 200.466 Scholarships and student aid costs.

(a) Costs of scholarships, fellowships, and other programs of student aid at IHEs are allowable only when the purpose of the Federal award is to provide training to selected participants and the charge is approved by the Federal awarding agency. However, tuition remission and other forms of compensation paid as, or in lieu of, wages to students performing necessary work are allowable provided that:

(1) The individual is conducting activities necessary to the Federal award;

(2) Tuition remission and other support are provided in accordance with established policy of the IHE and consistently provided in a like manner to students in return for similar activities conducted under Federal awards as well as other activities; and

(3) During the academic period, the student is enrolled in an advanced degree program at a non-Federal entity or affiliated institution and the activities of the student in relation to the Federal award are related to the degree program;

(4) The tuition or other payments are reasonable compensation for the work performed and are conditioned explicitly upon the performance of necessary work; and

(5) It is the IHE's practice to similarly compensate students under Federal awards as well as other activities.

(b) Charges for tuition remission and other forms of compensation paid to students as, or in lieu of, salaries and wages must be subject to the reporting requirements in § 200.430 Compensation—personal services, and must be treated as direct or indirect cost in accordance with the actual work being performed. Tuition remission may be charged on an average rate basis. See also § 200.431 Compensation—fringe benefits.

§ 200.467 Selling and marketing costs.

Costs of selling and marketing any products or services of the non-Federal entity (unless allowed under § 200.421 Advertising and public relations.) are unallowable, except as direct costs, with prior approval by the Federal awarding agency when necessary for the performance of the Federal award.

§ 200.468 Specialized service facilities.

(a) The costs of services provided by highly complex or specialized facilities operated by the non-Federal entity, such as computing facilities, wind tunnels, and reactors are allowable, provided the charges for the services meet the conditions of either paragraphs (b) or (c) of this section, and, in addition, take into account any items of income or Federal financing that qualify as applicable credits under § 200.406 Applicable credits.

(b) The costs of such services, when material, must be charged directly to applicable awards based on actual usage of the services on the basis of a schedule of rates or established methodology that:

(1) Does not discriminate between activities under Federal awards and other activities of the non-Federal entity, including usage by the non-Federal entity for internal purposes, and

(2) Is designed to recover only the aggregate costs of the services. The costs of each service must consist normally of both its direct costs and its allocable share of all indirect (F&A) costs. Rates must be adjusted at least biennially, and must take into consideration over/under applied costs of the previous period(s).

(c) Where the costs incurred for a service are not material, they may be allocated as indirect (F&A) costs.

(d) Under some extraordinary circumstances, where it is in the best interest of the Federal government and the non-Federal entity to establish alternative costing arrangements, such arrangements may be worked out with the Federal cognizant agency for indirect costs.

§ 200.469 Student activity costs.

Costs incurred for intramural activities, student publications, student clubs, and other student activities, are unallowable, unless specifically provided for in the Federal award.

§ 200.470 Taxes (including Value Added Tax).

(a) For states, local governments and Indian tribes:

(1) Taxes that a governmental unit is legally required to pay are allowable, except for self-assessed taxes that disproportionately affect Federal programs or changes in tax policies that disproportionately affect Federal programs.

(2) Gasoline taxes, motor vehicle fees, and other taxes that are in effect user fees for benefits provided to the Federal government are allowable.

(3) This provision does not restrict the authority of the Federal awarding agency to identify taxes where Federal participation is inappropriate. Where the identification of the amount of unallowable taxes would require an inordinate amount of effort, the cognizant agency for indirect costs may accept a reasonable approximation thereof.

(b) For nonprofit organizations and IHEs:

(1) In general, taxes which the non-Federal entity is required to pay and which are paid or accrued in accordance with GAAP, and payments made to local governments in lieu of taxes which are commensurate with the local government services received are allowable, except for:

(i) Taxes from which exemptions are available to the non-Federal entity directly or which are available to the non-Federal entity based on an exemption afforded the Federal government and, in the latter case, when the Federal awarding agency makes available the necessary exemption certificates,

(ii) Special assessments on land which represent capital improvements, and

(iii) Federal income taxes.

(2) Any refund of taxes, and any payment to the non-Federal entity of interest thereon, which were allowed as Federal award costs, will be credited either as a cost reduction or cash refund, as appropriate, to the Federal government. However, any interest actually paid or credited to an non-Federal entity incident to a refund of tax, interest, and penalty will be paid or credited to the Federal government only to the extent that such interest accrued over the period during which the non-Federal entity has been reimbursed by the Federal government for the taxes, interest, and penalties.

(c) Value Added Tax (VAT) Foreign taxes charged for the purchase of goods or services that a non-Federal entity is legally required to pay in country is an allowable expense under Federal awards. Foreign tax refunds or applicable credits under Federal awards refer to receipts, or reduction of expenditures, which operate to offset or reduce expense items that are allocable to Federal awards as direct or indirect costs. To the extent that such credits accrued or received by the non-Federal entity relate to allowable cost, these costs must be credited to the Federal awarding agency either as costs or cash refunds. If the costs are credited back to the Federal award, the non-Federal entity may reduce the Federal share of costs by the amount of the foreign tax reimbursement, or where Federal award has not expired, use the foreign government tax refund for approved activities under the Federal award with prior approval of the Federal awarding agency.

§ 200.471 Termination costs.

Termination of a Federal award generally gives rise to the incurrence of costs, or the need for special treatment of costs, which would not have arisen had the Federal award not been terminated. Cost principles covering

these items are set forth in this section. They are to be used in conjunction with the other provisions of this Part in termination situations.

(a) The cost of items reasonably usable on the non-Federal entity's other work must not be allowable unless the non-Federal entity submits evidence that it would not retain such items at cost without sustaining a loss. In deciding whether such items are reasonably usable on other work of the non-Federal entity, the Federal awarding agency should consider the non-Federal entity's plans and orders for current and scheduled activity. Contemporaneous purchases of common items by the non-Federal entity must be regarded as evidence that such items are reasonably usable on the non-Federal entity's other work. Any acceptance of common items as allocable to the terminated portion of the Federal award must be limited to the extent that the quantities of such items on hand, in transit, and on order are in excess of the reasonable quantitative requirements of other work.

(b) If in a particular case, despite all reasonable efforts by the non-Federal entity, certain costs cannot be discontinued immediately after the effective date of termination, such costs are generally allowable within the limitations set forth in this Part, except that any such costs continuing after termination due to the negligent or willful failure of the non-Federal entity to discontinue such costs must be unallowable.

(c) Loss of useful value of special tooling, machinery, and equipment is generally allowable if:

(1) Such special tooling, special machinery, or equipment is not reasonably capable of use in the other work of the non-Federal entity,

(2) The interest of the Federal government is protected by transfer of title or by other means deemed appropriate by the Federal awarding agency (see also § 200.313 Equipment, paragraph (d), and

(3) The loss of useful value for any one terminated Federal award is limited to that portion of the acquisition cost which bears the same ratio to the total acquisition cost as the terminated portion of the Federal award bears to the entire terminated Federal award and other Federal awards for which the special tooling, machinery, or equipment was acquired.

(d) Rental costs under unexpired leases are generally allowable where clearly shown to have been reasonably necessary for the performance of the terminated Federal award less the residual value of such leases, if:

(1) The amount of such rental claimed does not exceed the reasonable use value of the property leased for the period of the Federal award and such further period as may be reasonable, and

(2) The non-Federal entity makes all reasonable efforts to terminate, assign, settle, or otherwise reduce the cost of such lease. There also may be included the cost of alterations of such leased property, provided such alterations were necessary for the performance of the Federal award, and of reasonable restoration required by the provisions of the lease.

(e) Settlement expenses including the following are generally allowable:

(1) Accounting, legal, clerical, and similar costs reasonably necessary for:

(i) The preparation and presentation to the Federal awarding agency of settlement claims and supporting data with respect to the terminated portion of the Federal award, unless the termination is for cause (see Subpart D—Post Federal Award Requirements of this Part, §§ 200.338 Remedies for Noncompliance through 200.342 Effects of Suspension and termination); and

(ii) The termination and settlement of subawards.

(2) Reasonable costs for the storage, transportation, protection, and disposition of property provided by the Federal government or acquired or produced for the Federal award.

(f) Claims under subawards, including the allocable portion of claims which are common to the Federal award and to other work of the non-Federal entity, are generally allowable. An appropriate share of the non-Federal entity's indirect costs may be allocated to the amount of settlements with contractors and/or subrecipients, provided that the amount allocated is otherwise consistent with the basic guidelines contained in § 200.414 Indirect (F&A) costs. The indirect costs so allocated must exclude the same and similar costs claimed directly or indirectly as settlement expenses.

§ 200.472 Training and education costs.

The cost of training and education provided for employee development is allowable.

§ 200.473 Transportation costs.

Costs incurred for freight, express, cartage, postage, and other transportation services relating either to goods purchased, in process, or delivered, are allowable. When such costs can readily be identified with the items involved, they may be charged directly as transportation costs or added to the cost of such items. Where identification with the materials received cannot readily be made, inbound transportation cost may be charged to the appropriate indirect (F&A) cost accounts if the non-Federal entity follows a consistent, equitable procedure in this respect. Outbound freight, if reimbursable under the terms and conditions of the Federal award, should be treated as a direct cost.

§ 200.474 Travel costs.

(a) General. Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the non-Federal entity. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the non-Federal entity's non-federally-funded activities and in accordance with non-Federal entity's written travel reimbursement policies. Notwithstanding the provisions of § 200.444 General costs of government, travel costs of officials covered by that section are allowable with the prior written approval of the Federal awarding agency or pass-through entity when they are specifically related to the Federal award.

(b) Lodging and subsistence. Costs incurred by employees and officers for travel, including costs of lodging, other subsistence, and incidental expenses, must be considered reasonable and otherwise allowable only to the extent such costs do not exceed charges normally allowed by the non-Federal entity in its regular operations as the result of the non-Federal entity's written travel policy. In addition, if these costs are charged directly to the Federal award documentation must justify that:

(1) Participation of the individual is necessary to the Federal award; and

(2) The costs are reasonable and consistent with non-Federal entity's established travel policy.

(c)(1) Temporary dependent care costs (as dependent is defined in 26 U.S.C. 152) above and beyond regular dependent care that directly results from travel to conferences is allowable provided that:

(i) The costs are a direct result of the individual's travel for the Federal award;

(ii) The costs are consistent with the non-Federal entity's documented travel policy for all entity travel; and

(iii) Are only temporary during the travel period.

(2) Travel costs for dependents are unallowable, except for travel of duration of six months or more with prior approval of the Federal awarding agency. See also § 200.432 Conferences.

(3) In the absence of an acceptable, written non-Federal entity policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701–11, (''Travel and Subsistence Expenses; Mileage Allowances''), or by the Administrator of General Services, or by the President (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under Federal awards (48 CFR 31.205–46(a)).

(d) Commercial air travel.

(1) Airfare costs in excess of the basic least expensive unrestricted accommodations class offered by commercial airlines are unallowable except when such accommodations would:

(i) Require circuitous routing;

(ii) Require travel during unreasonable hours;

(iii) Excessively prolong travel;

(iv) Result in additional costs that would offset the transportation savings; or

(v) Offer accommodations not reasonably adequate for the traveler's medical needs. The non-Federal entity must justify and document these conditions on a case-by-case basis in order for the use of first-class or business-class airfare to be allowable in such cases.

(2) Unless a pattern of avoidance is detected, the Federal government will generally not question a non-Federal entity's determinations that customary standard airfare or other discount airfare is unavailable for specific trips if the non-Federal entity can demonstrate that such airfare was not available in the specific case.

(e) Air travel by other than commercial carrier. Costs of travel by non-Federal entity-owned, -leased, or -chartered aircraft include the cost of lease, charter, operation (including personnel costs), maintenance, depreciation, insurance, and other related costs. The portion of such costs that exceeds the cost of airfare as provided for in paragraph (d) of this section, is unallowable.

§ 200.475 Trustees.

Travel and subsistence costs of trustees (or directors) at IHEs and nonprofit organizations are allowable. See also § 200.474 Travel costs.

Subpart F—Audit Requirements

General

§ 200.500 Purpose.

This Part sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of non-Federal entities expending Federal awards.

Audits

§ 200.501 Audit requirements.

(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this Part.

(b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with § 200.514 Scope of audit except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.

(c) Program-specific audit election. When an auditee expends Federal awards under only one Federal program (excluding R&D) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of the auditee, the auditee may elect to have a program-specific audit conducted in accordance with § 200.507 Program-specific audits. A program-specific audit may not be elected for R&D unless all of the Federal awards expended were received from the same Federal agency, or the same Federal agency and the same pass-through entity, and that Federal agency, or pass-through entity in the case of a subrecipient, approves in advance a program-specific audit.

(d) Exemption when Federal awards expended are less than $750,000. A non-Federal entity that expends less than $750,000 during the non-Federal entity's fiscal year in Federal awards is exempt from Federal audit requirements for that year, except as noted in § 200.503 Relation to other audit requirements, but records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and Government Accountability Office (GAO).

(e) Federally Funded Research and Development Centers (FFRDC). Management of an auditee that owns or operates a FFRDC may elect to treat the FFRDC as a separate entity for purposes of this Part.

(f) Subrecipients and Contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this Part. The payments received for goods or services provided as a contractor are not Federal awards. Section § 200.330 Subrecipient and contractor determinations should be considered in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.

(g) Compliance responsibility for contractors. In most cases, the auditee's compliance responsibility for contractors is only to ensure that the procurement, receipt, and payment for goods and services comply with Federal statutes, regulations, and the terms and conditions of Federal awards. Federal award compliance requirements normally do not pass through to contractors. However, the auditee is responsible for ensuring compliance for procurement transactions which are structured such that the contractor is responsible for program compliance or the contractor's records must be reviewed to determine program compliance. Also, when these procurement transactions relate to a major program, the scope of the audit must include determining whether these transactions are in compliance with Federal statutes, regulations, and the terms and conditions of Federal awards.

(h) For-profit subrecipient. Since this Part does not apply to for-profit subrecipients, the pass-through entity is responsible for establishing requirements, as necessary, to ensure compliance by for-profit subrecipients. The agreement with the for-profit subrecipient should describe applicable compliance requirements and the for-profit subrecipient's compliance responsibility. Methods to ensure compliance for Federal awards made to for-profit subrecipients may include pre-award audits, monitoring during the agreement, and post-award audits. See also § 200.331 Requirements for pass-through entities.

§ 200.502 Basis for determining Federal awards expended.

(a) Determining Federal awards expended. The determination of when a Federal award is expended should be based on when the activity related to the Federal award occurs. Generally, the activity pertains to events that require the non-Federal entity to comply with Federal statutes, regulations, and the terms and conditions of Federal awards, such as: expenditure/expense transactions associated with awards

including grants, cost-reimbursement contracts under the FAR, compacts with Indian Tribes, cooperative agreements, and direct appropriations; the disbursement of funds to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income; the distribution or use of food commodities; the disbursement of amounts entitling the non-Federal entity to an interest subsidy; and the period when insurance is in force.

(b) Loan and loan guarantees (loans). Since the Federal government is at risk for loans until the debt is repaid, the following guidelines must be used to calculate the value of Federal awards expended under loan programs, except as noted in paragraphs (c) and (d) of this section:

(1) Value of new loans made or received during the audit period; plus

(2) Beginning of the audit period balance of loans from previous years for which the Federal government imposes continuing compliance requirements; plus

(3) Any interest subsidy, cash, or administrative cost allowance received.

(c) Loan and loan guarantees (loans) at IHEs. When loans are made to students of an IHE but the IHE does not make the loans, then only the value of loans made during the audit period must be considered Federal awards expended in that audit period. The balance of loans for previous audit periods is not included as Federal awards expended because the lender accounts for the prior balances.

(d) Prior loan and loan guarantees (loans). Loans, the proceeds of which were received and expended in prior years, are not considered Federal awards expended under this Part when the Federal statutes, regulations, and the terms and conditions of Federal awards pertaining to such loans impose no continuing compliance requirements other than to repay the loans.

(e) Endowment funds. The cumulative balance of Federal awards for endowment funds that are federally restricted are considered Federal awards expended in each audit period in which the funds are still restricted.

(f) Free rent. Free rent received by itself is not considered a Federal award expended under this Part. However, free rent received as part of a Federal award to carry out a Federal program must be included in determining Federal awards expended and subject to audit under this Part.

(g) Valuing non-cash assistance. Federal non-cash assistance, such as free rent, food commodities, donated property, or donated surplus property, must be valued at fair market value at the time of receipt or the assessed value provided by the Federal agency.

(h) Medicare. Medicare payments to a non-Federal entity for providing patient care services to Medicare-eligible individuals are not considered Federal awards expended under this Part.

(i) Medicaid. Medicaid payments to a subrecipient for providing patient care services to Medicaid-eligible individuals are not considered Federal awards expended under this Part unless a state requires the funds to be treated as Federal awards expended because reimbursement is on a cost-reimbursement basis.

(j) Certain loans provided by the National Credit Union Administration. For purposes of this Part, loans made from the National Credit Union Share Insurance Fund and the Central Liquidity Facility that are funded by contributions from insured non-Federal entities are not considered Federal awards expended.

§ 200.503 Relation to other audit requirements.

(a) An audit conducted in accordance with this Part must be in lieu of any financial audit of Federal awards which a non-Federal entity is required to undergo under any other Federal statute or regulation. To the extent that such audit provides a Federal agency with the information it requires to carry out its responsibilities under Federal statute or regulation, a Federal agency must rely upon and use that information.

(b) Notwithstanding subsection (a), a Federal agency, Inspectors General, or GAO may conduct or arrange for additional audits which are necessary to carry out its responsibilities under Federal statute or regulation. The provisions of this Part do not authorize any non-Federal entity to constrain, in any manner, such Federal agency from carrying out or arranging for such additional audits, except that the Federal agency must plan such audits to not be duplicative of other audits of Federal awards. Prior to commencing such an audit, the Federal agency or pass-through entity must review the FAC for recent audits submitted by the non-Federal entity, and to the extent such audits meet a Federal agency or pass-through entity's needs, the Federal agency or pass-through entity must rely upon and use such audits. Any additional audits must be planned and performed in such a way as to build upon work performed, including the audit documentation, sampling, and testing already performed, by other auditors.

(c) The provisions of this Part do not limit the authority of Federal agencies to conduct, or arrange for the conduct of, audits and evaluations of Federal awards, nor limit the authority of any Federal agency Inspector General or other Federal official. For example, requirements that may be applicable under the FAR or CAS and the terms and conditions of a cost-reimbursement contract may include additional applicable audits to be conducted or arranged for by Federal agencies.

(d) Federal agency to pay for additional audits. A Federal agency that conducts or arranges for additional audits must, consistent with other applicable Federal statutes and regulations, arrange for funding the full cost of such additional audits.

(e) Request for a program to be audited as a major program. A Federal awarding agency may request that an auditee have a particular Federal program audited as a major program in lieu of the Federal awarding agency conducting or arranging for the additional audits. To allow for planning, such requests should be made at least 180 calendar days prior to the end of the fiscal year to be audited. The auditee, after consultation with its auditor, should promptly respond to such a request by informing the Federal awarding agency whether the program would otherwise be audited as a major program using the risk-based audit approach described in § 200.518 Major program determination and, if not, the estimated incremental cost. The Federal awarding agency must then promptly confirm to the auditee whether it wants the program audited as a major program. If the program is to be audited as a major program based upon this Federal awarding agency request, and the Federal awarding agency agrees to pay the full incremental costs, then the auditee must have the program audited as a major program. A pass-through entity may use the provisions of this paragraph for a subrecipient.

§ 200.504 Frequency of audits.

Except for the provisions for biennial audits provided in paragraphs (a) and (b) of this section, audits required by this Part must be performed annually. Any biennial audit must cover both years within the biennial period.

(a) A state, local government, or Indian tribe that is required by constitution or statute, in effect on January 1, 1987, to undergo its audits less frequently than annually, is permitted to undergo its audits pursuant to this Part biennially. This requirement must still be in effect for the biennial period.

(b) Any nonprofit organization that had biennial audits for all biennial periods ending between July 1, 1992, and January 1, 1995, is permitted to undergo its audits pursuant to this Part biennially.

§ 200.505 Sanctions.

In cases of continued inability or unwillingness to have an audit conducted in accordance with this Part, Federal agencies and pass-through entities must take appropriate action as provided in § 200.338 Remedies for noncompliance.

§ 200.506 Audit costs.

See § 200.425 Audit services.

§ 200.507 Program-specific audits.

(a) Program-specific audit guide available. In many cases, a program-specific audit guide will be available to provide specific guidance to the auditor with respect to internal controls, compliance requirements, suggested audit procedures, and audit reporting requirements. A listing of current program-specific audit guides can be found in the compliance supplement beginning with the 2014 supplement including Federal awarding agency contact information and a Web site where a copy of the guide can be obtained. When a current program-specific audit guide is available, the auditor must follow GAGAS and the guide when performing a program-specific audit.

(b) Program-specific audit guide not available.

(1) When a program-specific audit guide is not available, the auditee and auditor must have basically the same responsibilities for the Federal program as they would have for an audit of a major program in a single audit.

(2) The auditee must prepare the financial statement(s) for the Federal program that includes, at a minimum, a schedule of expenditures of Federal awards for the program and notes that describe the significant accounting policies used in preparing the schedule, a summary schedule of prior audit findings consistent with the requirements of § 200.511 Audit findings follow-up, paragraph (b), and a corrective action plan consistent with the requirements of § 200.511 Audit findings follow-up, paragraph (c).

(3) The auditor must:

(i) Perform an audit of the financial statement(s) for the Federal program in accordance with GAGAS;

(ii) Obtain an understanding of internal controls and perform tests of internal controls over the Federal program consistent with the requirements of § 200.514 Scope of audit, paragraph (c) for a major program;

(iii) Perform procedures to determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that could have a direct and material effect on the Federal program consistent with the requirements of § 200.514 Scope of audit, paragraph (d) for a major program;

(iv) Follow up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with the requirements of § 200.511 Audit findings follow-up, and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding; and

(v) Report any audit findings consistent with the requirements of § 200.516 Audit findings.

(4) The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with this Part and include the following:

(i) An opinion (or disclaimer of opinion) as to whether the financial statement(s) of the Federal program is presented fairly in all material respects in accordance with the stated accounting policies;

(ii) A report on internal control related to the Federal program, which must describe the scope of testing of internal control and the results of the tests;

(iii) A report on compliance which includes an opinion (or disclaimer of opinion) as to whether the auditee complied with laws, regulations, and the terms and conditions of Federal awards which could have a direct and material effect on the Federal program; and

(iv) A schedule of findings and questioned costs for the Federal program that includes a summary of the auditor's results relative to the Federal program in a format consistent with § 200.515 Audit reporting, paragraph (d)(1) and findings and questioned costs consistent with the requirements of § 200.515 Audit reporting, paragraph (d)(3).

(c) Report submission for program-specific audits.

(1) The audit must be completed and the reporting required by paragraph (c)(2) or (c)(3) of this section submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period, unless a different period is specified in a program-specific audit guide. Unless restricted by Federal law or regulation, the auditee must make report copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

(2) When a program-specific audit guide is available, the auditee must electronically submit to the FAC the data collection form prepared in accordance with § 200.512 Report submission, paragraph (b), as applicable to a program-specific audit, and the reporting required by the program-specific audit guide.

(3) When a program-specific audit guide is not available, the reporting package for a program-specific audit must consist of the financial statement(s) of the Federal program, a summary schedule of prior audit findings, and a corrective action plan as described in paragraph (b)(2) of this section, and the auditor's report(s) described in paragraph (b)(4) of this section. The data collection form prepared in accordance with § 200.512 Report submission, paragraph (b), as applicable to a program-specific audit, and one copy of this reporting package must be electronically submitted to the FAC.

(d) Other sections of this Part may apply. Program-specific audits are subject to:

(1) 200.500 Purpose through 200.503 Relation to other audit requirements, paragraph (d);

(2) 200.504 Frequency of audits through 200.506 Audit costs;

(3) 200.508 Auditee responsibilities through 200.509 Auditor selection;

(4) 200.511 Audit findings follow-up;

(5) 200.512 Report submission, paragraphs (e) through (h);

(6) 200.513 Responsibilities;

(7) 200.516 Audit findings through 200.517 Audit documentation;

(8) 200.521 Management decision, and

(9) Other referenced provisions of this Part unless contrary to the provisions of this section, a program-specific audit guide, or program statutes and regulations.

Auditees

§ 200.508 Auditee responsibilities.

The auditee must:

(a) Procure or otherwise arrange for the audit required by this Part in accordance with § 200.509 Auditor

selection, and ensure it is properly performed and submitted when due in accordance with § 200.512 Report submission.

(b) Prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with § 200.510 Financial statements.

(c) Promptly follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with § 200.511 Audit findings follow-up, paragraph (b) and § 200.511 Audit findings follow-up, paragraph (c), respectively.

(d) Provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by this Part.

§ 200.509 Auditor selection.

(a) Auditor procurement. In procuring audit services, the auditee must follow the procurement standards prescribed by the Procurement Standards in §§ 200.317 Procurement by states through 20.326 Contract provisions of Subpart D- Post Federal Award Requirements of this Part or the FAR (48 CFR Part 42), as applicable. When procuring audit services, the objective is to obtain high-quality audits. In requesting proposals for audit services, the objectives and scope of the audit must be made clear and the non-Federal entity must request a copy of the audit organization's peer review report which the auditor is required to provide under GAGAS. Factors to be considered in evaluating each proposal for audit services include the responsiveness to the request for proposal, relevant experience, availability of staff with professional qualifications and technical abilities, the results of peer and external quality control reviews, and price. Whenever possible, the auditee must make positive efforts to utilize small businesses, minority-owned firms, and women's business enterprises, in procuring audit services as stated in § 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms, or the FAR (48 CFR Part 42), as applicable.

(b) Restriction on auditor preparing indirect cost proposals. An auditor who prepares the indirect cost proposal or cost allocation plan may not also be selected to perform the audit required by this Part when the indirect costs recovered by the auditee during the prior year exceeded $1 million. This restriction applies to the base year used in the preparation of the indirect cost proposal or cost allocation plan and any subsequent years in which the resulting indirect cost agreement or cost allocation plan is used to recover costs.

(c) Use of Federal auditors. Federal auditors may perform all or part of the work required under this Part if they comply fully with the requirements of this Part.

§ 200.510 Financial statements.

(a) Financial statements. The auditee must prepare financial statements that reflect its financial position, results of operations or changes in net assets, and, where appropriate, cash flows for the fiscal year audited. The financial statements must be for the same organizational unit and fiscal year that is chosen to meet the requirements of this Part. However, non-Federal entity-wide financial statements may also include departments, agencies, and other organizational units that have separate audits in accordance with § 200.514 Scope of audit, paragraph (a) and prepare separate financial statements.

(b) Schedule of expenditures of Federal awards. The auditee must also prepare a schedule of expenditures of Federal awards for the period covered by the auditee's financial statements which must include the total Federal awards expended as determined in accordance with § 200.502 Basis for determining Federal awards expended. While not required, the auditee may choose to provide information requested by Federal awarding agencies and pass-through entities to make the schedule easier to use. For example, when a Federal program has multiple Federal award years, the auditee may list the amount of Federal awards expended for each Federal award year separately. At a minimum, the schedule must:

(1) List individual Federal programs by Federal agency. For a cluster of programs, provide the cluster name, list individual Federal programs within the cluster of programs, and provide the applicable Federal agency name. For R&D, total Federal awards expended must be shown either by individual Federal award or by Federal agency and major subdivision within the Federal agency. For example, the National Institutes of Health is a major subdivision in the Department of Health and Human Services.

(2) For Federal awards received as a subrecipient, the name of the pass-through entity and identifying number assigned by the pass-through entity must be included.

(3) Provide total Federal awards expended for each individual Federal program and the CFDA number or other identifying number when the CFDA information is not available. For a cluster of programs also provide the total for the cluster.

(4) Include the total amount provided to subrecipients from each Federal program.

(5) For loan or loan guarantee programs described in § 200.502 Basis for determining Federal awards expended, paragraph (b), identify in the notes to the schedule the balances outstanding at the end of the audit period. This is in addition to including the total Federal awards expended for loan or loan guarantee programs in the schedule.

(6) Include notes that describe that significant accounting policies used in preparing the schedule, and note whether or not the non-Federal entity elected to use the 10% de minimis cost rate as covered in § 200.414 Indirect (F&A) costs.

§ 200.511 Audit findings follow-up.

(a) General. The auditee is responsible for follow-up and corrective action on all audit findings. As part of this responsibility, the auditee must prepare a summary schedule of prior audit findings. The auditee must also prepare a corrective action plan for current year audit findings. The summary schedule of prior audit findings and the corrective action plan must include the reference numbers the auditor assigns to audit findings under § 200.516 Audit findings, paragraph (c). Since the summary schedule may include audit findings from multiple years, it must include the fiscal year in which the finding initially occurred. The corrective action plan and summary schedule of prior audit findings must include findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(b) Summary schedule of prior audit findings. The summary schedule of prior audit findings must report the status of all audit findings included in the prior audit's schedule of findings and questioned costs. The summary schedule must also include audit findings reported in the prior audit's summary schedule of prior audit findings except audit findings listed as corrected in accordance with paragraph (b)(1) of this section, or no longer valid or not warranting further action in accordance with paragraph (b)(3) of this section.

(1) When audit findings were fully corrected, the summary schedule need only list the audit findings and state that corrective action was taken.

(2) When audit findings were not corrected or were only partially corrected, the summary schedule must describe the reasons for the finding's recurrence and planned corrective action, and any partial corrective action taken. When corrective action taken is significantly different from corrective action previously reported in a corrective action plan or in the Federal agency's or pass-through entity's management decision, the summary schedule must provide an explanation.

(3) When the auditee believes the audit findings are no longer valid or do not warrant further action, the reasons for this position must be described in the summary schedule. A valid reason for considering an audit finding as not warranting further action is that all of the following have occurred:

(i) Two years have passed since the audit report in which the finding occurred was submitted to the FAC;

(ii) The Federal agency or pass-through entity is not currently following up with the auditee on the audit finding; and

(iii) A management decision was not issued.

(c) Corrective action plan. At the completion of the audit, the auditee must prepare, in a document separate from the auditor's findings described in § 200.516 Audit findings, a corrective action plan to address each audit finding included in the current year auditor's reports. The corrective action plan must provide the name(s) of the contact person(s) responsible for corrective action, the corrective action planned, and the anticipated completion date. If the auditee does not agree with the audit findings or believes corrective action is not required, then the corrective action plan must include an explanation and specific reasons.

§ 200.512 Report submission.

(a) General. (1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

(2) Unless restricted by Federal statutes or regulations, the auditee must make copies available for public inspection. Auditees and auditors must ensure that their respective parts of the reporting package do not include protected personally identifiable information.

(b) Data Collection. The FAC is the repository of record for Subpart F—Audit Requirements of this Part reporting packages and the data collection form. All Federal agencies, pass-through entities and others interested in a reporting package and data collection form must obtain it by accessing the FAC.

(1) The auditee must submit required data elements described in Appendix X to Part 200—Data Collection Form (Form SF–SAC), which state whether the audit was completed in accordance with this Part and provides information about the auditee, its Federal programs, and the results of the audit. The data must include information available from the audit required by this Part that is necessary for Federal agencies to use the audit to ensure integrity for Federal programs. The data elements and format must be approved by OMB, available from the FAC, and include collections of information from the reporting package described in paragraph (c) of this section. A senior level representative of the auditee (e.g., state controller, director of finance, chief executive officer, or chief financial officer) must sign a statement to be included as part of the data collection that says that the auditee complied with the requirements of this Part, the data were prepared in accordance with this Part (and the instructions accompanying the form), the reporting package does not include protected personally identifiable information, the information included in its entirety is accurate and complete, and that the FAC is authorized to make the reporting package and the form publicly available on a Web site.

(2) Exception for Indian Tribes. An auditee that is an Indian tribe may opt not to authorize the FAC to make the reporting package publicly available on a Web site, by excluding the authorization for the FAC publication in the statement described in paragraph (b)(1) of this section. If this option is exercised, the auditee becomes responsible for submitting the reporting package directly to any pass-through entities through which it has received a Federal award and to pass-through entities for which the summary schedule of prior audit findings reported the status of any findings related to Federal awards that the pass-through entity provided. Unless restricted by Federal statute or regulation, if the auditee opts not to authorize publication, it must make copies of the reporting package available for public inspection.

(3) Using the information included in the reporting package described in paragraph (c) of this section, the auditor must complete the applicable data elements of the data collection form. The auditor must sign a statement to be included as part of the data collection form that indicates, at a minimum, the source of the information included in the form, the auditor's responsibility for the information, that the form is not a substitute for the reporting package described in paragraph (c) of this section, and that the content of the form is limited to the collection of information prescribed by OMB.

(c) Reporting package. The reporting package must include the:

(1) Financial statements and schedule of expenditures of Federal awards discussed in § 200.510 Financial statements, paragraphs (a) and (b), respectively;

(2) Summary schedule of prior audit findings discussed in § 200.511 Audit findings follow-up, paragraph (b);

(3) Auditor's report(s) discussed in § 200.515 Audit reporting; and

(4) Corrective action plan discussed in § 200.511 Audit findings follow-up, paragraph (c).

(d) Submission to FAC. The auditee must electronically submit to the FAC the data collection form described in paragraph (b) of this section and the reporting package described in paragraph (c) of this section.

(e) Requests for management letters issued by the auditor. In response to requests by a Federal agency or pass-through entity, auditees must submit a copy of any management letters issued by the auditor.

(f) Report retention requirements. Auditees must keep one copy of the data collection form described in paragraph (b) of this section and one copy of the reporting package described in paragraph (c) of this section on file for three years from the date of submission to the FAC.

(g) FAC responsibilities. The FAC must make available the reporting packages received in accordance with paragraph (c) of this section and § 200.507 Program-specific audits, paragraph (c) to the public, except for Indian tribes exercising the option in (b)(2) of this section, and maintain a data base of completed audits, provide appropriate information to Federal agencies, and follow up with known auditees that have not submitted the required data collection forms and reporting packages.

(h) Electronic filing. Nothing in this Part must preclude electronic submissions to the FAC in such manner as may be approved by OMB.

Federal Agencies

§ 200.513 Responsibilities.

(a)(1) Cognizant agency for audit responsibilities. A non-Federal entity expending more than $50 million a year in Federal awards must have a cognizant agency for audit. The designated cognizant agency for audit must be the Federal awarding agency that provides the predominant amount of direct funding to a non-Federal entity unless OMB designates a specific cognizant agency for audit.

(2) To provide for continuity of cognizance, the determination of the predominant amount of direct funding must be based upon direct Federal awards expended in the non-Federal entity's fiscal years ending in 2009, 2014, 2019 and every fifth year thereafter. For example, audit cognizance for periods ending in 2011 through 2015 will be determined based on Federal awards expended in 2009.

(3) Notwithstanding the manner in which audit cognizance is determined, a Federal awarding agency with cognizance for an auditee may reassign cognizance to another Federal awarding agency that provides substantial funding and agrees to be the cognizant agency for audit. Within 30 calendar days after any reassignment, both the old and the new cognizant agency for audit must provide notice of the change to the FAC, the auditee, and, if known, the auditor. The cognizant agency for audit must:

(i) Provide technical audit advice and liaison assistance to auditees and auditors.

(ii) Obtain or conduct quality control reviews on selected audits made by non-Federal auditors, and provide the results to other interested organizations. Cooperate and provide support to the Federal agency designated by OMB to lead a governmentwide project to determine the quality of single audits by providing a statistically reliable estimate of the extent that single audits conform to applicable requirements, standards, and procedures; and to make recommendations to address noted audit quality issues, including recommendations for any changes to applicable requirements, standards and procedures indicated by the results of the project. This governmentwide audit quality project must be performed once every 6 years beginning in 2018 or at such other interval as determined by OMB, and the results must be public.

(iii) Promptly inform other affected Federal agencies and appropriate Federal law enforcement officials of any direct reporting by the auditee or its auditor required by GAGAS or statutes and regulations.

(iv) Advise the community of independent auditors of any noteworthy or important factual trends related to the quality of audits stemming from quality control reviews. Significant problems or quality issues consistently identified through quality control reviews of audit reports must be referred to appropriate state licensing agencies and professional bodies.

(v) Advise the auditor, Federal awarding agencies, and, where appropriate, the auditee of any deficiencies found in the audits when the deficiencies require corrective action by the auditor. When advised of deficiencies, the auditee must work with the auditor to take corrective action. If corrective action is not taken, the cognizant agency for audit must notify the auditor, the auditee, and applicable Federal awarding agencies and pass-through entities of the facts and make recommendations for follow-up action. Major inadequacies or repetitive substandard performance by auditors must be referred to appropriate state licensing agencies and professional bodies for disciplinary action.

(vi) Coordinate, to the extent practical, audits or reviews made by or for Federal agencies that are in addition to the audits made pursuant to this Part, so that the additional audits or reviews build upon rather than duplicate audits performed in accordance with this Part.

(vii) Coordinate a management decision for cross-cutting audit findings (as defined in § 200.30 Cross-cutting audit finding) that affect the Federal programs of more than one agency when requested by any Federal awarding agency whose awards are included in the audit finding of the auditee.

(viii) Coordinate the audit work and reporting responsibilities among auditors to achieve the most cost-effective audit.

(ix) Provide advice to auditees as to how to handle changes in fiscal years.

(b) Oversight agency for audit responsibilities. An auditee who does not have a designated cognizant agency for audit will be under the general oversight of the Federal agency determined in accordance with § 200.73 Oversight agency for audit. A Federal agency with oversight for an auditee may reassign oversight to another Federal agency that agrees to be the oversight agency for audit. Within 30 calendar days after any reassignment, both the old and the new oversight agency for audit must provide notice of the change to the FAC, the auditee, and, if known, the auditor. The oversight agency for audit:

(1) Must provide technical advice to auditees and auditors as requested.

(2) May assume all or some of the responsibilities normally performed by a cognizant agency for audit.

(c) Federal awarding agency responsibilities. The Federal awarding agency must perform the following for the Federal awards it makes (See also the requirements of § 200.210 Information contained in a Federal award):

(1) Ensure that audits are completed and reports are received in a timely manner and in accordance with the requirements of this Part.

(2) Provide technical advice and counsel to auditees and auditors as requested.

(3) Follow-up on audit findings to ensure that the recipient takes appropriate and timely corrective action. As part of audit follow-up, the Federal awarding agency must:

(i) Issue a management decision as prescribed in § 200.521 Management decision;

(ii) Monitor the recipient taking appropriate and timely corrective action;

(iii) Use cooperative audit resolution mechanisms (see § 200.25 Cooperative audit resolution) to improve Federal program outcomes through better audit resolution, follow-up, and corrective action; and

(iv) Develop a baseline, metrics, and targets to track, over time, the effectiveness of the Federal agency's process to follow-up on audit findings and on the effectiveness of Single Audits in improving non-Federal entity accountability and their use by Federal awarding agencies in making award decisions.

(4) Provide OMB annual updates to the compliance supplement and work with OMB to ensure that the compliance supplement focuses the auditor to test the compliance requirements most likely to cause improper payments, fraud, waste, abuse or generate audit finding for which the Federal awarding agency will take sanctions.

(5) Provide OMB with the name of a single audit accountable official from among the senior policy officials of the Federal awarding agency who must be:

(i) Responsible for ensuring that the agency fulfills all the requirement of § 200.513 Responsibilities and effectively uses the single audit process to reduce improper payments and improve Federal program outcomes.

(ii) Held accountable to improve the effectiveness of the single audit process based upon metrics as described in paragraph (c)(3)(iv) of this section.

(iii) Responsible for designating the Federal agency's key management single audit liaison.

(6) Provide OMB with the name of a key management single audit liaison who must:

(i) Serve as the Federal awarding agency's management point of contact for the single audit process both within and outside the Federal government.

(ii) Promote interagency coordination, consistency, and sharing in areas such as coordinating audit follow-up; identifying higher-risk non-Federal entities; providing input on single audit and follow-up policy; enhancing the utility of the FAC; and studying ways to use single audit results to improve Federal award accountability and best practices.

(iii) Oversee training for the Federal awarding agency's program management personnel related to the single audit process.

(iv) Promote the Federal awarding agency's use of cooperative audit resolution mechanisms.

(v) Coordinate the Federal awarding agency's activities to ensure appropriate and timely follow-up and corrective action on audit findings.

(vi) Organize the Federal cognizant agency for audit's follow-up on cross-cutting audit findings that affect the Federal programs of more than one Federal awarding agency.

(vii) Ensure the Federal awarding agency provides annual updates of the compliance supplement to OMB.

(viii) Support the Federal awarding agency's single audit accountable official's mission.

Auditors

§ 200.514 Scope of audit.

(a) General. The audit must be conducted in accordance with GAGAS. The audit must cover the entire operations of the auditee, or, at the option of the auditee, such audit must include a series of audits that cover departments, agencies, and other organizational units that expended or otherwise administered Federal awards during such audit period, provided that each such audit must encompass the financial statements and schedule of expenditures of Federal awards for each such department, agency, and other organizational unit, which must be considered to be a non-Federal entity. The financial statements and schedule of expenditures of Federal awards must be for the same audit period.

(b) Financial statements. The auditor must determine whether the financial statements of the auditee are presented fairly in all material respects in accordance with generally accepted accounting principles. The auditor must also determine whether the schedule of expenditures of Federal awards is stated fairly in all material respects in relation to the auditee's financial statements as a whole.

(c) Internal control.

(1) The compliance supplement provides guidance on internal controls over Federal programs based upon the guidance in Standards for Internal Control in the Federal Government issued by the Comptroller General of the United States and the Internal Control—Integrated Framework, issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

(2) In addition to the requirements of GAGAS, the auditor must perform procedures to obtain an understanding of internal control over Federal programs sufficient to plan the audit to support a low assessed level of control risk of noncompliance for major programs.

(3) Except as provided in paragraph (c)(4) of this section, the auditor must:

(i) Plan the testing of internal control over compliance for major programs to support a low assessed level of control risk for the assertions relevant to the compliance requirements for each major program; and

(ii) Perform testing of internal control as planned in paragraph (c)(3)(i) of this section.

(4) When internal control over some or all of the compliance requirements for a major program are likely to be ineffective in preventing or detecting noncompliance, the planning and performing of testing described in paragraph (c)(3) of this section are not required for those compliance requirements. However, the auditor must report a significant deficiency or material weakness in accordance with § 200.516 Audit findings, assess the related control risk at the maximum, and consider whether additional compliance tests are required because of ineffective internal control.

(d) Compliance.

(1) In addition to the requirements of GAGAS, the auditor must determine whether the auditee has complied with Federal statutes, regulations, and the terms and conditions of Federal awards that may have a direct and material effect on each of its major programs.

(2) The principal compliance requirements applicable to most Federal programs and the compliance requirements of the largest Federal programs are included in the compliance supplement.

(3) For the compliance requirements related to Federal programs contained in the compliance supplement, an audit of these compliance requirements will meet the requirements of this Part. Where there have been changes to the compliance requirements and the changes are not reflected in the compliance supplement, the auditor must determine the current compliance requirements and modify the audit procedures accordingly. For those Federal programs not covered in the compliance supplement, the auditor should follow the compliance supplement's guidance for programs not included in the supplement.

(4) The compliance testing must include tests of transactions and such other auditing procedures necessary to provide the auditor sufficient appropriate audit evidence to support an opinion on compliance.

(e) Audit follow-up. The auditor must follow-up on prior audit findings, perform procedures to assess the reasonableness of the summary schedule of prior audit findings prepared by the auditee in accordance with § 200.511 Audit findings follow-up paragraph (b), and report, as a current year audit finding, when the auditor concludes that the summary schedule of prior audit findings materially misrepresents the status of any prior audit finding. The auditor must perform audit follow-up procedures regardless of whether a prior audit finding relates to a major program in the current year.

(f) Data Collection Form. As required in § 200.512 Report submission paragraph (b)(3), the auditor must complete and sign specified sections of the data collection form.

§ 200.515 Audit reporting.

The auditor's report(s) may be in the form of either combined or separate reports and may be organized differently from the manner presented in this section. The auditor's report(s) must state that the audit was conducted in accordance with this Part and include the following:

(a) An opinion (or disclaimer of opinion) as to whether the financial statements are presented fairly in all material respects in accordance with generally accepted accounting principles and an opinion (or disclaimer of opinion) as to whether the schedule of expenditures of Federal awards is fairly stated in all material respects in relation to the financial statements as a whole.

(b) A report on internal control over financial reporting and compliance with Federal statutes, regulations, and the terms and conditions of the Federal award, noncompliance with which could have a material effect on the financial statements. This report must describe the scope of testing of internal control and compliance and the results

of the tests, and, where applicable, it will refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(c) A report on compliance for each major program and report and internal control over compliance. This report must describe the scope of testing of internal control over compliance, include an opinion or modified opinion as to whether the auditee complied with Federal statutes, regulations, and the terms and conditions of Federal awards which could have a direct and material effect on each major program and refer to the separate schedule of findings and questioned costs described in paragraph (d) of this section.

(d) A schedule of findings and questioned costs which must include the following three components:

(1) A summary of the auditor's results, which must include:

(i) The type of report the auditor issued on whether the financial statements audited were prepared in accordance with GAAP (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(ii) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control were disclosed by the audit of the financial statements;

(iii) A statement as to whether the audit disclosed any noncompliance that is material to the financial statements of the auditee;

(iv) Where applicable, a statement about whether significant deficiencies or material weaknesses in internal control over major programs were disclosed by the audit;

(v) The type of report the auditor issued on compliance for major programs (i.e., unmodified opinion, qualified opinion, adverse opinion, or disclaimer of opinion);

(vi) A statement as to whether the audit disclosed any audit findings that the auditor is required to report under § 200.516 Audit findings paragraph (a);

(vii) An identification of major programs by listing each individual major program; however in the case of a cluster of programs only the cluster name as shown on the Schedule of Expenditures of Federal Awards is required;

(viii) The dollar threshold used to distinguish between Type A and Type B programs, as described in § 200.518 Major program determination paragraph (b)(1), or (b)(3) when a recalculation of the Type A threshold is required for large loan or loan guarantees; and

(ix) A statement as to whether the auditee qualified as a low-risk auditee under § 200.520 Criteria for a low-risk auditee.

(2) Findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(3) Findings and questioned costs for Federal awards which must include audit findings as defined in § 200.516 Audit findings, paragraph (a).

(i) Audit findings (e.g., internal control findings, compliance findings, questioned costs, or fraud) that relate to the same issue should be presented as a single audit finding. Where practical, audit findings should be organized by Federal agency or pass-through entity.

(ii) Audit findings that relate to both the financial statements and Federal awards, as reported under paragraphs (d)(2) and (d)(3) of this section, respectively, should be reported in both sections of the schedule. However, the reporting in one section of the schedule may be in summary form with a reference to a detailed reporting in the other section of the schedule.

(e) Nothing in this Part precludes combining of the audit reporting required by this section with the reporting required by § 200.512 Report submission, paragraph (b) Data Collection when allowed by GAGAS and Appendix X to Part 200—Data Collection Form (Form SF–SAC).

§ 200.516 Audit findings.

(a) Audit findings reported. The auditor must report the following as audit findings in a schedule of findings and questioned costs:

(1) Significant deficiencies and material weaknesses in internal control over major programs and significant instances of abuse relating to major programs. The auditor's determination of whether a deficiency in internal control is a significant deficiency or material weakness for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the Compliance Supplement.

(2) Material noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards related to a major program. The auditor's determination of whether a noncompliance with the provisions of Federal statutes, regulations, or the terms and conditions of Federal awards is material for the purpose of reporting an audit finding is in relation to a type of compliance requirement for a major program identified in the compliance supplement.

(3) Known questioned costs that are greater than $25,000 for a type of compliance requirement for a major program. Known questioned costs are those specifically identified by the auditor. In evaluating the effect of questioned costs on the opinion on compliance, the auditor considers the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The auditor must also report known questioned costs when likely questioned costs are greater than $25,000 for a type of compliance requirement for a major program. In reporting questioned costs, the auditor must include information to provide proper perspective for judging the prevalence and consequences of the questioned costs.

(4) Known questioned costs that are greater than $25,000 for a Federal program which is not audited as a major program. Except for audit follow-up, the auditor is not required under this Part to perform audit procedures for such a Federal program; therefore, the auditor will normally not find questioned costs for a program that is not audited as a major program. However, if the auditor does become aware of questioned costs for a Federal program that is not audited as a major program (e.g., as part of audit follow-up or other audit procedures) and the known questioned costs are greater than $25,000, then the auditor must report this as an audit finding.

(5) The circumstances concerning why the auditor's report on compliance for each major program is other than an unmodified opinion, unless such circumstances are otherwise reported as audit findings in the schedule of findings and questioned costs for Federal awards.

(6) Known or likely fraud affecting a Federal award, unless such fraud is otherwise reported as an audit finding in the schedule of findings and questioned costs for Federal awards. This paragraph does not require the auditor to report publicly information which could compromise investigative or legal proceedings or to make an additional reporting when the auditor confirms that the fraud was reported outside the auditor's reports under the direct reporting requirements of GAGAS.

(7) Instances where the results of audit follow-up procedures disclosed that the summary schedule of prior audit findings prepared by the auditee in accordance with § 200.511 Audit findings follow-up, paragraph (b) materially misrepresents the status of any prior audit finding.

(b) Audit finding detail and clarity. Audit findings must be presented in sufficient detail and clarity for the auditee to prepare a corrective action

plan and take corrective action, and for Federal agencies and pass-through entities to arrive at a management decision. The following specific information must be included, as applicable, in audit findings:

(1) Federal program and specific Federal award identification including the CFDA title and number, Federal award identification number and year, name of Federal agency, and name of the applicable pass-through entity. When information, such as the CFDA title and number or Federal award identification number, is not available, the auditor must provide the best information available to describe the Federal award.

(2) The criteria or specific requirement upon which the audit finding is based, including the Federal statutes, regulations, or the terms and conditions of the Federal awards. Criteria generally identify the required or desired state or expectation with respect to the program or operation. Criteria provide a context for evaluating evidence and understanding findings.

(3) The condition found, including facts that support the deficiency identified in the audit finding.

(4) A statement of cause that identifies the reason or explanation for the condition or the factors responsible for the difference between the situation that exists (condition) and the required or desired state (criteria), which may also serve as a basis for recommendations for corrective action.

(5) The possible asserted effect to provide sufficient information to the auditee and Federal agency, or pass-through entity in the case of a subrecipient, to permit them to determine the cause and effect to facilitate prompt and proper corrective action. A statement of the effect or potential effect should provide a clear, logical link to establish the impact or potential impact of the difference between the condition and the criteria.

(6) Identification of questioned costs and how they were computed. Known questioned costs must be identified by applicable CFDA number(s) and applicable Federal award identification number(s).

(7) Information to provide proper perspective for judging the prevalence and consequences of the audit findings, such as whether the audit findings represent an isolated instance or a systemic problem. Where appropriate, instances identified must be related to the universe and the number of cases examined and be quantified in terms of dollar value. The auditor should report whether the sampling was a statistically valid sample.

(8) Identification of whether the audit finding was a repeat of a finding in the immediately prior audit and if so any applicable prior year audit finding numbers.

(9) Recommendations to prevent future occurrences of the deficiency identified in the audit finding.

(10) Views of responsible officials of the auditee.

(c) Reference numbers. Each audit finding in the schedule of findings and questioned costs must include a reference number in the format meeting the requirements of the data collection form submission required by § 200.512 Report submission, paragraph (b) to allow for easy referencing of the audit findings during follow-up.

§ 200.517 Audit documentation.

(a) Retention of audit documentation. The auditor must retain audit documentation and reports for a minimum of three years after the date of issuance of the auditor's report(s) to the auditee, unless the auditor is notified in writing by the cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period. When the auditor is aware that the Federal agency, pass-through entity, or auditee is contesting an audit finding, the auditor must contact the parties contesting the audit finding for guidance prior to destruction of the audit documentation and reports.

(b) Access to audit documentation. Audit documentation must be made available upon request to the cognizant or oversight agency for audit or its designee, cognizant agency for indirect cost, a Federal agency, or GAO at the completion of the audit, as part of a quality review, to resolve audit findings, or to carry out oversight responsibilities consistent with the purposes of this Part. Access to audit documentation includes the right of Federal agencies to obtain copies of audit documentation, as is reasonable and necessary.

§ 200.518 Major program determination.

(a) General. The auditor must use a risk-based approach to determine which Federal programs are major programs. This risk-based approach must include consideration of: current and prior audit experience, oversight by Federal agencies and pass-through entities, and the inherent risk of the Federal program. The process in paragraphs (b) through (i) of this section must be followed.

(b) Step one.

(1) The auditor must identify the larger Federal programs, which must be labeled Type A programs. Type A programs are defined as Federal programs with Federal awards expended during the audit period exceeding the levels outlined in the table in this paragraph (b)(1):

Total Federal awards expended	Type A/B threshold
Equal to $750,000 but less than or equal to $25 million	$750,000.
Exceed $25 million but less than or equal to $100 million	Total Federal awards expended times .03.
Exceed $100 million but less than or equal to $1 billion	$3 million.
Exceed $1 billion but less than or equal to $10 billion	Total Federal awards expended times .003.
Exceed $10 billion but less than or equal to $20 billion	$30 million.
Exceed $20 billion	Total Federal awards expended times .0015.

(2) Federal programs not labeled Type A under paragraph (b)(1) of this section must be labeled Type B programs.

(3) The inclusion of large loan and loan guarantees (loans) should not result in the exclusion of other programs as Type A programs. When a Federal program providing loans exceeds four times the largest non-loan program it is considered a large loan program, and the auditor must consider this Federal program as a Type A program and exclude its values in determining other Type A programs. This recalculation of the Type A program is performed after removing the total of all large loan programs. For the purposes of this paragraph a program is only considered to be a Federal program providing loans if the value of Federal awards expended for loans within the program comprises fifty percent or more of the total Federal

awards expended for the program. A cluster of programs is treated as one program and the value of Federal awards expended under a loan program is determined as described in § 200.502 Basis for determining Federal awards *expended*.

(4) For biennial audits permitted under § 200.504 Frequency of audits, the determination of Type A and Type B programs must be based upon the Federal awards expended during the two-year period.

(c) Step two.

(1) The auditor must identify Type A programs which are low-risk. In making this determination, the auditor must consider whether the requirements in § 200.519 Criteria for Federal program risk paragraph (c), the results of audit follow-up, or any changes in personnel or systems affecting the program indicate significantly increased risk and preclude the program from being low risk. For a Type A program to be considered low-risk, it must have been audited as a major program in at least one of the two most recent audit periods (in the most recent audit period in the case of a biennial audit), and, in the most recent audit period, the program must have not had:

(i) Internal control deficiencies which were identified as material weaknesses in the auditor's report on internal control for major programs as required under § 200.515 Audit reporting, paragraph (c);

(ii) A modified opinion on the program in the auditor's report on major programs as required under § 200.515 Audit reporting, paragraph (c); or

(iii) Known or likely questioned costs that exceed five percent of the total Federal awards expended for the program.

(2) Notwithstanding paragraph (c)(1) of this section, OMB may approve a Federal awarding agency's request that a Type A program may not be considered low risk for a certain recipient. For example, it may be necessary for a large Type A program to be audited as a major program each year at a particular recipient to allow the Federal awarding agency to comply with 31 U.S.C. 3515. The Federal awarding agency must notify the recipient and, if known, the auditor of OMB's approval at least 180 calendar days prior to the end of the fiscal year to be audited.

(d) Step three.

(1) The auditor must identify Type B programs which are high-risk using professional judgment and the criteria in § 200.519 Criteria for Federal program risk. However, the auditor is not required to identify more high-risk Type B programs than at least one fourth the number of low-risk Type A programs identified as low-risk under Step 2 (paragraph (c) of this section). Except for known material weakness in internal control or compliance problems as discussed in § 200.519 Criteria for Federal program risk paragraphs (b)(1), (b)(2), and (c)(1), a single criteria in risk would seldom cause a Type B program to be considered high-risk. When identifying which Type B programs to risk assess, the auditor is encouraged to use an approach which provides an opportunity for different high-risk Type B programs to be audited as major over a period of time.

(2) The auditor is not expected to perform risk assessments on relatively small Federal programs. Therefore, the auditor is only required to perform risk assessments on Type B programs that exceed twenty-five percent (0.25) of the Type A threshold determined in Step 1 (paragraph (b) of this section).

(e) Step four. At a minimum, the auditor must audit all of the following as major programs:

(1) All Type A programs not identified as low risk under step two (paragraph (c)(1) of this section).

(2) All Type B programs identified as high-risk under step three (paragraph (d) of this section).

(3) Such additional programs as may be necessary to comply with the percentage of coverage rule discussed in paragraph (f) of this section. This may require the auditor to audit more programs as major programs than the number of Type A programs.

(f) Percentage of coverage rule. If the auditee meets the criteria in § 200.520 Criteria for a low-risk auditee, the auditor need only audit the major programs identified in Step 4 (paragraph (e)(1) and (2) of this section) and such additional Federal programs with Federal awards expended that, in aggregate, all major programs encompass at least 20 percent (0.20) of total Federal awards expended. Otherwise, the auditor must audit the major programs identified in Step 4 (paragraphs (e)(1) and (2) of this section) and such additional Federal programs with Federal awards expended that, in aggregate, all major programs encompass at least 40 percent (0.40) of total Federal awards expended.

(g) Documentation of risk. The auditor must include in the audit documentation the risk analysis process used in determining major programs.

(h) Auditor's judgment. When the major program determination was performed and documented in accordance with this Subpart, the auditor's judgment in applying the risk-based approach to determine major programs must be presumed correct. Challenges by Federal agencies and pass-through entities must only be for clearly improper use of the requirements in this Part. However, Federal agencies and pass-through entities may provide auditors guidance about the risk of a particular Federal program and the auditor must consider this guidance in determining major programs in audits not yet completed.

§ 200.519 Criteria for Federal program risk.

(a) General. The auditor's determination should be based on an overall evaluation of the risk of noncompliance occurring that could be material to the Federal program. The auditor must consider criteria, such as described in paragraphs (b), (c), and (d) of this section, to identify risk in Federal programs. Also, as part of the risk analysis, the auditor may wish to discuss a particular Federal program with auditee management and the Federal agency or pass-through entity.

(b) Current and prior audit experience.

(1) Weaknesses in internal control over Federal programs would indicate higher risk. Consideration should be given to the control environment over Federal programs and such factors as the expectation of management's adherence to Federal statutes, regulations, and the terms and conditions of Federal awards and the competence and experience of personnel who administer the Federal programs.

(i) A Federal program administered under multiple internal control structures may have higher risk. When assessing risk in a large single audit, the auditor must consider whether weaknesses are isolated in a single operating unit (e.g., one college campus) or pervasive throughout the entity.

(ii) When significant parts of a Federal program are passed through to subrecipients, a weak system for monitoring subrecipients would indicate higher risk.

(2) Prior audit findings would indicate higher risk, particularly when the situations identified in the audit findings could have a significant impact on a Federal program or have not been corrected.

(3) Federal programs not recently audited as major programs may be of higher risk than Federal programs recently audited as major programs without audit findings.

(c) Oversight exercised by Federal agencies and pass-through entities.

(1) Oversight exercised by Federal agencies or pass-through entities could

be used to assess risk. For example, recent monitoring or other reviews performed by an oversight entity that disclosed no significant problems would indicate lower risk, whereas monitoring that disclosed significant problems would indicate higher risk.

(2) Federal agencies, with the concurrence of OMB, may identify Federal programs that are higher risk. OMB will provide this identification in the compliance supplement.

(d) Inherent risk of the Federal program.

(1) The nature of a Federal program may indicate risk. Consideration should be given to the complexity of the program and the extent to which the Federal program contracts for goods and services. For example, Federal programs that disburse funds through third party contracts or have eligibility criteria may be of higher risk. Federal programs primarily involving staff payroll costs may have high risk for noncompliance with requirements of § 200.430 Compensation—personal services, but otherwise be at low risk.

(2) The phase of a Federal program in its life cycle at the Federal agency may indicate risk. For example, a new Federal program with new or interim regulations may have higher risk than an established program with time-tested regulations. Also, significant changes in Federal programs, statutes, regulations, or the terms and conditions of Federal awards may increase risk.

(3) The phase of a Federal program in its life cycle at the auditee may indicate risk. For example, during the first and last years that an auditee participates in a Federal program, the risk may be higher due to start-up or closeout of program activities and staff.

(4) Type B programs with larger Federal awards expended would be of higher risk than programs with substantially smaller Federal awards expended.

§ 200.520 Criteria for a low-risk auditee.

An auditee that meets all of the following conditions for each of the preceding two audit periods must qualify as a low-risk auditee and be eligible for reduced audit coverage in accordance with § 200.518 Major program determination.

(a) Single audits were performed on an annual basis in accordance with the provisions of this Subpart, including submitting the data collection form and the reporting package to the FAC within the timeframe specified in § 200.512 Report submission. A non-Federal entity that has biennial audits does not qualify as a low-risk auditee.

(b) The auditor's opinion on whether the financial statements were prepared in accordance with GAAP, or a basis of accounting required by state law, and the auditor's in relation to opinion on the schedule of expenditures of Federal awards were unmodified.

(c) There were no deficiencies in internal control which were identified as material weaknesses under the requirements of GAGAS.

(d) The auditor did not report a substantial doubt about the auditee's ability to continue as a going concern.

(e) None of the Federal programs had audit findings from any of the following in either of the preceding two audit periods in which they were classified as Type A programs:

(1) Internal control deficiencies that were identified as material weaknesses in the auditor's report on internal control for major programs as required under § 200.515 Audit reporting, paragraph (c);

(2) A modified opinion on a major program in the auditor's report on major programs as required under § 200.515 Audit reporting, paragraph (c); or

(3) Known or likely questioned costs that exceeded five percent of the total Federal awards expended for a Type A program during the audit period.

Management Decisions

§ 200.521 Management decision.

(a) General. The management decision must clearly state whether or not the audit finding is sustained, the reasons for the decision, and the expected auditee action to repay disallowed costs, make financial adjustments, or take other action. If the auditee has not completed corrective action, a timetable for follow-up should be given. Prior to issuing the management decision, the Federal agency or pass-through entity may request additional information or documentation from the auditee, including a request for auditor assurance related to the documentation, as a way of mitigating disallowed costs. The management decision should describe any appeal process available to the auditee. While not required, the Federal agency or pass-through entity may also issue a management decision on findings relating to the financial statements which are required to be reported in accordance with GAGAS.

(b) Federal agency. As provided in § 200.513 Responsibilities, paragraph (a)(7), the cognizant agency for audit must be responsible for coordinating a management decision for audit findings that affect the programs of more than one Federal agency. As provided in § 200.513 Responsibilities, paragraph (c)(3), a Federal awarding agency is responsible for issuing a management decision for findings that relate to Federal awards it makes to non-Federal entities.

(c) Pass-through entity. As provided in § 200.331 Requirements for pass-through entities, paragraph (d), the pass-through entity must be responsible for issuing a management decision for audit findings that relate to Federal awards it makes to subrecipients.

(d) Time requirements. The Federal awarding agency or pass-through entity responsible for issuing a management decision must do so within six months of acceptance of the audit report by the FAC. The auditee must initiate and proceed with corrective action as rapidly as possible and corrective action should begin no later than upon receipt of the audit report.

(e) Reference numbers. Management decisions must include the reference numbers the auditor assigned to each audit finding in accordance with § 200.516 Audit findings paragraph (c).

Appendix I to Part 200—Full Text of Notice of Funding Opportunity

The full text of the notice of funding opportunity is organized in sections. The required format outlined in this appendix indicates immediately following the title of each section whether that section is required in every announcement or is a Federal awarding agency option. The format is designed so that similar types of information will appear in the same sections in announcements of different Federal funding opportunities. Toward that end, there is text in each of the following sections to describe the types of information that a Federal awarding agency would include in that section of an actual announcement.

A Federal awarding agency that wishes to include information that the format does not specifically discuss may address that subject in whatever section(s) is most appropriate. For example, if a Federal awarding agency chooses to address performance goals in the announcement, it might do so in the funding opportunity description, the application content, or the reporting requirements.

Similarly, when this format calls for a type of information to be in a particular section, a Federal awarding agency wishing to address that subject in other sections may elect to repeat the information in those sections or use cross references between the sections (there should be hyperlinks for cross-references in any electronic versions of the announcement). For example, a Federal awarding agency may want to include in Section I information about the types of non-Federal entities who are eligible to apply. The format specifies a standard location for that information in Section III.1 but that does not preclude repeating the information in Section I or creating a cross reference between Sections I and III.1, as long as a potential applicant can find the information

quickly and easily from the standard location.

The sections of the full text of the announcement are described in the following paragraphs.

A. Program Description—Required

This section contains the full program description of the funding opportunity. It may be as long as needed to adequately communicate to potential applicants the areas in which funding may be provided. It describes the Federal awarding agency's funding priorities or the technical or focus areas in which the Federal awarding agency intends to provide assistance. As appropriate, it may include any program history (e.g., whether this is a new program or a new or changed area of program emphasis). This section may communicate indicators of successful projects (e.g., if the program encourages collaborative efforts) and may include examples of projects that have been funded previously. This section also may include other information the Federal awarding agency deems necessary, and must at a minimum include citations for authorizing statutes and regulations for the funding opportunity.

B. Federal Award Information—Required

This section provides sufficient information to help an applicant make an informed decision about whether to submit a proposal. Relevant information could include the total amount of funding that the Federal awarding agency expects to award through the announcement; the anticipated number of Federal awards; the expected amounts of individual Federal awards (which may be a range); the amount of funding per Federal award, on average, experienced in previous years; and the anticipated start dates and periods of performance for new Federal awards. This section also should address whether applications for renewal or supplementation of existing projects are eligible to compete with applications for new Federal awards.

This section also must indicate the type(s) of assistance instrument (e.g., grant, cooperative agreement) that may be awarded if applications are successful. If cooperative agreements may be awarded, this section either should describe the ''substantial involvement'' that the Federal awarding agency expects to have or should reference where the potential applicant can find that information (e.g., in the funding opportunity description in A. Program Description—Required or Federal award administration information in section D. Application and Submission Information). If procurement contracts also may be awarded, this must be stated.

C. Eligibility Information

This section addresses the considerations or factors that determine applicant or application eligibility. This includes the eligibility of particular types of applicant organizations, any factors affecting the eligibility of the principal investigator or project director, and any criteria that make particular projects ineligible. Federal agencies should make clear whether an applicant's failure to meet an eligibility criterion by the time of an application deadline will result in the Federal awarding agency returning the application without review or, even though an application may be reviewed, will preclude the Federal awarding agency from making a Federal award. Key elements to be addressed are:

1. *Eligible Applicants—Required.* Announcements must clearly identify the types of entities that are eligible to apply. If there are no restrictions on eligibility, this section may simply indicate that all potential applicants are eligible. If there are restrictions on eligibility, it is important to be clear about the specific types of entities that are eligible, not just the types that are ineligible. For example, if the program is limited to nonprofit organizations subject to 26 U.S.C. 501(c)(3) of the tax code (26 U.S.C. 501(c)(3)), the announcement should say so. Similarly, it is better to state explicitly that Native American tribal organizations are eligible than to assume that they can unambiguously infer that from a statement that nonprofit organizations may apply. Eligibility also can be expressed by exception, (e.g., open to all types of domestic applicants other than individuals). This section should refer to any portion of Section IV specifying documentation that must be submitted to support an eligibility determination (e.g., proof of 501(c)(3) status as determined by the Internal Revenue Service or an authorizing tribal resolution). To the extent that any funding restriction in Section IV.5 could affect the eligibility of an applicant or project, the announcement must either restate that restriction in this section or provide a cross-reference to its description in Section IV.5.

2. *Cost Sharing or Matching—Required.* Announcements must state whether there is required cost sharing, matching, or cost participation without which an application would be ineligible (if cost sharing is not required, the announcement must explicitly say so). Required cost sharing may be a certain percentage or amount, or may be in the form of contributions of specified items or activities (e.g., provision of equipment). It is important that the announcement be clear about any restrictions on the types of cost (e.g., in-kind contributions) that are acceptable as cost sharing. Cost sharing as an eligibility criterion includes requirements based in statute or regulation, as described in § 200.306 Cost sharing or matching of this Part. This section should refer to the appropriate portion(s) of section D. Application and Submission Information stating any pre-award requirements for submission of letters or other documentation to verify commitments to meet cost-sharing requirements if a Federal award is made.

3. *Other—Required, if applicable.* If there are other eligibility criteria (i.e., criteria that have the effect of making an application or project ineligible for Federal awards, whether referred to as ''responsiveness'' criteria, ''go-no go'' criteria, ''threshold'' criteria, or in other ways), must be clearly stated and must include a reference to the regulation of requirement that describes the restriction, as applicable. For example, if entities that have been found to be in violation of a particular Federal statute are ineligible, it is important to say so. This section must also state any limit on the number of applications an applicant may submit under the announcement and make clear whether the limitation is on the submitting organization, individual investigator/program director, or both. This section should also address any eligibility criteria for beneficiaries or for program participants other than Federal award recipients.

D. Application and Submission Information

1. *Address to Request Application Package—Required.* Potential applicants must be told how to get application forms, kits, or other materials needed to apply (if this announcement contains everything needed, this section need only say so). An Internet address where the materials can be accessed is acceptable. However, since high-speed Internet access is not yet universally available for downloading documents, and applicants may have additional accessibility requirements, there also should be a way for potential applicants to request paper copies of materials, such as a U.S. Postal Service mailing address, telephone or FAX number, Telephone Device for the Deaf (TDD), Text Telephone (TTY) number, and/or Federal Information Relay Service (FIRS) number.

2. *Content and Form of Application Submission—Required.* This section must identify the required content of an application and the forms or formats that an applicant must use to submit it. If any requirements are stated elsewhere because they are general requirements that apply to multiple programs or funding opportunities, this section should refer to where those requirements may be found. This section also should include required forms or formats as part of the announcement or state where the applicant may obtain them.

This section should specifically address content and form or format requirements for:

i. Pre-applications, letters of intent, or white papers required or encouraged (see Section IV.3), including any limitations on the number of pages or other formatting requirements similar to those for full applications.

ii. The application as a whole. For all submissions, this would include any limitations on the number of pages, font size and typeface, margins, paper size, number of copies, and sequence or assembly requirements. If electronic submission is permitted or required, this could include special requirements for formatting or signatures.

iii. Component pieces of the application (e.g., if all copies of the application must bear original signatures on the face page or the program narrative may not exceed 10 pages). This includes any pieces that may be submitted separately by third parties (e.g., references or letters confirming commitments from third parties that will be contributing a portion of any required cost sharing).

iv. Information that successful applicants must submit after notification of intent to make a Federal award, but prior to a Federal award. This could include evidence of compliance with requirements relating to human subjects or information needed to comply with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321–4370h).

3. *Dun and Bradstreet Universal Numbering System (DUNS) Number and System for Award Management (SAM)—Required.*

This paragraph must state clearly that each applicant (unless the applicant is an individual or Federal awarding agency that is excepted from those requirements under 2 CFR § 25.110(b) or (c), or has an exception approved by the Federal awarding agency under 2 CFR § 25.110(d)) is required to: (i) Be registered in SAM before submitting its application; (ii) provide a valid DUNS number in its application; and (iii) continue to maintain an active SAM registration with current information at all times during which it has an active Federal award or an application or plan under consideration by a Federal awarding agency. It also must state that the Federal awarding agency may not make a Federal award to an applicant until the applicant has complied with all applicable DUNS and SAM requirements and, if an applicant has not fully complied with the requirements by the time the Federal awarding agency is ready to make a Federal award, the Federal awarding agency may determine that the applicant is not qualified to receive a Federal award and use that determination as a basis for making a Federal award to another applicant.

4. *Submission Dates and Times—Required.* Announcements must identify due dates and times for all submissions. This includes not only the full applications but also any preliminary submissions (e.g., letters of intent, white papers, or pre-applications). It also includes any other submissions of information before Federal award that are separate from the full application. If the funding opportunity is a general announcement that is open for a period of time with no specific due dates for applications, this section should say so. Note that the information on dates that is included in this section also must appear with other overview information in a location preceding the full text of the announcement (see § 200.203 Notices of funding opportunities of this Part).

Each type of submission should be designated as encouraged or required and, if required, any deadline date (or dates, if the Federal awarding agency plans more than one cycle of application submission, review, and Federal award under the announcement) should be specified. The announcement must state (or provide a reference to another document that states):

i. Any deadline in terms of a date and local time. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.

ii. What the deadline means (e.g., whether it is the date and time by which the Federal awarding agency must receive the application, the date by which the application must be postmarked, or something else) and how that depends, if at all, on the submission method (e.g., mail, electronic, or personal/courier delivery).

iii. The effect of missing a deadline (e.g., whether late applications are neither reviewed nor considered or are reviewed and considered under some circumstances).

iv. How the receiving Federal office determines whether an application or pre-application has been submitted before the deadline. This includes the form of acceptable proof of mailing or system-generated documentation of receipt date and time.

This section also may indicate whether, when, and in what form the applicant will receive an acknowledgement of receipt. This information should be displayed in ways that will be easy to understand and use. It can be difficult to extract all needed information from narrative paragraphs, even when they are well written. A tabular form for providing a summary of the information may help applicants for some programs and give them what effectively could be a checklist to verify the completeness of their application package before submission.

5. *Intergovernmental Review—Required, if applicable.* If the funding opportunity is subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' the notice must say so. In alerting applicants that they must contact their state's Single Point of Contact (SPOC) to find out about and comply with the state's process under Executive Order 12372, it may be useful to inform potential applicants that the names and addresses of the SPOCs are listed in the Office of Management and Budget's Web site. *www.whitehouse.gov/omb/grants/spoc.html.*

6. *Funding Restrictions—Required.* Notices must include information on funding restrictions in order to allow an applicant to develop an application and budget consistent with program requirements. Examples are whether construction is an allowable activity, if there are any limitations on direct costs such as foreign travel or equipment purchases, and if there are any limits on indirect costs (or facilities and administrative costs). Applicants must be advised if Federal awards will not allow reimbursement of pre-Federal award costs.

7. *Other Submission Requirements—Required.* This section must address any other submission requirements not included in the other paragraphs of this section. This might include the format of submission, i.e., paper or electronic, for each type of required submission. Applicants should not be required to submit in more than one format and this section should indicate whether they may choose whether to submit applications in hard copy or electronically, may submit only in hard copy, or may submit only electronically.

This section also must indicate where applications (and any pre-applications) must be submitted if sent by postal mail, electronic means, or hand-delivery. For postal mail submission, this must include the name of an office, official, individual or function (e.g., application receipt center) and a complete mailing address. For electronic submission, this must include the URL or email address; whether a password(s) is required; whether particular software or other electronic capabilities are required; what to do in the event of system problems and a point of contact who will be available in the event the applicant experiences technical difficulties.[1]

[1] With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, each Federal awarding agency is responsible for compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

E. Application Review Information

1. Criteria—Required. This section must address the criteria that the Federal awarding agency will use to evaluate applications. This includes the merit and other review criteria that evaluators will use to judge applications, including any statutory, regulatory, or other preferences (e.g., minority status or Native American tribal preferences) that will be applied in the review process. These criteria are distinct from eligibility criteria that are addressed before an application is accepted for review and any program policy or other factors that are applied during the selection process, after the review process is completed. The intent is to make the application process transparent so applicants can make informed decisions when preparing their applications to maximize fairness of the process. The announcement should clearly describe all criteria, including any sub-criteria. If criteria vary in importance, the announcement should specify the relative percentages, weights, or other means used to distinguish among them. For statutory, regulatory, or other preferences, the announcement should provide a detailed explanation of those preferences with an explicit indication of their effect (e.g., whether they result in additional points being assigned).

If an applicant's proposed cost sharing will be considered in the review process (as opposed to being an eligibility criterion described in Section III.2), the announcement must specifically address how it will be considered (e.g., to assign a certain number of additional points to applicants who offer cost sharing, or to break ties among applications with equivalent scores after evaluation against all other factors). If cost sharing will not be considered in the evaluation, the announcement should say so, so that there is no ambiguity for potential applicants. Vague statements that cost sharing is encouraged, without clarification as to what that means, are unhelpful to applicants. It also is important that the announcement be clear about any restrictions on the types of cost (e.g., in-kind contributions) that are acceptable as cost sharing.

2. *Review and Selection Process—Required.* This section may vary in the level of detail provided. The announcement must list any program policy or other factors or elements, other than merit criteria, that the selecting official may use in selecting applications for Federal award (e.g., geographical dispersion, program balance, or diversity). The Federal awarding agency may also include other appropriate details. For example, this section may indicate who is responsible for evaluation against the merit criteria (e.g., peers external to the Federal awarding agency or Federal awarding agency personnel) and/or who makes the final selections for Federal awards. If there is a multi-phase review process (e.g., an external panel advising internal Federal awarding agency personnel who make final

recommendations to the deciding official), the announcement may describe the phases. It also may include: the number of people on an evaluation panel and how it operates, the way reviewers are selected, reviewer qualifications, and the way that conflicts of interest are avoided. With respect to electronic methods for providing information about funding opportunities or accepting applicants' submissions of information, each Federal awarding agency is responsible for compliance with Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d).

In addition, if the Federal awarding agency permits applicants to nominate suggested reviewers of their applications or suggest those they feel may be inappropriate due to a conflict of interest, that information should be included in this section.

3. Anticipated Announcement and Federal Award Dates—Optional. This section is intended to provide applicants with information they can use for planning purposes. If there is a single application deadline followed by the simultaneous review of all applications, the Federal awarding agency can include in this section information about the anticipated dates for announcing or notifying successful and unsuccessful applicants and for having Federal awards in place. If applications are received and evaluated on a ''rolling'' basis at different times during an extended period, it may be appropriate to give applicants an estimate of the time needed to process an application and notify the applicant of the Federal awarding agency's decision.

F. Federal Award Administration Information

1. Federal Award Notices—Required. This section must address what a successful applicant can expect to receive following selection. If the Federal awarding agency's practice is to provide a separate notice stating that an application has been selected before it actually makes the Federal award, this section would be the place to indicate that the letter is not an authorization to begin performance (to the extent that it allows charging to Federal awards of pre-award costs at the non-Federal entity's own risk). This section should indicate that the notice of Federal award signed by the grants officer (or equivalent) is the authorizing document, and whether it is provided through postal mail or by electronic means and to whom. It also may address the timing, form, and content of notifications to unsuccessful applicants. See also § 200.210 Information contained in a Federal award.

2. Administrative and National Policy Requirements—Required. This section must identify the usual administrative and national policy requirements the Federal awarding agency's Federal awards may include. Providing this information lets a potential applicant identify any requirements with which it would have difficulty complying if its application is successful. In those cases, early notification about the requirements allows the potential applicant to decide not to apply or to take needed actions before receiving the Federal award. The announcement need not include all of the terms and conditions of the Federal award, but may refer to a document (with information about how to obtain it) or Internet site where applicants can see the terms and conditions. If this funding opportunity will lead to Federal awards with some special terms and conditions that differ from the Federal awarding agency's usual (sometimes called ''general'') terms and conditions, this section should highlight those special terms and conditions. Doing so will alert applicants that have received Federal awards from the Federal awarding agency previously and might not otherwise expect different terms and conditions. For the same reason, the announcement should inform potential applicants about special requirements that could apply to particular Federal awards after the review of applications and other information, based on the particular circumstances of the effort to be supported (e.g., if human subjects were to be involved or if some situations may justify special terms on intellectual property, data sharing or security requirements).

3. Reporting—Required. This section must include general information about the type (e.g., financial or performance), frequency, and means of submission (paper or electronic) of post-Federal award reporting requirements. Highlight any special reporting requirements for Federal awards under this funding opportunity that differ (e.g., by report type, frequency, form/format, or circumstances for use) from what the Federal awarding agency's Federal awards usually require.

G. Federal Awarding Agency Contact(s)—Required

The announcement must give potential applicants a point(s) of contact for answering questions or helping with problems while the funding opportunity is open. The intent of this requirement is to be as helpful as possible to potential applicants, so the Federal awarding agency should consider approaches such as giving:

i. Points of contact who may be reached in multiple ways (e.g., by telephone, FAX, and/or email, as well as regular mail).

ii. A fax or email address that multiple people access, so that someone will respond even if others are unexpectedly absent during critical periods.

iii. Different contacts for distinct kinds of help (e.g., one for questions of programmatic content and a second for administrative questions).

H. Other Information—Optional

This section may include any additional information that will assist a potential applicant. For example, the section might:

i. Indicate whether this is a new program or a one-time initiative.

ii. Mention related programs or other upcoming or ongoing Federal awarding agency funding opportunities for similar activities.

iii. Include current Internet addresses for Federal awarding agency Web sites that may be useful to an applicant in understanding the program.

iv. Alert applicants to the need to identify proprietary information and inform them about the way the Federal awarding agency will handle it.

v. Include certain routine notices to applicants (e.g., that the Federal government is not obligated to make any Federal award as a result of the announcement or that only grants officers can bind the Federal government to the expenditure of funds).

Appendix II to Part 200—Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of ''federally assisted construction contract'' in 41 CFR Part 60–1.3 must include the equal opportunity clause provided under 41 CFR 60–1.4(b), in accordance with Executive Order 11246, ''Equal Employment Opportunity'' (30 FR 12319, 12935, 3 CFR Part, 1964–1965 Comp., p. 339), as amended by Executive Order 11375, ''Amending Executive Order 11246 Relating to Equal Employment Opportunity,'' and implementing regulations at 41 CFR part 60, ''Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.''

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141–3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141–3144, and 3146–3148) as supplemented by Department of Labor regulations (29 CFR Part 5, ''Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction''). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to

the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland ''Anti-Kickback'' Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, ''Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States''). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701–3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of ''funding agreement'' under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that ''funding agreement,'' the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, ''Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,'' and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401–7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251–1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), ''Debarment and Suspension.'' The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of $100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See § 200.322 Procurement of recovered materials.

Appendix III to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Institutions of Higher Education (IHEs)

A. General

This appendix provides criteria for identifying and computing indirect (or indirect (F&A)) rates at IHEs (institutions). Indirect (F&A) costs are those that are incurred for common or joint objectives and therefore cannot be identified readily and specifically with a particular sponsored project, an instructional activity, or any other institutional activity. See subsection B.1, Definition of Facilities and Administration, for a discussion of the components of indirect (F&A) costs.

1. Major Functions of an Institution

Refers to instruction, organized research, other sponsored activities and other institutional activities as defined in this section:

a. *Instruction* means the teaching and training activities of an institution. Except for research training as provided in subsection b, this term includes all teaching and training activities, whether they are offered for credits toward a degree or certificate or on a non-credit basis, and whether they are offered through regular academic departments or separate divisions, such as a summer school division or an extension division. Also considered part of this major function are departmental research, and, where agreed to, university research.

(1) *Sponsored instruction and training* means specific instructional or training activity established by grant, contract, or cooperative agreement. For purposes of the cost principles, this activity may be considered a major function even though an institution's accounting treatment may include it in the instruction function.

(2) *Departmental research* means research, development and scholarly activities that are not organized research and, consequently, are not separately budgeted and accounted for. Departmental research, for purposes of this document, is not considered as a major function, but as a part of the instruction function of the institution.

b. *Organized research* means all research and development activities of an institution that are separately budgeted and accounted for. It includes:

(1) *Sponsored research* means all research and development activities that are sponsored by Federal and non-Federal agencies and organizations. This term includes activities involving the training of individuals in research techniques (commonly called research training) where such activities utilize the same facilities as other research and development activities and where such activities are not included in the instruction function.

(2) *University research* means all research and development activities that are separately budgeted and accounted for by the institution under an internal application of institutional funds. University research, for purposes of this document, must be combined with sponsored research under the function of organized research.

c. *Other sponsored activities* means programs and projects financed by Federal and non-Federal agencies and organizations which involve the performance of work other than instruction and organized research. Examples of such programs and projects are health service projects and community service programs. However, when any of these activities are undertaken by the institution without outside support, they may be classified as other institutional activities.

d. *Other institutional activitie*s means all activities of an institution except for instruction, departmental research, organized research, and other sponsored activities, as defined in this section; indirect (F&A) cost activities identified in this Appendix paragraph B, Identification and assignment of indirect (F&A) costs; and specialized services facilities described in § 200.468 Specialized service facilities of this Part.

Examples of other institutional activities include operation of residence halls, dining halls, hospitals and clinics, student unions, intercollegiate athletics, bookstores, faculty housing, student apartments, guest houses, chapels, theaters, public museums, and other similar auxiliary enterprises. This definition also includes any other categories of activities, costs of which are ''unallowable''

to Federal awards, unless otherwise indicated in an award.

2. Criteria for Distribution

a. *Base period.* A base period for distribution of indirect (F&A) costs is the period during which the costs are incurred. The base period normally should coincide with the fiscal year established by the institution, but in any event the base period should be so selected as to avoid inequities in the distribution of costs.

b. *Need for cost groupings.* The overall objective of the indirect (F&A) cost allocation process is to distribute the indirect (F&A) costs described in Section B, Identification and assignment of indirect (F&A) costs, to the major functions of the institution in proportions reasonably consistent with the nature and extent of their use of the institution's resources. In order to achieve this objective, it may be necessary to provide for selective distribution by establishing separate groupings of cost within one or more of the indirect (F&A) cost categories referred to in subsection B.1, Definition of Facilities and Administration. In general, the cost groupings established within a category should constitute, in each case, a pool of those items of expense that are considered to be of like nature in terms of their relative contribution to (or degree of remoteness from) the particular cost objectives to which distribution is appropriate. Cost groupings should be established considering the general guides provided in subsection c of this section. Each such pool or cost grouping should then be distributed individually to the related cost objectives, using the distribution base or method most appropriate in light of the guidelines set forth in subsection d of this section.

c. *General considerations on cost groupings.* The extent to which separate cost groupings and selective distribution would be appropriate at an institution is a matter of judgment to be determined on a case-by-case basis. Typical situations which may warrant the establishment of two or more separate cost groupings (based on account classification or analysis) within an indirect (F&A) cost category include but are not limited to the following:

(1) If certain items or categories of expense relate solely to one of the major functions of the institution or to less than all functions, such expenses should be set aside as a separate cost grouping for direct assignment or selective allocation in accordance with the guides provided in subsections b and d.

(2) If any types of expense ordinarily treated as general administration or departmental administration are charged to Federal awards as direct costs, expenses applicable to other activities of the institution when incurred for the same purposes in like circumstances must, through separate cost groupings, be excluded from the indirect (F&A) costs allocable to those Federal awards and included in the direct cost of other activities for cost allocation purposes.

(3) If it is determined that certain expenses are for the support of a service unit or facility whose output is susceptible of measurement on a workload or other quantitative basis, such expenses should be set aside as a separate cost grouping for distribution on such basis to organized research, instructional, and other activities at the institution or within the department.

(4) If activities provide their own purchasing, personnel administration, building maintenance or similar service, the distribution of general administration and general expenses, or operation and maintenance expenses to such activities should be accomplished through cost groupings which include only that portion of central indirect (F&A) costs (such as for overall management) which are properly allocable to such activities.

(5) If the institution elects to treat fringe benefits as indirect (F&A) charges, such costs should be set aside as a separate cost grouping for selective distribution to related cost objectives.

(6) The number of separate cost groupings within a category should be held within practical limits, after taking into consideration the materiality of the amounts involved and the degree of precision attainable through less selective methods of distribution.

d. Selection of distribution method.

(1) Actual conditions must be taken into account in selecting the method or base to be used in distributing individual cost groupings. The essential consideration in selecting a base is that it be the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; with a traceable cause-and-effect relationship; or with logic and reason, where neither benefit nor a cause-and-effect relationship is determinable.

(2) If a cost grouping can be identified directly with the cost objective benefitted, it should be assigned to that cost objective.

(3) If the expenses in a cost grouping are more general in nature, the distribution may be based on a cost analysis study which results in an equitable distribution of the costs. Such cost analysis studies may take into consideration weighting factors, population, or space occupied if appropriate. Cost analysis studies, however, must (a) be appropriately documented in sufficient detail for subsequent review by the cognizant agency for indirect costs, (b) distribute the costs to the related cost objectives in accordance with the relative benefits derived, (c) be statistically sound, (d) be performed specifically at the institution at which the results are to be used, and (e) be reviewed periodically, but not less frequently than rate negotiations, updated if necessary, and used consistently. Any assumptions made in the study must be stated and explained. The use of cost analysis studies and periodic changes in the method of cost distribution must be fully justified.

(4) If a cost analysis study is not performed, or if the study does not result in an equitable distribution of the costs, the distribution must be made in accordance with the appropriate base cited in Section B, Identification and assignment of indirect (F&A) costs, unless one of the following conditions is met:

(a) It can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to Federal awards, or

(b) The institution qualifies for, and elects to use, the simplified method for computing indirect (F&A) cost rates described in Section D, Simplified method for small institutions.

(5) Notwithstanding subsection (3), effective July 1, 1998, a cost analysis or base other than that in Section B must not be used to distribute utility or student services costs. Instead, subsections B.4.c Operation and maintenance expenses, may be used in the recovery of utility costs.

e. Order of distribution.

(1) Indirect (F&A) costs are the broad categories of costs discussed in Section B.1, Definitions of Facilities and Administration

(2) Depreciation, interest expenses, operation and maintenance expenses, and general administrative and general expenses should be allocated in that order to the remaining indirect (F&A) cost categories as well as to the major functions and specialized service facilities of the institution. Other cost categories may be allocated in the order determined to be most appropriate by the institutions. When cross allocation of costs is made as provided in subsection (3), this order of allocation does not apply.

(3) Normally an indirect (F&A) cost category will be considered closed once it has been allocated to other cost objectives, and costs may not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect (F&A) cost categories may be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect (F&A) cost categories described in Section B is required.

B. Identification and Assignment of Indirect (F&A) Costs

1. Definition of Facilities and Administration

See § 200.414 Indirect (F&A) costs which provides the basis for this indirect cost requirements.

2. Depreciation

a. The expenses under this heading are the portion of the costs of the institution's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with § 200.436 Depreciation.

b. In the absence of the alternatives provided for in Section A.2.d, Selection of distribution method, the expenses included in this category must be allocated in the following manner:

(1) Depreciation on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, must be assigned to that function.

(2) Depreciation on buildings used for more than one function, and on capital improvements and equipment used in such buildings, must be allocated to the individual functions performed in each building on the basis of usable square feet of space, excluding common areas such as hallways, stairwells, and rest rooms.

(3) Depreciation on buildings, capital improvements and equipment related to space (e.g., individual rooms, laboratories) used jointly by more than one function (as determined by the users of the space) must be treated as follows. The cost of each jointly used unit of space must be allocated to benefitting functions on the basis of:

(a) The employee full-time equivalents (FTEs) or salaries and wages of those individual functions benefitting from the use of that space; or

(b) Institution-wide employee FTEs or salaries and wages applicable to the benefitting major functions (see Section A.1) of the institution.

(4) Depreciation on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, must be allocated to user categories of students and employees on a full-time equivalent basis. The amount allocated to the student category must be assigned to the instruction function of the institution. The amount allocated to the employee category must be further allocated to the major functions of the institution in proportion to the salaries and wages of all employees applicable to those functions.

3. Interest

Interest on debt associated with certain buildings, equipment and capital improvements, as defined in § 200.449 Interest, must be classified as an expenditure under the category Facilities. These costs must be allocated in the same manner as the depreciation on the buildings, equipment and capital improvements to which the interest relates.

4. Operation and Maintenance Expenses

a. The expenses under this heading are those that have been incurred for the administration, supervision, operation, maintenance, preservation, and protection of the institution's physical plant. They include expenses normally incurred for such items as janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability and all other insurance relating to property; space and capital leasing; facility planning and management; and central receiving. The operation and maintenance expense category should also include its allocable share of fringe benefit costs, depreciation, and interest costs.

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated in the same manner as described in subsection 2.b for depreciation.

c. A utility cost adjustment of up to 1.3 percentage points may be included in the negotiated indirect cost rate of the IHE for organized research, per the computation alternatives in paragraphs (c)(1) and (2) of this section:

(1) Where space is devoted to a single function and metering allows unambiguous measurement of usage related to that space, costs must be assigned to the function located in that space.

(2) Where space is allocated to different functions and metering does not allow unambiguous measurement of usage by function, costs must be allocated as follows:

(i) Utilities costs should be apportioned to functions in the same manner as depreciation, based on the calculated difference between the site or building actual square footage for monitored research laboratory space (site, building, floor, or room), and a separate calculation prepared by the IHE using the ''effective square footage'' described in subsection (c)(2)(ii) of this section.

(ii) ''Effective square footage'' allocated to research laboratory space must be calculated as the actual square footage times the relative energy utilization index (REUI) posted on the OMB Web site at the time of a rate determination.

A. This index is the ratio of a laboratory energy use index (lab EUI) to the corresponding index for overall average college or university space (college EUI).

B. In July 2012, values for these two indices (taken respectively from the Lawrence Berkeley Laboratory ''Labs for the 21st Century'' benchmarking tool *http://labs21benchmarking.lbl.gov/CompareData.php* and the US Department of Energy ''Buildings Energy Databook'' and *http://buildingsdatabook.eren.doe.gov/CBECS.aspx*) were 310 kBtu/sq ft-yr. and 155 kBtu/sq ft-yr., so that the adjustment ratio is 2.0 by this methodology. To retain currency, OMB will adjust the EUI numbers from time to time (no more often than annually nor less often than every 5 years), using reliable and publicly disclosed data. Current values of both the EUIs and the REUI will be posted on the OMB Web site.

5. General Administration and General Expenses

a. The expenses under this heading are those that have been incurred for the general executive and administrative offices of educational institutions and other expenses of a general character which do not relate solely to any major function of the institution; i.e., solely to (1) instruction, (2) organized research, (3) other sponsored activities, or (4) other institutional activities. The general administration and general expense category should also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of general administration and general expenses include: those expenses incurred by administrative offices that serve the entire university system of which the institution is a part; central offices of the institution such as the President's or Chancellor's office, the offices for institution-wide financial management, business services, budget and planning, personnel management, and safety and risk management; the office of the General Counsel; and the operations of the central administrative management information systems. General administration and general expenses must not include expenses incurred within non-university-wide deans' offices, academic departments, organized research units, or similar organizational units. (See subsection 6, Departmental administration expenses.)

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be grouped first according to common major functions of the institution to which they render services or provide benefits. The aggregate expenses of each group must then be allocated to serviced or benefitted functions on the modified total cost basis. Modified total costs consist of the same elements as those in Section C.2. When an activity included in this indirect (F&A) cost category provides a service or product to another institution or organization, an appropriate adjustment must be made to either the expenses or the basis of allocation or both, to assure a proper allocation of costs.

6. Departmental Administration Expenses

a. The expenses under this heading are those that have been incurred for administrative and supporting services that benefit common or joint departmental activities or objectives in academic deans' offices, academic departments and divisions, and organized research units. Organized research units include such units as institutes, study centers, and research centers. Departmental administration expenses are subject to the following limitations.

(1) Academic deans' offices. Salaries and operating expenses are limited to those attributable to administrative functions.

(2) Academic departments:

(a) Salaries and fringe benefits attributable to the administrative work (including bid and proposal preparation) of faculty (including department heads) and other professional personnel conducting research and/or instruction, must be allowed at a rate of 3.6 percent of modified total direct costs. This category does not include professional business or professional administrative officers. This allowance must be added to the computation of the indirect (F&A) cost rate for major functions in Section C, Determination and application of indirect (F&A) cost rate or rates; the expenses covered by the allowance must be excluded from the departmental administration cost pool. No documentation is required to support this allowance.

(b) Other administrative and supporting expenses incurred within academic departments are allowable provided they are treated consistently in like circumstances. This would include expenses such as the salaries of secretarial and clerical staffs, the salaries of administrative officers and assistants, travel, office supplies, stockrooms, and the like.

(3) Other fringe benefit costs applicable to the salaries and wages included in subsections (1) and (2) are allowable, as well as an appropriate share of general administration and general expenses, operation and maintenance expenses, and depreciation.

(4) Federal agencies may authorize reimbursement of additional costs for department heads and faculty only in

exceptional cases where an institution can demonstrate undue hardship or detriment to project performance.

b. The following guidelines apply to the determination of departmental administrative costs as direct or indirect (F&A) costs.

(1) In developing the departmental administration cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect (F&A) costs. For example, salaries of technical staff, laboratory supplies (e.g., chemicals), telephone toll charges, animals, animal care costs, computer costs, travel costs, and specialized shop costs must be treated as direct costs wherever identifiable to a particular cost objective. Direct charging of these costs may be accomplished through specific identification of individual costs to benefitting cost objectives, or through recharge centers or specialized service facilities, as appropriate under the circumstances. See §§ 200.413 Direct costs, paragraph (c) and 200.468 Specialized service facilities.

(2) Items such as office supplies, postage, local telephone costs, and memberships must normally be treated as indirect (F&A) costs.

c. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated as follows:

(1) The administrative expenses of the dean's office of each college and school must be allocated to the academic departments within that college or school on the modified total cost basis.

(2) The administrative expenses of each academic department, and the department's share of the expenses allocated in subsection (1) must be allocated to the appropriate functions of the department on the modified total cost basis.

7. Sponsored Projects Administration

a. The expenses under this heading are limited to those incurred by a separate organization(s) established primarily to administer sponsored projects, including such functions as grant and contract administration (Federal and non-Federal), special security, purchasing, personnel, administration, and editing and publishing of research and other reports. They include the salaries and expenses of the head of such organization, assistants, and immediate staff, together with the salaries and expenses of personnel engaged in supporting activities maintained by the organization, such as stock rooms, print shops, and the like. This category also includes an allocable share of fringe benefit costs, general administration and general expenses, operation and maintenance expenses, and depreciation. Appropriate adjustments will be made for services provided to other functions or organizations.

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated to the major functions of the institution under which the sponsored projects are conducted on the basis of the modified total cost of sponsored projects.

c. An appropriate adjustment must be made to eliminate any duplicate charges to Federal awards when this category includes similar or identical activities as those included in the general administration and general expense category or other indirect (F&A) cost items, such as accounting, procurement, or personnel administration.

8. Library Expenses

a. The expenses under this heading are those that have been incurred for the operation of the library, including the cost of books and library materials purchased for the library, less any items of library income that qualify as applicable credits under § 200.406 Applicable credits. The library expense category should also include the fringe benefits applicable to the salaries and wages included therein, an appropriate share of general administration and general expense, operation and maintenance expense, and depreciation. Costs incurred in the purchases of rare books (museum-type books) with no value to Federal awards should not be allocated to them.

b. In the absence of the alternatives provided for in Section A.2.d, the expenses included in this category must be allocated first on the basis of primary categories of users, including students, professional employees, and other users.

(1) The student category must consist of full-time equivalent students enrolled at the institution, regardless of whether they earn credits toward a degree or certificate.

(2) The professional employee category must consist of all faculty members and other professional employees of the institution, on a full-time equivalent basis. This category may also include post-doctorate fellows and graduate students.

(3) The other users category must consist of a reasonable factor as determined by institutional records to account for all other users of library facilities.

c. Amount allocated in paragraph b of this section must be assigned further as follows:

(1) The amount in the student category must be assigned to the instruction function of the institution.

(2) The amount in the professional employee category must be assigned to the major functions of the institution in proportion to the salaries and wages of all faculty members and other professional employees applicable to those functions.

(3) The amount in the other users category must be assigned to the other institutional activities function of the institution.

9. Student Administration and Services

a. The expenses under this heading are those that have been incurred for the administration of student affairs and for services to students, including expenses of such activities as deans of students, admissions, registrar, counseling and placement services, student advisers, student health and infirmary services, catalogs, and commencements and convocations. The salaries of members of the academic staff whose responsibilities to the institution require administrative work that benefits sponsored projects may also be included to the extent that the portion charged to student administration is determined in accordance with Subpart E—Cost Principles of this Part. This expense category also includes the fringe benefit costs applicable to the salaries and wages included therein, an appropriate share of general administration and general expenses, operation and maintenance, interest expense, and depreciation.

b. In the absence of the alternatives provided for in Section A.2.d, the expenses in this category must be allocated to the instruction function, and subsequently to Federal awards in that function.

10. Offset for Indirect (F&A) Expenses Otherwise Provided for by the Federal Government

a. The items to be accumulated under this heading are the reimbursements and other payments from the Federal government which are made to the institution to support solely, specifically, and directly, in whole or in part, any of the administrative or service activities described in subsections 2 through 9.

b. The items in this group must be treated as a credit to the affected individual indirect (F&A) cost category before that category is allocated to benefitting functions.

C. Determination and Application of Indirect (F&A) Cost Rate or Rates

1. Indirect (F&A) Cost Pools

a. (1) Subject to subsection b, the separate categories of indirect (F&A) costs allocated to each major function of the institution as prescribed in paragraph B of this paragraph C.1 Identification and assignment of indirect (F&A) costs, must be aggregated and treated as a common pool for that function. The amount in each pool must be divided by the distribution base described in subsection 2 to arrive at a single indirect (F&A) cost rate for each function.

(2) The rate for each function is used to distribute indirect (F&A) costs to individual Federal awards of that function. Since a common pool is established for each major function of the institution, a separate indirect (F&A) cost rate would be established for each of the major functions described in Section A.1 under which Federal awards are carried out.

(3) Each institution's indirect (F&A) cost rate process must be appropriately designed to ensure that Federal sponsors do not in any way subsidize the indirect (F&A) costs of other sponsors, specifically activities sponsored by industry and foreign governments. Accordingly, each allocation method used to identify and allocate the indirect (F&A) cost pools, as described in Sections A.2, Criteria for distribution, and B.2 through B.9, must contain the full amount of the institution's modified total costs or other appropriate units of measurement used to make the computations. In addition, the final rate distribution base (as defined in subsection 2) for each major function (organized research, instruction, etc., as described in Section A.1, Major functions of an institution) must contain all the programs or activities which utilize the indirect (F&A) costs allocated to that major function. At the time an indirect (F&A) cost proposal is submitted to a cognizant agency for indirect costs, each institution must describe the process it uses

to ensure that Federal funds are not used to subsidize industry and foreign government funded programs.

b. In some instances a single rate basis for use across the board on all work within a major function at an institution may not be appropriate. A single rate for research, for example, might not take into account those different environmental factors and other conditions which may affect substantially the indirect (F&A) costs applicable to a particular segment of research at the institution. A particular segment of research may be that performed under a single sponsored agreement or it may consist of research under a group of Federal awards performed in a common environment. The environmental factors are not limited to the physical location of the work. Other important factors are the level of the administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. If a particular segment of a sponsored agreement is performed within an environment which appears to generate a significantly different level of indirect (F&A) costs, provisions should be made for a separate indirect (F&A) cost pool applicable to such work. The separate indirect (F&A) cost pool should be developed during the regular course of the rate determination process and the separate indirect (F&A) cost rate resulting therefrom should be utilized; provided it is determined that (1) such indirect (F&A) cost rate differs significantly from that which would have been obtained under subsection a, and (2) the volume of work to which such rate would apply is material in relation to other Federal awards at the institution.

2. The Distribution Basis

Indirect (F&A) costs must be distributed to applicable Federal awards and other benefitting activities within each major function (see section A.1, Major functions of an institution) on the basis of modified total direct costs (MTDC), consisting of all salaries and wages, fringe benefits, materials and supplies, services, travel, and subgrants and subcontracts up to the first $25,000 of each subaward (regardless of the period covered by the subaward). MTDC is defined in § 200.68 Modified Total Direct Cost (MTDC). For this purpose, an indirect (F&A) cost rate should be determined for each of the separate indirect (F&A) cost pools developed pursuant to subsection 1. The rate in each case should be stated as the percentage which the amount of the particular indirect (F&A) cost pool is of the modified total direct costs identified with such pool.

3. Negotiated Lump Sum for Indirect (F&A) Costs

A negotiated fixed amount in lieu of indirect (F&A) costs may be appropriate for self-contained, off-campus, or primarily subcontracted activities where the benefits derived from an institution's indirect (F&A) services cannot be readily determined. Such negotiated indirect (F&A) costs will be treated as an offset before allocation to instruction, organized research, other sponsored activities, and other institutional activities. The base on which such remaining expenses are allocated should be appropriately adjusted.

4. Predetermined Rates for Indirect (F&A) Costs

Public Law 87–638 (76 Stat. 437) as amended (41 U.S.C. 4708) authorizes the use of predetermined rates in determining the ''indirect costs'' (indirect (F&A) costs) applicable under research agreements with educational institutions. The stated objectives of the law are to simplify the administration of cost-type research and development contracts (including grants) with educational institutions, to facilitate the preparation of their budgets, and to permit more expeditious closeout of such contracts when the work is completed. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect (F&A) costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect (F&A) costs during the ensuing accounting periods.

5. Negotiated Fixed Rates and Carry-Forward Provisions

When a fixed rate is negotiated in advance for a fiscal year (or other time period), the over- or under-recovery for that year may be included as an adjustment to the indirect (F&A) cost for the next rate negotiation. When the rate is negotiated before the carry-forward adjustment is determined, the carry-forward amount may be applied to the next subsequent rate negotiation. When such adjustments are to be made, each fixed rate negotiated in advance for a given period will be computed by applying the expected indirect (F&A) costs allocable to Federal awards for the forecast period plus or minus the carry-forward adjustment (over- or under-recovery) from the prior period, to the forecast distribution base. Unrecovered amounts under lump-sum agreements or cost-sharing provisions of prior years must not be carried forward for consideration in the new rate negotiation. There must, however, be an advance understanding in each case between the institution and the cognizant agency for indirect costs as to whether these differences will be considered in the rate negotiation rather than making the determination after the differences are known. Further, institutions electing to use this carry-forward provision may not subsequently change without prior approval of the cognizant agency for indirect costs. In the event that an institution returns to a post-determined rate, any over- or under-recovery during the period in which negotiated fixed rates and carry-forward provisions were followed will be included in the subsequent post-determined rates. Where multiple rates are used, the same procedure will be applicable for determining each rate.

6. Provisional and Final Rates for Indirect (F&A) Costs

Where the cognizant agency for indirect costs determines that cost experience and other pertinent facts do not justify the use of predetermined rates, or a fixed rate with a carry-forward, or if the parties cannot agree on an equitable rate, a provisional rate must be established. To prevent substantial overpayment or underpayment, the provisional rate may be adjusted by the cognizant agency for indirect costs during the institution's fiscal year. Predetermined or fixed rates may replace provisional rates at any time prior to the close of the institution's fiscal year. If a provisional rate is not replaced by a predetermined or fixed rate prior to the end of the institution's fiscal year, a final rate will be established and upward or downward adjustments will be made based on the actual allowable costs incurred for the period involved.

7. Fixed Rates for the Life of the Sponsored Agreement

Federal agencies must use the negotiated rates except as provided in paragraph (e) of § 200.414 Indirect (F&A) costs, must paragraph (b)(1) for indirect (F&A) costs in effect at the time of the initial award throughout the life of the Federal award. Award levels for Federal awards may not be adjusted in future years as a result of changes in negotiated rates. ''Negotiated rates'' per the rate agreement include final, fixed, and predetermined rates and exclude provisional rates. ''Life'' for the purpose of this subsection means each competitive segment of a project. A competitive segment is a period of years approved by the Federal awarding agency at the time of the Federal award. If negotiated rate agreements do not extend through the life of the Federal award at the time of the initial award, then the negotiated rate for the last year of the Federal award must be extended through the end of the life of the Federal award.

b. Except as provided in § 200.414 Indirect (F&A) costs, when an educational institution does not have a negotiated rate with the Federal government at the time of an award (because the educational institution is a new recipient or the parties cannot reach agreement on a rate), the provisional rate used at the time of the award must be adjusted once a rate is negotiated and approved by the cognizant agency for indirect costs.

8. Limitation on Reimbursement of Administrative Costs

a. Notwithstanding the provisions of subsection C.1.a, the administrative costs charged to Federal awards awarded or amended (including continuation and renewal awards) with effective dates beginning on or after the start of the institution's first fiscal year which begins on or after October 1, 1991, must be limited to 26% of modified total direct costs (as defined in subsection 2) for the total of General Administration and General Expenses, Departmental Administration, Sponsored Projects Administration, and Student Administration and Services (including their allocable share of depreciation, interest costs, operation and maintenance expenses, and fringe benefits costs, as provided by Section B, Identification and assignment of indirect (F&A) costs, and all other types of

expenditures not listed specifically under one of the subcategories of facilities in Section B.

b. Institutions should not change their accounting or cost allocation methods if the effect is to change the charging of a particular type of cost from F&A to direct, or to reclassify costs, or increase allocations from the administrative pools identified in paragraph B.1 of this Appendix to the other F&A cost pools or fringe benefits. Cognizant agencies for indirect cost are authorized to allow changes where an institution's charging practices are at variance with acceptable practices followed by a substantial majority of other institutions.

9. Alternative Method for Administrative Costs

a. Notwithstanding the provisions of subsection 1.a, an institution may elect to claim a fixed allowance for the ''Administration'' portion of indirect (F&A) costs. The allowance could be either 24% of modified total direct costs or a percentage equal to 95% of the most recently negotiated fixed or predetermined rate for the cost pools included under ''Administration'' as defined in Section B.1, whichever is less. Under this alternative, no cost proposal need be prepared for the ''Administration'' portion of the indirect (F&A) cost rate nor is further identification or documentation of these costs required (see subsection c). Where a negotiated indirect (F&A) cost agreement includes this alternative, an institution must make no further charges for the expenditure categories described in Section B.5, General administration and general expenses, Section B.6, Departmental administration expenses, Section B.7, Sponsored projects administration, and Section B.9, Student administration and services.

b. In negotiations of rates for subsequent periods, an institution that has elected the option of subsection a may continue to exercise it at the same rate without further identification or documentation of costs.

c. If an institution elects to accept a threshold rate as defined in subsection a of this section, it is not required to perform a detailed analysis of its administrative costs. However, in order to compute the facilities components of its indirect (F&A) cost rate, the institution must reconcile its indirect (F&A) cost proposal to its financial statements and make appropriate adjustments and reclassifications to identify the costs of each major function as defined in Section A.1, as well as to identify and allocate the facilities components. Administrative costs that are not identified as such by the institution's accounting system (such as those incurred in academic departments) will be classified as instructional costs for purposes of reconciling indirect (F&A) cost proposals to financial statements and allocating facilities costs.

10. Individual Rate Components

In order to provide mutually agreed-upon information for management purposes, each indirect (F&A) cost rate negotiation or determination shall include development of a rate for each indirect (F&A) cost pool as well as the overall indirect (F&A) cost rate.

11. Negotiation and Approval of Indirect (F&A) Rate

a. Cognizant agency for indirect costs is defined in Subpart A—Acronyms and Definitions.

(1) Cost negotiation cognizance is assigned to the Department of Health and Human Services (HHS) or the Department of Defense's Office of Naval Research (DOD), normally depending on which of the two agencies (HHS or DOD) provides more funds to the educational institution for the most recent three years. Information on funding must be derived from relevant data gathered by the National Science Foundation. In cases where neither HHS nor DOD provides Federal funding to an educational institution, the cognizant agency for indirect costs assignment must default to HHS. Notwithstanding the method for cognizance determination described in this section, other arrangements for cognizance of a particular educational institution may also be based in part on the types of research performed at the educational institution and must be decided based on mutual agreement between HHS and DOD.

(2) After cognizance is established, it must continue for a five-year period.

b. Acceptance of rates. See § 200.414 Indirect (F&A) costs.

c. Correcting deficiencies. The cognizant agency for indirect costs must negotiate changes needed to correct systems deficiencies relating to accountability for Federal awards. Cognizant agencies for indirect costs must address the concerns of other affected agencies, as appropriate, and must negotiate special rates for Federal agencies that are required to limit recovery of indirect costs by statute.

d. Resolving questioned costs. The cognizant agency for indirect costs must conduct any necessary negotiations with an educational institution regarding amounts questioned by audit that are due the Federal government related to costs covered by a negotiated agreement.

e. Reimbursement. Reimbursement to cognizant agencies for indirect costs for work performed under this Part may be made by reimbursement billing under the Economy Act, 31 U.S.C. 1535.

f. Procedure for establishing facilities and administrative rates must be established by one of the following methods:

(1) Formal negotiation. The cognizant agency for indirect costs is responsible for negotiating and approving rates for an educational institution on behalf of all Federal agencies. Non-cognizant Federal agencies for indirect costs, which make Federal awards to an educational institution, must notify the cognizant agency for indirect costs of specific concerns (i.e., a need to establish special cost rates) which could affect the negotiation process. The cognizant agency for indirect costs must address the concerns of all interested agencies, as appropriate. A pre-negotiation conference may be scheduled among all interested agencies, if necessary. The cognizant agency for indirect costs must then arrange a negotiation conference with the educational institution.

(2) Other than formal negotiation. The cognizant agency for indirect costs and educational institution may reach an agreement on rates without a formal negotiation conference; for example, through correspondence or use of the simplified method described in this section D of this Appendix.

g. Formalizing determinations and agreements. The cognizant agency for indirect costs must formalize all determinations or agreements reached with an educational institution and provide copies to other agencies having an interest. Determinations should include a description of any adjustments, the actual amount, both dollar and percentage adjusted, and the reason for making adjustments.

h. Disputes and disagreements. Where the cognizant agency for indirect costs is unable to reach agreement with an educational institution with regard to rates or audit resolution, the appeal system of the cognizant agency for indirect costs must be followed for resolution of the disagreement.

12. Standard Format for Submission

For facilities and administrative (indirect (F&A)) rate proposals, educational institutions must use the standard format, shown in section E of this appendix, to submit their indirect (F&A) rate proposal to the cognizant agency for indirect costs. The cognizant agency for indirect costs may, on an institution-by-institution basis, grant exceptions from all or portions of Part II of the standard format requirement. This requirement does not apply to educational institutions that use the simplified method for calculating indirect (F&A) rates, as described in Section D of this Appendix.

In order to provide mutually agreed upon information for management purposes, each F&A cost rate negotiation or determination must include development of a rate for each F&A cost pool as well as the overall F&A rate.

D. Simplified Method for Small Institutions

1. General

a. Where the total direct cost of work covered by this Part at an institution does not exceed $10 million in a fiscal year, the simplified procedure described in subsections 2 or 3 may be used in determining allowable indirect (F&A) costs. Under this simplified procedure, the institution's most recent annual financial report and immediately available supporting information must be utilized as a basis for determining the indirect (F&A) cost rate applicable to all Federal awards. The institution may use either the salaries and wages (see subsection 2) or modified total direct costs (see subsection 3) as the distribution basis.

b. The simplified procedure should not be used where it produces results which appear inequitable to the Federal government or the institution. In any such case, indirect (F&A) costs should be determined through use of the regular procedure.

2. Simplified Procedure—Salaries and Wages Base

a. Establish the total amount of salaries and wages paid to all employees of the institution.

b. Establish an indirect (F&A) cost pool consisting of the expenditures (exclusive of

capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant and depreciation (after appropriate adjustment for costs applicable to other institutional activities).

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments.

In those cases where expenditures classified under subsection (1) have previously been allocated to other institutional activities, they may be included in the indirect (F&A) cost pool. The total amount of salaries and wages included in the indirect (F&A) cost pool must be separately identified.

c. Establish a salary and wage distribution base, determined by deducting from the total of salaries and wages as established in subsection a from the amount of salaries and wages included under subsection b.

d. Establish the indirect (F&A) cost rate, determined by dividing the amount in the indirect (F&A) cost pool, subsection b, by the amount of the distribution base, subsection c.

e. Apply the indirect (F&A) cost rate to direct salaries and wages for individual agreements to determine the amount of indirect (F&A) costs allocable to such agreements.

3. Simplified Procedure—Modified Total Direct Cost Base

a. Establish the total costs incurred by the institution for the base period.

b. Establish an indirect (F&A) cost pool consisting of the expenditures (exclusive of capital items and other costs specifically identified as unallowable) which customarily are classified under the following titles or their equivalents:

(1) General administration and general expenses (exclusive of costs of student administration and services, student activities, student aid, and scholarships).

(2) Operation and maintenance of physical plant and depreciation (after appropriate adjustment for costs applicable to other institutional activities).

(3) Library.

(4) Department administration expenses, which will be computed as 20 percent of the salaries and expenses of deans and heads of departments. In those cases where expenditures classified under subsection (1) have previously been allocated to other institutional activities, they may be included in the indirect (F&A) cost pool. The modified total direct costs amount included in the indirect (F&A) cost pool must be separately identified.

c. Establish a modified total direct cost distribution base, as defined in Section C.2, The distribution basis, that consists of all institution's direct functions.

d. Establish the indirect (F&A) cost rate, determined by dividing the amount in the indirect (F&A) cost pool, subsection b, by the amount of the distribution base, subsection c.

e. Apply the indirect (F&A) cost rate to the modified total direct costs for individual agreements to determine the amount of indirect (F&A) costs allocable to such agreements.

E. Documentation Requirements

The standard format for documentation requirements for indirect (indirect (F&A)) rate proposals for claiming costs under the regular method is available on the OMB Web site here: *http://www.whitehouse.gov/omb/grants_forms.*

F. Certification

1. Certification of Charges

To assure that expenditures for Federal awards are proper and in accordance with the agreement documents and approved project budgets, the annual and/or final fiscal reports or vouchers requesting payment under the agreements will include a certification, signed by an authorized official of the university, which reads ''By signing this report, I certify to the best of my knowledge and belief that the report is true, complete, and accurate, and the expenditures, disbursements and cash receipts are for the purposes and intent set forth in the award documents. I am aware that any false, fictitious, or fraudulent information, or the omission of any material fact, may subject me to criminal, civil or administrative penalties for fraud, false statements, false claims or otherwise. (U.S. Code, Title 18, Section 1001 and Title 31, Sections 3729–3733 and 3801–3812)''.

2. Certification of Indirect (F&A) Costs

a. *Policy.* Cognizant agencies must not accept a proposed indirect cost rate must unless such costs have been certified by the educational institution using the Certificate of indirect (F&A) Costs set forth in subsection F.2.c

b. The certificate must be signed on behalf of the institution by the chief financial officer or an individual designated by an individual at a level no lower than vice president or chief financial officer.

(1) No indirect (F&A) cost rate must be binding upon the Federal government if the most recent required proposal from the institution has not been certified. Where it is necessary to establish indirect (F&A) cost rates, and the institution has not submitted a certified proposal for establishing such rates in accordance with the requirements of this section, the Federal government must unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that have been furnished to the cognizant agency for indirect costs and for which it can be demonstrated that all unallowable costs have been excluded. When indirect (F&A) cost rates are unilaterally established by the Federal government because of failure of the institution to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed.

c. *Certificate.* The certificate required by this section must be in the following form:

Certificate of Indirect (F&A) Costs

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the indirect (F&A) cost proposal submitted herewith;

(2) All costs included in this proposal [identify date] to establish billing or final indirect (F&A) costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal agreement(s) to which they apply and with the cost principles applicable to those agreements.

(3) This proposal does not include any costs which are unallowable under applicable cost principles such as (without limitation): public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) All costs included in this proposal are properly allocable to Federal agreements on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements.

I declare that the foregoing is true and correct.

Institution of Higher Education: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

Appendix IV to Part 200—Indirect (F&A) Costs Identification and Assignment, and Rate Determination for Nonprofit Organizations

A. General

1. Indirect costs are those that have been incurred for common or joint objectives and cannot be readily identified with a particular final cost objective. Direct cost of minor amounts may be treated as indirect costs under the conditions described in § 200.413 Direct costs paragraph (d) of this Part. After direct costs have been determined and assigned directly to awards or other work as appropriate, indirect costs are those remaining to be allocated to benefitting cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

''Major nonprofit organizations'' are defined in § 200.414 Indirect (F&A) costs. See indirect cost rate reporting requirements in sections B.2.e and B.3.g of this Appendix.

B. Allocation of Indirect Costs and Determination of Indirect Cost Rates

1. General

a. If a nonprofit organization has only one major function, or where all its major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures, as described in section B.2 of this Appendix.

b. If an organization has several major functions which benefit from its indirect

costs in varying degrees, allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitting functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual Federal awards and other activities included in that function by means of an indirect cost rate(s).

c. The determination of what constitutes an organization's major functions will depend on its purpose in being; the types of services it renders to the public, its clients, and its members; and the amount of effort it devotes to such activities as fundraising, public information and membership activities.

d. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in section B.2 through B.5 of this Appendix.

e. The base period for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to work performed in that period. The base period normally should coincide with the organization's fiscal year but, in any event, must be so selected as to avoid inequities in the allocation of the costs.

2. Simplified Allocation Method

a. Where an organization's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (i) separating the organization's total costs for the base period as either direct or indirect, and (ii) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where an organization has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to an organization is relatively small.

b. Both the direct costs and the indirect costs must exclude capital expenditures and unallowable costs. However, unallowable costs which represent activities must be included in the direct costs under the conditions described in § 200.413 Direct costs, paragraph (e) of this Part.

c. The distribution base may be total direct costs (excluding capital expenditures and other distorting items, such contracts or subawards for $25,000 or more), direct salaries and wages, or other base which results in an equitable distribution. The distribution base must exclude participant support costs as defined in § 200.75 Participant support costs.

d. Except where a special rate(s) is required in accordance with section B.5 of this Appendix, the indirect cost rate developed under the above principles is applicable to all Federal awards of the organization. If a special rate(s) is required, appropriate modifications must be made in order to develop the special rate(s).

e. For an organization that receives more than $10 million in Federal funding of direct costs in a fiscal year, a breakout of the indirect cost component into two broad categories, Facilities and Administration as defined in section A.3 of this Appendix, is required. The rate in each case must be stated as the percentage which the amount of the particular indirect cost category (i.e., Facilities or Administration) is of the distribution base identified with that category.

3. Multiple Allocation Base Method

a. General. Where an organization's indirect costs benefit its major functions in varying degrees, indirect costs must be accumulated into separate cost groupings, as described in subparagraph b. Each grouping must then be allocated individually to benefitting functions by means of a base which best measures the relative benefits. The default allocation bases by cost pool are described in section B.3.c of this Appendix.

b. Identification of indirect costs. Cost groupings must be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping must constitute a pool of expenses that are of like character in terms of functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The groupings are classified within the two broad categories: ''Facilities'' and ''Administration,'' as described in section A.3 of this Appendix. The indirect cost pools are defined as follows:

(1) Depreciation. The expenses under this heading are the portion of the costs of the organization's buildings, capital improvements to land and buildings, and equipment which are computed in accordance with § 200.436 Depreciation.

(2) Interest. Interest on debt associated with certain buildings, equipment and capital improvements are computed in accordance with § 200.449 Interest.

(3) Operation and maintenance expenses. The expenses under this heading are those that have been incurred for the administration, operation, maintenance, preservation, and protection of the organization's physical plant. They include expenses normally incurred for such items as: janitorial and utility services; repairs and ordinary or normal alterations of buildings, furniture and equipment; care of grounds; maintenance and operation of buildings and other plant facilities; security; earthquake and disaster preparedness; environmental safety; hazardous waste disposal; property, liability and other insurance relating to property; space and capital leasing; facility planning and management; and central receiving. The operation and maintenance expenses category must also include its allocable share of fringe benefit costs, depreciation, and interest costs.

(4) General administration and general expenses. The expenses under this heading are those that have been incurred for the overall general executive and administrative offices of the organization and other expenses of a general nature which do not relate solely to any major function of the organization. This category must also include its allocable share of fringe benefit costs, operation and maintenance expense, depreciation, and interest costs. Examples of this category include central offices, such as the director's office, the office of finance, business services, budget and planning, personnel, safety and risk management, general counsel, management information systems, and library costs.

In developing this cost pool, special care should be exercised to ensure that costs incurred for the same purpose in like circumstances are treated consistently as either direct or indirect costs. For example, salaries of technical staff, project supplies, project publication, telephone toll charges, computer costs, travel costs, and specialized services costs must be treated as direct costs wherever identifiable to a particular program. The salaries and wages of administrative and pooled clerical staff should normally be treated as indirect costs. Direct charging of these costs may be appropriate where a major project or activity explicitly requires and budgets for administrative or clerical services and other individuals involved can be identified with the program or activity. Items such as office supplies, postage, local telephone costs, periodicals and memberships should normally be treated as indirect costs.

c. Allocation bases. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitting functions. The essential consideration in selecting a method or a base is that it is the one best suited for assigning the pool of costs to cost objectives in accordance with benefits derived; a traceable cause and effect relationship; or logic and reason, where neither the cause nor the effect of the relationship is determinable. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation must be made in that manner. When the expenses in a cost grouping are more general in nature, the allocation must be made through the use of a selected base which produces results that are equitable to both the Federal government and the organization. The distribution must be made in accordance with the bases described herein unless it can be demonstrated that the use of a different base would result in a more equitable allocation of the costs, or that a more readily available base would not increase the costs charged to Federal awards. The results of special cost studies (such as an engineering utility study) must not be used to determine and allocate the indirect costs to Federal awards.

(1) Depreciation. Depreciation expenses must be allocated in the following manner:

(a) Depreciation on buildings used exclusively in the conduct of a single function, and on capital improvements and equipment used in such buildings, must be assigned to that function.

(b) Depreciation on buildings used for more than one function, and on capital improvements and equipment used in such buildings, must be allocated to the individual functions performed in each building on the

basis of usable square feet of space, excluding common areas, such as hallways, stairwells, and restrooms.

(c) Depreciation on buildings, capital improvements and equipment related space (e.g., individual rooms, and laboratories) used jointly by more than one function (as determined by the users of the space) must be treated as follows. The cost of each jointly used unit of space must be allocated to the benefitting functions on the basis of:

(i) the employees and other users on a full-time equivalent (FTE) basis or salaries and wages of those individual functions benefitting from the use of that space; or

(ii) organization-wide employee FTEs or salaries and wages applicable to the benefitting functions of the organization.

(d) Depreciation on certain capital improvements to land, such as paved parking areas, fences, sidewalks, and the like, not included in the cost of buildings, must be allocated to user categories on a FTE basis and distributed to major functions in proportion to the salaries and wages of all employees applicable to the functions.

(2) Interest. Interest costs must be allocated in the same manner as the depreciation on the buildings, equipment and capital equipment to which the interest relates.

(3) Operation and maintenance expenses. Operation and maintenance expenses must be allocated in the same manner as the depreciation.

(4) General administration and general expenses. General administration and general expenses must be allocated to benefitting functions based on modified total costs (MTC). The MTC is the modified total direct costs (MTDC), as described in Subpart A—Acronyms and Definitions of Part 200, plus the allocated indirect cost proportion. The expenses included in this category could be grouped first according to major functions of the organization to which they render services or provide benefits. The aggregate expenses of each group must then be allocated to benefitting functions based on MTC.

d. Order of distribution.

(1) Indirect cost categories consisting of depreciation, interest, operation and maintenance, and general administration and general expenses must be allocated in that order to the remaining indirect cost categories as well as to the major functions of the organization. Other cost categories should be allocated in the order determined to be most appropriate by the organization. This order of allocation does not apply if cross allocation of costs is made as provided in section B.3.d.2 of this Appendix.

(2) Normally, an indirect cost category will be considered closed once it has been allocated to other cost objectives, and costs must not be subsequently allocated to it. However, a cross allocation of costs between two or more indirect costs categories could be used if such allocation will result in a more equitable allocation of costs. If a cross allocation is used, an appropriate modification to the composition of the indirect cost categories is required.

e. Application of indirect cost rate or rates. Except where a special indirect cost rate(s) is required in accordance with section B.5 of this Appendix, the separate groupings of indirect costs allocated to each major function must be aggregated and treated as a common pool for that function. The costs in the common pool must then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

f. Distribution basis. Indirect costs must be distributed to applicable Federal awards and other benefitting activities within each major function on the basis of MTDC (see definition in § 200.68 Modified Total Direct Cost (MTDC) of Part 200.

g. Individual Rate Components. An indirect cost rate must be determined for each separate indirect cost pool developed. The rate in each case must be stated as the percentage which the amount of the particular indirect cost pool is of the distribution base identified with that pool. Each indirect cost rate negotiation or determination agreement must include development of the rate for each indirect cost pool as well as the overall indirect cost rate. The indirect cost pools must be classified within two broad categories: ''Facilities'' and ''Administration,'' as described in section A.3 of this Appendix.

4. Direct Allocation Method

a. Some nonprofit organizations treat all costs as direct costs except general administration and general expenses. These organizations generally separate their costs into three basic categories: (i) General administration and general expenses, (ii) fundraising, and (iii) other direct functions (including projects performed under Federal awards). Joint costs, such as depreciation, rental costs, operation and maintenance of facilities, telephone expenses, and the like are prorated individually as direct costs to each category and to each Federal award or other activity using a base most appropriate to the particular cost being prorated.

b. This method is acceptable, provided each joint cost is prorated using a base which accurately measures the benefits provided to each Federal award or other activity. The bases must be established in accordance with reasonable criteria, and be supported by current data. This method is compatible with the Standards of Accounting and Financial Reporting for Voluntary Health and Welfare Organizations issued jointly by the National Health Council, Inc., the National Assembly of Voluntary Health and Social Welfare Organizations, and the United Way of America.

c. Under this method, indirect costs consist exclusively of general administration and general expenses. In all other respects, the organization's indirect cost rates must be computed in the same manner as that described in section B.2 Simplified allocation method of this Appendix.

5. Special Indirect Cost Rates

In some instances, a single indirect cost rate for all activities of an organization or for each major function of the organization may not be appropriate, since it would not take into account those different factors which may substantially affect the indirect costs applicable to a particular segment of work. For this purpose, a particular segment of work may be that performed under a single Federal award or it may consist of work under a group of Federal awards performed in a common environment. These factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the scientific disciplines or technical skills involved, the organizational arrangements used, or any combination thereof. When a particular segment of work is performed in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to such work. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided it is determined that (i) the rate differs significantly from that which would have been obtained under sections B.2, B.3, and B.4 of this Appendix, and (ii) the volume of work to which the rate would apply is material.

C. Negotiation and Approval of Indirect Cost Rates

1. Definitions

As used in this section, the following terms have the meanings set forth in this section:

a. *Cognizant agency for indirect costs* means the Federal agency responsible for negotiating and approving indirect cost rates for a nonprofit organization on behalf of all Federal agencies.

b. *Predetermined rate* means an indirect cost rate, applicable to a specified current or future period, usually the organization's fiscal year. The rate is based on an estimate of the costs to be incurred during the period. A predetermined rate is not subject to adjustment.

c. *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

d. *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual costs of the period. A final rate is not subject to adjustment.

e. *Provisional rate or billing rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awards pending the establishment of a final rate for the period.

f. *Indirect cost proposal* means the documentation prepared by an organization to substantiate its claim for the reimbursement of indirect costs. This proposal provides the basis for the review and negotiation leading to the establishment of an organization's indirect cost rate.

g. *Cost objective* means a function, organizational subdivision, contract, Federal award, or other work unit for which cost data are desired and for which provision is made to accumulate and measure the cost of processes, projects, jobs and capitalized projects.

2. Negotiation and Approval of Rates

a. Unless different arrangements are agreed to by the Federal agencies concerned, the Federal agency with the largest dollar value of Federal awards with an organization will be designated as the cognizant agency for indirect costs for the negotiation and approval of the indirect cost rates and, where necessary, other rates such as fringe benefit and computer charge-out rates. Once an agency is assigned cognizance for a particular nonprofit organization, the assignment will not be changed unless there is a shift in the dollar volume of the Federal awards to the organization for at least three years. All concerned Federal agencies must be given the opportunity to participate in the negotiation process but, after a rate has been agreed upon, it will be accepted by all Federal agencies. When a Federal agency has reason to believe that special operating factors affecting its Federal awards necessitate special indirect cost rates in accordance with section B.5 of this Appendix, it will, prior to the time the rates are negotiated, notify the cognizant agency for indirect costs. (See also § 200.414 Indirect (F&A) costs of Part 200.)

b. Except as otherwise provided in § 200.414 Indirect (F&A) costs paragraph (e) of this Part, a nonprofit organization which has not previously established an indirect cost rate with a Federal agency must submit its initial indirect cost proposal immediately after the organization is advised that a Federal award will be made and, in no event, later than three months after the effective date of the Federal award.

c. Unless approved by the cognizant agency for indirect costs in accordance with § 200.414 Indirect (F&A) costs paragraph (f) of this Part, organizations that have previously established indirect cost rates must submit a new indirect cost proposal to the cognizant agency for indirect costs within six months after the close of each fiscal year.

d. A predetermined rate may be negotiated for use on Federal awards where there is reasonable assurance, based on past experience and reliable projection of the organization's costs, that the rate is not likely to exceed a rate based on the organization's actual costs.

e. Fixed rates may be negotiated where predetermined rates are not considered appropriate. A fixed rate, however, must not be negotiated if (i) all or a substantial portion of the organization's Federal awards are expected to expire before the carry-forward adjustment can be made; (ii) the mix of Federal and non-Federal work at the organization is too erratic to permit an equitable carry-forward adjustment; or (iii) the organization's operations fluctuate significantly from year to year.

f. Provisional and final rates must be negotiated where neither predetermined nor fixed rates are appropriate. Predetermined or fixed rates may replace provisional rates at any time prior to the close of the organization's fiscal year. If that event does not occur, a final rate will be established and upward or downward adjustments will be made based on the actual allowable costs incurred for the period involved.

g. The results of each negotiation must be formalized in a written agreement between the cognizant agency for indirect costs and the nonprofit organization. The cognizant agency for indirect costs must make available copies of the agreement to all concerned Federal agencies.

h. If a dispute arises in a negotiation of an indirect cost rate between the cognizant agency for indirect costs and the nonprofit organization, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

i. To the extent that problems are encountered among the Federal agencies in connection with the negotiation and approval process, OMB will lend assistance as required to resolve such problems in a timely manner.

D. Certification of Indirect (F&A) Costs

Required Certification. No proposal to establish indirect (F&A) cost rates must be acceptable unless such costs have been certified by the non-profit organization using the Certificate of Indirect (F&A) Costs set forth in section j. of this appendix. The certificate must be signed on behalf of the organization by an individual at a level no lower than vice president or chief financial officer for the organization.

j. Each indirect cost rate proposal must be accompanied by a certification in the following form:

Certificate of Indirect (F&A) Costs

This is to certify that to the best of my knowledge and belief:

(1) I have reviewed the indirect (F&A) cost proposal submitted herewith;

(2) All costs included in this proposal [identify date] to establish billing or final indirect (F&A) costs rate for [identify period covered by rate] are allowable in accordance with the requirements of the Federal awards to which they apply and with Subpart E—Cost Principles of Part 200.

(3) This proposal does not include any costs which are unallowable under Subpart E—Cost Principles of Part 200 such as (without limitation): public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, and defense of fraud proceedings; and

(4) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the Federal awards to which they are allocated in accordance with applicable requirements.

I declare that the foregoing is true and correct.

Nonprofit Organization: _____
Signature: _____
Name of Official: _____
Title: _____
Date of Execution: _____

Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans

A. General

1. Most governmental units provide certain services, such as motor pools, computer centers, purchasing, accounting, etc., to operating agencies on a centralized basis. Since federally-supported awards are performed within the individual operating agencies, there needs to be a process whereby these central service costs can be identified and assigned to benefitted activities on a reasonable and consistent basis. The central service cost allocation plan provides that process. All costs and other data used to distribute the costs included in the plan should be supported by formal accounting and other records that will support the propriety of the costs assigned to Federal awards.

2. Guidelines and illustrations of central service cost allocation plans are provided in a brochure published by the Department of Health and Human Services entitled ''*A Guide for State, Local and Indian Tribal Governments: Cost Principles and Procedures for Developing Cost Allocation Plans and Indirect Cost Rates for Agreements with the Federal Government.*'' A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

B. Definitions

1. *Agency or operating agency* means an organizational unit or sub-division within a governmental unit that is responsible for the performance or administration of Federal awards or activities of the governmental unit.

2. *Allocated central services* means central services that benefit operating agencies but are not billed to the agencies on a fee-for-service or similar basis. These costs are allocated to benefitted agencies on some reasonable basis. Examples of such services might include general accounting, personnel administration, purchasing, etc.

3. *Billed central services* means central services that are billed to benefitted agencies or programs on an individual fee-for-service or similar basis. Typical examples of billed central services include computer services, transportation services, insurance, and fringe benefits.

4. *Cognizant agency for indirect costs* is defined in § 200.19 Cognizant agency for indirect costs of this Part. The determination of cognizant agency for indirect costs for states and local governments is described in section F.1, Negotiation and Approval of Central Service Plans.

5. *Major local government* means local government that receives more than $100 million in direct Federal awards subject to this Part.

C. Scope of the Central Service Cost Allocation Plans

The central service cost allocation plan will include all central service costs that will be claimed (either as a billed or an allocated cost) under Federal awards and will be documented as described in section E. Costs of central services omitted from the plan will not be reimbursed.

D. Submission Requirements

1. Each state will submit a plan to the Department of Health and Human Services for each year in which it claims central service costs under Federal awards. The plan should include (a) a projection of the next year's allocated central service cost (based either on actual costs for the most recently completed year or the budget projection for the coming year), and (b) a reconciliation of

actual allocated central service costs to the estimated costs used for either the most recently completed year or the year immediately preceding the most recently completed year.

2. Each major local government is also required to submit a plan to its cognizant agency for indirect costs annually.

3. All other local governments claiming central service costs must develop a plan in accordance with the requirements described in this Part and maintain the plan and related supporting documentation for audit. These local governments are not required to submit their plans for Federal approval unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a local government only receives funds as a subrecipient, the pass-through entity will be responsible for monitoring the subrecipient's plan.

4. All central service cost allocation plans will be prepared and, when required, submitted within six months prior to the beginning of each of the governmental unit's fiscal years in which it proposes to claim central service costs. Extensions may be granted by the cognizant agency for indirect costs on a case-by-case basis.

E. Documentation Requirements for Submitted Plans

The documentation requirements described in this section may be modified, expanded, or reduced by the cognizant agency for indirect costs on a case-by-case basis. For example, the requirements may be reduced for those central services which have little or no impact on Federal awards. Conversely, if a review of a plan indicates that certain additional information is needed, and will likely be needed in future years, it may be routinely requested in future plan submissions. Items marked with an asterisk (*) should be submitted only once; subsequent plans should merely indicate any changes since the last plan.

1. General

All proposed plans must be accompanied by the following: an organization chart sufficiently detailed to show operations including the central service activities of the state/local government whether or not they are shown as benefitting from central service functions; a copy of the Comprehensive Annual Financial Report (or a copy of the Executive Budget if budgeted costs are being proposed) to support the allowable costs of each central service activity included in the plan; and, a certification (see subsection 4.) that the plan was prepared in accordance with this Part, contains only allowable costs, and was prepared in a manner that treated similar costs consistently among the various Federal awards and between Federal and non-Federal awards/activities.

2. Allocated Central Services

For each allocated central service, the plan must also include the following: a brief description of the service, an identification of the unit rendering the service and the operating agencies receiving the service, the items of expense included in the cost of the service, the method used to distribute the cost of the service to benefitted agencies, and a summary schedule showing the allocation of each service to the specific benefitted agencies. If any self-insurance funds or fringe benefits costs are treated as allocated (rather than billed) central services, documentation discussed in subsections 3.b. and c. must also be included.

3. Billed Services

a. *General.* The information described in this section must be provided for all billed central services, including internal service funds, self-insurance funds, and fringe benefit funds.

b. Internal service funds.

(1) For each internal service fund or similar activity with an operating budget of $5 million or more, the plan must include: a brief description of each service; a balance sheet for each fund based on individual accounts contained in the governmental unit's accounting system; a revenue/expenses statement, with revenues broken out by source, e.g., regular billings, interest earned, etc.; a listing of all non-operating transfers (as defined by Generally Accepted Accounting Principles (GAAP)) into and out of the fund; a description of the procedures (methodology) used to charge the costs of each service to users, including how billing rates are determined; a schedule of current rates; and, a schedule comparing total revenues (including imputed revenues) generated by the service to the allowable costs of the service, as determined under this Part, with an explanation of how variances will be handled.

(2) Revenues must consist of all revenues generated by the service, including unbilled and uncollected revenues. If some users were not billed for the services (or were not billed at the full rate for that class of users), a schedule showing the full imputed revenues associated with these users must be provided. Expenses must be broken out by object cost categories (e.g., salaries, supplies, etc.).

c. *Self-insurance funds.* For each self-insurance fund, the plan must include: the fund balance sheet; a statement of revenue and expenses including a summary of billings and claims paid by agency; a listing of all non-operating transfers into and out of the fund; the type(s) of risk(s) covered by the fund (e.g., automobile liability, workers' compensation, etc.); an explanation of how the level of fund contributions are determined, including a copy of the current actuarial report (with the actuarial assumptions used) if the contributions are determined on an actuarial basis; and, a description of the procedures used to charge or allocate fund contributions to benefitted activities. Reserve levels in excess of claims (1) submitted and adjudicated but not paid, (2) submitted but not adjudicated, and (3) incurred but not submitted must be identified and explained.

d. *Fringe benefits.* For fringe benefit costs, the plan must include: a listing of fringe benefits provided to covered employees, and the overall annual cost of each type of benefit; current fringe benefit policies; and procedures used to charge or allocate the costs of the benefits to benefitted activities. In addition, for pension and post-retirement health insurance plans, the following information must be provided: the governmental unit's funding policies, e.g., legislative bills, trust agreements, or state-mandated contribution rules, if different from actuarially determined rates; the pension plan's costs accrued for the year; the amount funded, and date(s) of funding; a copy of the current actuarial report (including the actuarial assumptions); the plan trustee's report; and, a schedule from the activity showing the value of the interest cost associated with late funding.

4. Required Certification

Each central service cost allocation plan will be accompanied by a certification in the following form:

CERTIFICATE OF COST ALLOCATION PLAN

This is to certify that I have reviewed the cost allocation plan submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish cost allocations or billings for [identify period covered by plan] are allowable in accordance with the requirements of this Part and the Federal award(s) to which they apply. Unallowable costs have been adjusted for in allocating costs as indicated in the cost allocation plan.

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the Federal awards to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently.

I declare that the foregoing is true and correct.

Governmental Unit: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

F. Negotiation and Approval of Central Service Plans

1. Federal Cognizant Agency for Indirect Costs Assignments for Cost Negotiation

In general, unless different arrangements are agreed to by the concerned Federal agencies, for central service cost allocation plans, the cognizant agency responsible for review and approval is the Federal agency with the largest dollar value of total Federal awards with a governmental unit. For indirect cost rates and departmental indirect cost allocation plans, the cognizant agency is the Federal agency with the largest dollar value of direct Federal awards with a governmental unit or component, as appropriate. Once designated as the cognizant agency for indirect costs, the Federal agency must remain so for a period of five years. In addition, the following Federal agencies continue to be responsible for the indicated governmental entities:

Department of Health and Human Services—Public assistance and state-wide cost allocation plans for all states (including the District of Columbia and Puerto Rico),

state and local hospitals, libraries and health districts.

Department of the Interior—Indian tribal governments, territorial governments, and state and local park and recreational districts.

Department of Labor—State and local labor departments.

Department of Education—School districts and state and local education agencies.

Department of Agriculture—State and local agriculture departments.

Department of Transportation—State and local airport and port authorities and transit districts.

Department of Commerce—State and local economic development districts.

Department of Housing and Urban Development—State and local housing and development districts.

Environmental Protection Agency—State and local water and sewer districts.

2. Review

All proposed central service cost allocation plans that are required to be submitted will be reviewed, negotiated, and approved by the cognizant agency for indirect costs on a timely basis. The cognizant agency for indirect costs will review the proposal within six months of receipt of the proposal and either negotiate/approve the proposal or advise the governmental unit of the additional documentation needed to support/evaluate the proposed plan or the changes required to make the proposal acceptable. Once an agreement with the governmental unit has been reached, the agreement will be accepted and used by all Federal agencies, unless prohibited or limited by statute. Where a Federal awarding agency has reason to believe that special operating factors affecting its Federal awards necessitate special consideration, the funding agency will, prior to the time the plans are negotiated, notify the cognizant agency for indirect costs.

3. Agreement

The results of each negotiation must be formalized in a written agreement between the cognizant agency for indirect costs and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The results of the negotiation must be made available to all Federal agencies for their use.

4. Adjustments

Negotiated cost allocation plans based on a proposal later found to have included costs that: (a) are unallowable (i) as specified by law or regulation, (ii) as identified in subpart F, General Provisions for selected Items of Cost of this Part, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards, must be adjusted, or a refund must be made at the option of the cognizant agency for indirect costs, including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for indirect costs regulations. Adjustments or cash refunds may include, at the option of the cognizant agency for indirect costs, earned or imputed interest from the date of expenditure and delinquent debt interest, if applicable, chargeable in accordance with applicable cognizant agency claims collection regulations. These adjustments or refunds are designed to correct the plans and do not constitute a reopening of the negotiation.

G. Other Policies

1. Billed Central Service Activities

Each billed central service activity must separately account for all revenues (including imputed revenues) generated by the service, expenses incurred to furnish the service, and profit/loss.

2. Working Capital Reserves

Internal service funds are dependent upon a reasonable level of working capital reserve to operate from one billing cycle to the next. Charges by an internal service activity to provide for the establishment and maintenance of a reasonable level of working capital reserve, in addition to the full recovery of costs, are allowable. A working capital reserve as part of retained earnings of up to 60 calendar days cash expenses for normal operating purposes is considered reasonable. A working capital reserve exceeding 60 calendar days may be approved by the cognizant agency for indirect costs in exceptional cases.

3. Carry-Forward Adjustments of Allocated Central Service Costs

Allocated central service costs are usually negotiated and approved for a future fiscal year on a ''fixed with carry-forward'' basis. Under this procedure, the fixed amounts for the future year covered by agreement are not subject to adjustment for that year. However, when the actual costs of the year involved become known, the differences between the fixed amounts previously approved and the actual costs will be carried forward and used as an adjustment to the fixed amounts established for a later year. This ''carry-forward'' procedure applies to all central services whose costs were fixed in the approved plan. However, a carry-forward adjustment is not permitted, for a central service activity that was not included in the approved plan, or for unallowable costs that must be reimbursed immediately.

4. Adjustments of Billed Central Services

Billing rates used to charge Federal awards must be based on the estimated costs of providing the services, including an estimate of the allocable central service costs. A comparison of the revenue generated by each billed service (including total revenues whether or not billed or collected) to the actual allowable costs of the service will be made at least annually, and an adjustment will be made for the difference between the revenue and the allowable costs. These adjustments will be made through one of the following adjustment methods: (a) a cash refund including earned or imputed interest from the date of transfer and debt interest, if applicable, chargeable in accordance with applicable Federal cognizant agency for indirect costs regulations to the Federal Government for the Federal share of the adjustment, (b) credits to the amounts charged to the individual programs, (c) adjustments to future billing rates, or (d) adjustments to allocated central service costs. Adjustments to allocated central services will not be permitted where the total amount of the adjustment for a particular service (Federal share and non-Federal) share exceeds $500,000. Adjustment methods may include, at the option of the cognizant agency, earned or imputed interest from the date of expenditure and delinquent debt interest, if applicable, chargeable in accordance with applicable cognizant agency claims collection regulations.

5. Records Retention

All central service cost allocation plans and related documentation used as a basis for claiming costs under Federal awards must be retained for audit in accordance with the records retention requirements contained in Subpart D—Post Federal Award Requirements, of Part 200.

6. Appeals

If a dispute arises in the negotiation of a plan between the cognizant agency for indirect costs and the governmental unit, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

7. OMB Assistance

To the extent that problems are encountered among the Federal agencies or governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

Appendix VI to Part 200—Public Assistance Cost Allocation Plans

A. General

Federally-financed programs administered by state public assistance agencies are funded predominately by the Department of Health and Human Services (HHS). In support of its stewardship requirements, HHS has published requirements for the development, documentation, submission, negotiation, and approval of public assistance cost allocation plans in Subpart E of 45 CFR Part 95. All administrative costs (direct and indirect) are normally charged to Federal awards by implementing the public assistance cost allocation plan. This Appendix extends these requirements to all Federal agencies whose programs are administered by a state public assistance agency. Major federally-financed programs typically administered by state public assistance agencies include: Temporary Aid to Needy Families (TANF), Medicaid, Food Stamps, Child Support Enforcement, Adoption Assistance and Foster Care, and Social Services Block Grant.

B. Definitions

1. *State public assistance agency* means a state agency administering or supervising the administration of one or more public assistance programs operated by the state as identified in Subpart E of 45 CFR Part 95. For the purpose of this Appendix, these programs

include all programs administered by the state public assistance agency.

2. *State public assistance agency costs* means all costs incurred by, or allocable to, the state public assistance agency, except expenditures for financial assistance, medical contractor payments, food stamps, and payments for services and goods provided directly to program recipients.

C. Policy

State public assistance agencies will develop, document and implement, and the Federal Government will review, negotiate, and approve, public assistance cost allocation plans in accordance with Subpart E of 45 CFR Part 95. The plan will include all programs administered by the state public assistance agency. Where a letter of approval or disapproval is transmitted to a state public assistance agency in accordance with Subpart E, the letter will apply to all Federal agencies and programs. The remaining sections of this Appendix (except for the requirement for certification) summarize the provisions of Subpart E of 45 CFR Part 95.

D. Submission, Documentation, and Approval of Public Assistance Cost Allocation Plans

1. State public assistance agencies are required to promptly submit amendments to the cost allocation plan to HHS for review and approval.

2. Under the coordination process outlined in section E, Review of Implementation of Approved Plans, affected Federal agencies will review all new plans and plan amendments and provide comments, as appropriate, to HHS. The effective date of the plan or plan amendment will be the first day of the calendar quarter following the event that required the amendment, unless another date is specifically approved by HHS. HHS, as the cognizant agency for indirect costs acting on behalf of all affected Federal agencies, will, as necessary, conduct negotiations with the state public assistance agency and will inform the state agency of the action taken on the plan or plan amendment.

E. Review of Implementation of Approved Plans

1. Since public assistance cost allocation plans are of a narrative nature, the review during the plan approval process consists of evaluating the appropriateness of the proposed groupings of costs (cost centers) and the related allocation bases. As such, the Federal government needs some assurance that the cost allocation plan has been implemented as approved. This is accomplished by reviews by the funding agencies, single audits, or audits conducted by the cognizant audit agency.

2. Where inappropriate charges affecting more than one funding agency are identified, the cognizant HHS cost negotiation office will be advised and will take the lead in resolving the issue(s) as provided for in Subpart E of 45 CFR Part 95.

3. If a dispute arises in the negotiation of a plan or from a disallowance involving two or more funding agencies, the dispute must be resolved in accordance with the appeals procedures set out in 45 CFR Part 16. Disputes involving only one funding agency will be resolved in accordance with the Federal awarding agency's appeal process.

4. To the extent that problems are encountered among the Federal agencies or governmental units in connection with the negotiation and approval process, the Office of Management and Budget will lend assistance, as required, to resolve such problems in a timely manner.

F. Unallowable Costs

Claims developed under approved cost allocation plans will be based on allowable costs as identified in this Part. Where unallowable costs have been claimed and reimbursed, they will be refunded to the program that reimbursed the unallowable cost using one of the following methods: (a) a cash refund, (b) offset to a subsequent claim, or (c) credits to the amounts charged to individual Federal awards. Cash refunds, offsets, and credits may include at the option of the cognizant agency for indirect cost, earned or imputed interest from the date of expenditure and delinquent debt interest, if applicable, chargeable in accordance with applicable cognizant agency for indirect cost claims collection regulations.

Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals

A. General

1. Indirect costs are those that have been incurred for common or joint purposes. These costs benefit more than one cost objective and cannot be readily identified with a particular final cost objective without effort disproportionate to the results achieved. After direct costs have been determined and assigned directly to Federal awards and other activities as appropriate, indirect costs are those remaining to be allocated to benefitted cost objectives. A cost may not be allocated to a Federal award as an indirect cost if any other cost incurred for the same purpose, in like circumstances, has been assigned to a Federal award as a direct cost.

2. Indirect costs include (a) the indirect costs originating in each department or agency of the governmental unit carrying out Federal awards and (b) the costs of central governmental services distributed through the central service cost allocation plan (as described in Appendix V to Part 200—State/Local Government and Indian Tribe-Wide Central Service Cost Allocation Plans) and not otherwise treated as direct costs.

3. Indirect costs are normally charged to Federal awards by the use of an indirect cost rate. A separate indirect cost rate(s) is usually necessary for each department or agency of the governmental unit claiming indirect costs under Federal awards. Guidelines and illustrations of indirect cost proposals are provided in a brochure published by the Department of Health and Human Services entitled ''*A Guide for States and Local Government Agencies: Cost Principles and Procedures for Establishing Cost Allocation Plans and Indirect Cost Rates for Grants and Contracts with the Federal Government.*'' A copy of this brochure may be obtained from the Superintendent of Documents, U.S. Government Printing Office.

4. Because of the diverse characteristics and accounting practices of governmental units, the types of costs which may be classified as indirect costs cannot be specified in all situations. However, typical examples of indirect costs may include certain state/local-wide central service costs, general administration of the non-Federal entity accounting and personnel services performed within the non-Federal entity, depreciation on buildings and equipment, the costs of operating and maintaining facilities.

5. This Appendix does not apply to state public assistance agencies. These agencies should refer instead to Appendix VII to Part 200—States and Local Government and Indian Tribe Indirect Cost Proposals.

B. Definitions

1. *Base* means the accumulated direct costs (normally either total direct salaries and wages or total direct costs exclusive of any extraordinary or distorting expenditures) used to distribute indirect costs to individual Federal awards. The direct cost base selected should result in each Federal award bearing a fair share of the indirect costs in reasonable relation to the benefits received from the costs.

2. *Base period* for the allocation of indirect costs is the period in which such costs are incurred and accumulated for allocation to activities performed in that period. The base period normally should coincide with the governmental unit's fiscal year, but in any event, must be so selected as to avoid inequities in the allocation of costs.

3. *Cognizant agency for indirect costs* means the Federal agency responsible for reviewing and approving the governmental unit's indirect cost rate(s) on the behalf of the Federal government. The cognizant agency for indirect costs assignment is described in Appendix VI, section F, Negotiation and Approval of Central Service Plans.

4. *Final rate* means an indirect cost rate applicable to a specified past period which is based on the actual allowable costs of the period. A final audited rate is not subject to adjustment.

5. *Fixed rate* means an indirect cost rate which has the same characteristics as a predetermined rate, except that the difference between the estimated costs and the actual, allowable costs of the period covered by the rate is carried forward as an adjustment to the rate computation of a subsequent period.

6. *Indirect cost pool* is the accumulated costs that jointly benefit two or more programs or other cost objectives.

7. *Indirect cost rate* is a device for determining in a reasonable manner the proportion of indirect costs each program should bear. It is the ratio (expressed as a percentage) of the indirect costs to a direct cost base.

8. *Indirect cost rate proposal* means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate.

9. *Predetermined rate* means an indirect cost rate, applicable to a specified current or

future period, usually the governmental unit's fiscal year. This rate is based on an estimate of the costs to be incurred during the period. Except under very unusual circumstances, a predetermined rate is not subject to adjustment. (Because of legal constraints, predetermined rates are not permitted for Federal contracts; they may, however, be used for grants or cooperative agreements.) Predetermined rates may not be used by governmental units that have not submitted and negotiated the rate with the cognizant agency for indirect costs. In view of the potential advantages offered by this procedure, negotiation of predetermined rates for indirect costs for a period of two to four years should be the norm in those situations where the cost experience and other pertinent facts available are deemed sufficient to enable the parties involved to reach an informed judgment as to the probable level of indirect costs during the ensuing accounting periods.

10. *Provisional rate* means a temporary indirect cost rate applicable to a specified period which is used for funding, interim reimbursement, and reporting indirect costs on Federal awards pending the establishment of a ''final'' rate for that period.

C. Allocation of Indirect Costs and Determination of Indirect Cost Rates

1. General

a. Where a governmental unit's department or agency has only one major function, or where all its major functions benefit from the indirect costs to approximately the same degree, the allocation of indirect costs and the computation of an indirect cost rate may be accomplished through simplified allocation procedures as described in subsection 2.

b. Where a governmental unit's department or agency has several major functions which benefit from its indirect costs in varying degrees, the allocation of indirect costs may require the accumulation of such costs into separate cost groupings which then are allocated individually to benefitted functions by means of a base which best measures the relative degree of benefit. The indirect costs allocated to each function are then distributed to individual Federal awards and other activities included in that function by means of an indirect cost rate(s).

c. Specific methods for allocating indirect costs and computing indirect cost rates along with the conditions under which each method should be used are described in subsections 2, 3 and 4.

2. Simplified Method

a. Where a non-Federal entity's major functions benefit from its indirect costs to approximately the same degree, the allocation of indirect costs may be accomplished by (1) classifying the non-Federal entity's total costs for the base period as either direct or indirect, and (2) dividing the total allowable indirect costs (net of applicable credits) by an equitable distribution base. The result of this process is an indirect cost rate which is used to distribute indirect costs to individual Federal awards. The rate should be expressed as the percentage which the total amount of allowable indirect costs bears to the base selected. This method should also be used where a governmental unit's department or agency has only one major function encompassing a number of individual projects or activities, and may be used where the level of Federal awards to that department or agency is relatively small.

b. Both the direct costs and the indirect costs must exclude capital expenditures and unallowable costs. However, unallowable costs must be included in the direct costs if they represent activities to which indirect costs are properly allocable.

c. The distribution base may be (1) total direct costs (excluding capital expenditures and other distorting items, such as pass-through funds, subcontracts in excess of $25,000, participant support costs, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution.

3. Multiple Allocation Base Method

a. Where a non-Federal entity's indirect costs benefit its major functions in varying degrees, such costs must be accumulated into separate cost groupings. Each grouping must then be allocated individually to benefitted functions by means of a base which best measures the relative benefits.

b. The cost groupings should be established so as to permit the allocation of each grouping on the basis of benefits provided to the major functions. Each grouping should constitute a pool of expenses that are of like character in terms of the functions they benefit and in terms of the allocation base which best measures the relative benefits provided to each function. The number of separate groupings should be held within practical limits, taking into consideration the materiality of the amounts involved and the degree of precision needed.

c. Actual conditions must be taken into account in selecting the base to be used in allocating the expenses in each grouping to benefitted functions. When an allocation can be made by assignment of a cost grouping directly to the function benefitted, the allocation must be made in that manner. When the expenses in a grouping are more general in nature, the allocation should be made through the use of a selected base which produces results that are equitable to both the Federal government and the governmental unit. In general, any cost element or related factor associated with the governmental unit's activities is potentially adaptable for use as an allocation base provided that: (1) it can readily be expressed in terms of dollars or other quantitative measures (total direct costs, direct salaries and wages, staff hours applied, square feet used, hours of usage, number of documents processed, population served, and the like), and (2) it is common to the benefitted functions during the base period.

d. Except where a special indirect cost rate(s) is required in accordance with paragraph (C)(4) of this Appendix, the separate groupings of indirect costs allocated to each major function must be aggregated and treated as a common pool for that function. The costs in the common pool must then be distributed to individual Federal awards included in that function by use of a single indirect cost rate.

e. The distribution base used in computing the indirect cost rate for each function may be (1) total direct costs (excluding capital expenditures and other distorting items such as pass-through funds, subcontracts in excess of $25,000, participant support costs, etc.), (2) direct salaries and wages, or (3) another base which results in an equitable distribution. An indirect cost rate should be developed for each separate indirect cost pool developed. The rate in each case should be stated as the percentage relationship between the particular indirect cost pool and the distribution base identified with that pool.

4. Special Indirect Cost Rates

a. In some instances, a single indirect cost rate for all activities of a non-Federal entity or for each major function of the agency may not be appropriate. It may not take into account those different factors which may substantially affect the indirect costs applicable to a particular program or group of programs. The factors may include the physical location of the work, the level of administrative support required, the nature of the facilities or other resources employed, the organizational arrangements used, or any combination thereof. When a particular Federal award is carried out in an environment which appears to generate a significantly different level of indirect costs, provisions should be made for a separate indirect cost pool applicable to that Federal award. The separate indirect cost pool should be developed during the course of the regular allocation process, and the separate indirect cost rate resulting therefrom should be used, provided that: (1) The rate differs significantly from the rate which would have been developed under paragraphs (C)(2) and (C)(3) of this Appendix, and (2) the Federal award to which the rate would apply is material in amount.

b. Where Federal statutes restrict the reimbursement of certain indirect costs, it may be necessary to develop a special rate for the affected Federal award. Where a ''restricted rate'' is required, the same procedure for developing a non-restricted rate will be used except for the additional step of the elimination from the indirect cost pool those costs for which the law prohibits reimbursement.

D. Submission and Documentation of Proposals

1. Submission of Indirect Cost Rate Proposals

a. All departments or agencies of the governmental unit desiring to claim indirect costs under Federal awards must prepare an indirect cost rate proposal and related documentation to support those costs. The proposal and related documentation must be retained for audit in accordance with the records retention requirements contained in the Common Rule.

b. A governmental department or agency unit that receives more than $35 million in direct Federal funding must submit its indirect cost rate proposal to its cognizant agency for indirect costs. Other governmental department or agency must develop an indirect cost proposal in accordance with the requirements of this Part and maintain the

proposal and related supporting documentation for audit. These governmental departments or agencies are not required to submit their proposals unless they are specifically requested to do so by the cognizant agency for indirect costs. Where a non-Federal entity only receives funds as a subrecipient, the pass-through entity will be responsible for negotiating and/or monitoring the subrecipient's indirect costs.

c. Each Indian tribal government desiring reimbursement of indirect costs must submit its indirect cost proposal to the Department of the Interior (its cognizant agency for indirect costs).

d. Indirect cost proposals must be developed (and, when required, submitted) within six months after the close of the governmental unit's fiscal year, unless an exception is approved by the cognizant agency for indirect costs. If the proposed central service cost allocation plan for the same period has not been approved by that time, the indirect cost proposal may be prepared including an amount for central services that is based on the latest federally-approved central service cost allocation plan. The difference between these central service amounts and the amounts ultimately approved will be compensated for by an adjustment in a subsequent period.

2. Documentation of Proposals

The following must be included with each indirect cost proposal:

a. The rates proposed, including subsidiary work sheets and other relevant data, cross referenced and reconciled to the financial data noted in subsection b. Allocated central service costs will be supported by the summary table included in the approved central service cost allocation plan. This summary table is not required to be submitted with the indirect cost proposal if the central service cost allocation plan for the same fiscal year has been approved by the cognizant agency for indirect costs and is available to the funding agency.

b. A copy of the financial data (financial statements, comprehensive annual financial report, executive budgets, accounting reports, etc.) upon which the rate is based. Adjustments resulting from the use of unaudited data will be recognized, where appropriate, by the Federal cognizant agency for indirect costs in a subsequent proposal.

c. The approximate amount of direct base costs incurred under Federal awards. These costs should be broken out between salaries and wages and other direct costs.

d. A chart showing the organizational structure of the agency during the period for which the proposal applies, along with a functional statement(s) noting the duties and/or responsibilities of all units that comprise the agency. (Once this is submitted, only revisions need be submitted with subsequent proposals.)

3. Required certification.

Each indirect cost rate proposal must be accompanied by a certification in the following form:

CERTIFICATE OF INDIRECT COSTS

This is to certify that I have reviewed the indirect cost rate proposal submitted herewith and to the best of my knowledge and belief:

(1) All costs included in this proposal [identify date] to establish billing or final indirect costs rates for [identify period covered by rate] are allowable in accordance with the requirements of the Federal award(s) to which they apply and the provisions of this Part. Unallowable costs have been adjusted for in allocating costs as indicated in the indirect cost proposal

(2) All costs included in this proposal are properly allocable to Federal awards on the basis of a beneficial or causal relationship between the expenses incurred and the agreements to which they are allocated in accordance with applicable requirements. Further, the same costs that have been treated as indirect costs have not been claimed as direct costs. Similar types of costs have been accounted for consistently and the Federal government will be notified of any accounting changes that would affect the predetermined rate.

I declare that the foregoing is true and correct.

Governmental Unit: _____

Signature: _____

Name of Official: _____

Title: _____

Date of Execution: _____

E. Negotiation and Approval of Rates.

1. Indirect cost rates will be reviewed, negotiated, and approved by the cognizant agency on a timely basis. Once a rate has been agreed upon, it will be accepted and used by all Federal agencies unless prohibited or limited by statute. Where a Federal awarding agency has reason to believe that special operating factors affecting its Federal awards necessitate special indirect cost rates, the funding agency will, prior to the time the rates are negotiated, notify the cognizant agency for indirect costs.

2. The use of predetermined rates, if allowed, is encouraged where the cognizant agency for indirect costs has reasonable assurance based on past experience and reliable projection of the non-Federal entity's costs, that the rate is not likely to exceed a rate based on actual costs. Long-term agreements utilizing predetermined rates extending over two or more years are encouraged, where appropriate.

3. The results of each negotiation must be formalized in a written agreement between the cognizant agency for indirect costs and the governmental unit. This agreement will be subject to re-opening if the agreement is subsequently found to violate a statute, or the information upon which the plan was negotiated is later found to be materially incomplete or inaccurate. The agreed upon rates must be made available to all Federal agencies for their use.

4. Refunds must be made if proposals are later found to have included costs that (a) are unallowable (i) as specified by law or regulation, (ii) as identified in § 200.420 Considerations for selected items of cost, of this Part, or (iii) by the terms and conditions of Federal awards, or (b) are unallowable because they are clearly not allocable to Federal awards. These adjustments or refunds will be made regardless of the type of rate negotiated (predetermined, final, fixed, or provisional).

F. Other Policies

1. Fringe Benefit Rates

If overall fringe benefit rates are not approved for the governmental unit as part of the central service cost allocation plan, these rates will be reviewed, negotiated and approved for individual recipient agencies during the indirect cost negotiation process. In these cases, a proposed fringe benefit rate computation should accompany the indirect cost proposal. If fringe benefit rates are not used at the recipient agency level (i.e., the agency specifically identifies fringe benefit costs to individual employees), the governmental unit should so advise the cognizant agency for indirect costs.

2. Billed Services Provided by the Recipient Agency

In some cases, governmental departments or agencies (components of the governmental unit) provide and bill for services similar to those covered by central service cost allocation plans (e.g., computer centers). Where this occurs, the governmental departments or agencies (components of the governmental unit)should be guided by the requirements in Appendix VI relating to the development of billing rates and documentation requirements, and should advise the cognizant agency for indirect costs of any billed services. Reviews of these types of services (including reviews of costing/billing methodology, profits or losses, etc.) will be made on a case-by-case basis as warranted by the circumstances involved.

3. Indirect Cost Allocations Not Using Rates

In certain situations, governmental departments or agencies (components of the governmental unit), because of the nature of their Federal awards, may be required to develop a cost allocation plan that distributes indirect (and, in some cases, direct) costs to the specific funding sources. In these cases, a narrative cost allocation methodology should be developed, documented, maintained for audit, or submitted, as appropriate, to the cognizant agency for indirect costs for review, negotiation, and approval.

4. Appeals

If a dispute arises in a negotiation of an indirect cost rate (or other rate) between the cognizant agency for indirect costs and the governmental unit, the dispute must be resolved in accordance with the appeals procedures of the cognizant agency for indirect costs.

5. Collection of Unallowable Costs and Erroneous Payments

Costs specifically identified as unallowable and charged to Federal awards either directly or indirectly will be refunded (including interest chargeable in accordance with applicable Federal cognizant agency for indirect costs regulations).

6. OMB Assistance

To the extent that problems are encountered among the Federal agencies or

governmental units in connection with the negotiation and approval process, OMB will lend assistance, as required, to resolve such problems in a timely manner.

Appendix VIII to Part 200—Nonprofit Organizations Exempted From Subpart E—Cost Principles of Part 200

1. Advance Technology Institute (ATI), Charleston, South Carolina
2. Aerospace Corporation, El Segundo, California
3. American Institutes of Research (AIR), Washington, DC
4. Argonne National Laboratory, Chicago, Illinois
5. Atomic Casualty Commission, Washington, DC
6. Battelle Memorial Institute, Headquartered in Columbus, Ohio
7. Brookhaven National Laboratory, Upton, New York
8. Charles Stark Draper Laboratory, Incorporated, Cambridge, Massachusetts
9. CNA Corporation (CNAC), Alexandria, Virginia
10. Environmental Institute of Michigan, Ann Arbor, Michigan
11. Georgia Institute of Technology/Georgia Tech Applied Research Corporation/ Georgia Tech Research Institute, Atlanta, Georgia
12. Hanford Environmental Health Foundation, Richland, Washington
13. IIT Research Institute, Chicago, Illinois
14. Institute of Gas Technology, Chicago, Illinois
15. Institute for Defense Analysis, Alexandria, Virginia
16. LMI, McLean, Virginia
17. Mitre Corporation, Bedford, Massachusetts
18. Noblis, Inc., Falls Church, Virginia
19. National Radiological Astronomy Observatory, Green Bank, West Virginia
20. National Renewable Energy Laboratory, Golden, Colorado
21. Oak Ridge Associated Universities, Oak Ridge, Tennessee
22. Rand Corporation, Santa Monica, California
23. Research Triangle Institute, Research Triangle Park, North Carolina
24. Riverside Research Institute, New York, New York
25. South Carolina Research Authority (SCRA), Charleston, South Carolina
26. Southern Research Institute, Birmingham, Alabama
27. Southwest Research Institute, San Antonio, Texas
28. SRI International, Menlo Park, California
29. Syracuse Research Corporation, Syracuse, New York
30. Universities Research Association, Incorporated (National Acceleration Lab), Argonne, Illinois
31. Urban Institute, Washington DC
32. Non-profit insurance companies, such as Blue Cross and Blue Shield Organizations
33. Other non-profit organizations as negotiated with Federal awarding agencies

Appendix IX to Part 200—Hospital Cost Principles

Based on initial feedback, OMB proposes to establish a review process to consider existing hospital cost determine how best to update and align them with this Part. Until such time as revised guidance is proposed and implemented for hospitals, the existing principles located at 45 CFR Part 74 Appendix E, entitled ''Principles for Determining Cost Applicable to Research and Development Under Grants and Contracts with Hospitals,'' remain in effect.

Appendix X to Part 200—Data Collection Form (Form SF–SAC)

The Data Collection Form SF–SAC is available on the FAC Web site.

Appendix XI to Part 200—Compliance Supplement

The compliance supplement is available on the OMB Web site: (e.g. for 2013 here *http://www.whitehouse.gov/omb/circulars/)*

PARTS 215, 220, 225, and 230—[REMOVED]

■ 4. Remove parts 215, 220, 225, and 230.

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