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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Parts 337, 576, 792, 831, and 842

RIN 3206-AM69

Human Resources Management Reporting Requirements

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is issuing final regulations that would remove regulatory requirements for Federal agencies to submit reports to OPM relating to their implementation of certain human resources management programs and authorities.

DATES: January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Jan Chisolm-King, by telephone at (202) 606-1958 or by email at janet.chisolm-king@opm.gov.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management (OPM) is issuing final regulations to eliminate several reporting requirements for Federal agencies, in accordance with Executive Order 13583 of August 18, 2011, entitled "Establishing a Coordinated Government-Wide Initiative to Promote Diversity and Inclusion in the Federal Workforce." This Executive order includes a requirement that OPM:

"review applicable directives to agencies related to the development or submission of agency human capital and other workforce plans and reports in connection with recruitment, hiring, promotion, retention, professional development, and training policies and practices, and develop a strategy for consolidating such agency plans and reports where appropriate and permitted by law . . ."

This direction is similar in nature to a separate requirement set forth in the Government Performance Results Act

Modernization Act of 2010 (Public Law 111-352), to identify at least 10 percent of agency reports to Congress as duplicative or outdated in FY 2013, which is consistent with the requirement to eliminate unnecessary reporting.

This final rule removes or amends the provisions of title 5, Code of Federal Regulations, listed below, which require agency reports to OPM that we have determined are no longer necessary.

- Section 337.305 requires agencies to send OPM a copy of the annual reports they are required by 5 U.S.C. 3319(d) to send to Congress in each of the first three years after establishing a category rating system. By a memorandum to agencies dated May 11, 2010, the President implemented certain items related to Federal hiring reform. In his memorandum, the President required agencies use a category rating system for evaluating and referring applicants by November 1, 2010. Because agencies not having a category system in place had to implement a system by November 1, 2010, the reporting requirement set forth at 5 U.S.C. 3319(d) was met by November 1, 2013, for many if not all of the agencies covered by the regulation. Therefore, because agencies have met their reporting requirement to Congress, the regulatory requirement to provide a copy of the report to OPM is no longer applicable.

- Section 576.104 concerns reports on agencies' use of Voluntary Separation Incentive Payments (VSIPs). Because OPM plans to obtain this data, when needed, from its central Enterprise Human Resources Integration (EHRI) database and also to ask agencies to address the effectiveness of VSIPs in their annual performance reports, we are removing paragraph (b). Currently, agencies are required to report on a quarterly basis, within 30 days of the end of each quarter, and a final report is due within 60 days of the authority's expiration. This delay results in data that is three to four months after actual separation dates. It is clear that reporting to EHRI would be on the same or similar schedule to the reporting required by this regulation. Deleting the regulatory reporting requirement should not have an adverse effect on OPM's ability to monitor agencies' compliance with their approved plans. We also are amending the citation for part 576, as it contained a typographical error.

- Section 792.204 requires agencies providing child care subsidies to report utilization data to OPM annually. As we have not discerned a sufficient level of interest in this information to justify requiring it on an annual basis, we are removing this requirement and requiring agencies to track the utilization of their funds and report the results to OPM as needed.

- Sections 831.114 and 842.213 concern reports on agencies' use of Voluntary Early Retirement Authority (VERAs). Because OPM plans to obtain this data, when needed, from its EHRI database and also ask agencies to address the effectiveness of VERAs in their annual performance reports, we are removing paragraph (p) from each of these provisions. Agencies are required to report on a quarterly basis, within 30 days of the end of each quarter, and a final report is due within 60 days of the authority's expiration. This delay results in data that is three to four months after actual separation dates. It is clear that reporting to EHRI would be on the same or similar schedule to the reporting required by this regulation. Deleting the regulatory reporting requirement should not have an adverse effect on OPM's ability to monitor agencies' compliance with their approved plans.

Summary of Comments

OPM published a proposed rule on October 10, 2014 (79 FR 61266), to remove regulatory requirements for Federal agencies to submit reports to OPM relating to their implementation of certain human resources management programs and authorities. The comment period for the proposed rule closed on December 9, 2014. OPM received one comment.

Response to Comment on the Proposed Regulation

Comment: The Department of Homeland Security submitted the below comment with regard to Section 792.204 of the proposed regulation:

"With the removal of required annual reporting regarding utilization of funds, how will OPM be assured that funds are used for the proposed purpose? Will there be a need for random additional audits?"

Response: There will be no formal requirement for OPM to collect the data. However, OPM will coordinate with agencies that have a Child Care Subsidy Program to continue to informally

collect data. Currently, there are no plans in place for any formal audits at this time.

Executive Order 13563 and Executive Order 12866, Regulatory Review

The Office of Management and Budget has reviewed this rule in accordance with E.O. 13563 and 12866.

Paperwork Reduction Act

This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they will apply only to Federal agencies and employees.

List of Subjects

5 CFR Part 337

Government employees.

5 CFR Part 576

Government employees, Wages.

5 CFR Part 792

Alcohol abuse, Alcoholism, Day care, Drug use, Government employees.

5 CFR Part 831

Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Reporting and recordkeeping requirements, Retirement.

5 CFR Part 842

Air traffic controllers, Alimony, Firefighters, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Beth F. Cobert,
Acting Director.

Accordingly, OPM is proposing to amend chapter I of title 5, Code of Federal Regulations, as follows:

PART 337—EXAMINING SYSTEM

- 1. The authority citation for part 337 continues to read as follows:

Authority: 5 U.S.C. 1104(a)(2), 1302, 2302, 3301, 3302, 3304, 3319, 5364; E.O. 10577, 3 CFR 1954–1958 Comp., p. 218; 33 FR 12423, Sept. 4, 1968; 45 FR 18365, Mar. 21, 1980; 116 Stat. 2290, sec. 1413 of Public Law 108–136 (117 Stat. 1665), as amended by sec. 853 of Public Law 110–181 (122 Stat. 250).

Subpart C—Alternative Rating and Selection Procedures

§ 337.305 [Removed]

- 2. Remove § 337.305.

PART 576—VOLUNTARY SEPARATION INCENTIVE PAYMENTS

- 3. The authority citation for part 576 is revised to read as follows:

Authority: Sections 3521 through 3525 of title 5, United States Code.

- 4. Revise § 576.104 to read as follows:

§ 576.104 Additional agency requirements.

After OPM approves an agency plan for Voluntary Separation Incentive Payments, the agency must immediately notify OPM of any subsequent changes in the conditions that served as the basis for the approval of the Voluntary Separation Incentive Payment authority.

PART 792—FEDERAL EMPLOYEES' HEALTH, COUNSELING, AND WORK/LIFE PROGRAMS

- 5. The authority citation for part 792 continues to read as follows:

Authority: 5 U.S.C. 7361–7363; Sec. 643, Pub. L. 106–58, 113 Stat. 477; 40 U.S.C. 590(g).

- 6. In § 792.204, remove paragraph (d) and revise paragraph (c) to read as follows:

§ 792.204 Agency responsibilities; reporting requirement.

* * * * *

(c) Agencies are responsible for tracking the utilization of their funds and reporting the results to OPM at such time and in such manner as OPM prescribes.

PART 831—RETIREMENT

- 7. The authority citation for part 831 continues to read as follows:

Authority: 5 U.S.C. 8347; Sec. 831.102 also issued under 5 U.S.C. 8334; Sec. 831.106 also issued under 5 U.S.C. 552a; Sec. 831.108 also issued under 5 U.S.C. 8336(d)(2); Sec. 831.114 also issued under 5 U.S.C. 8336(d)(2), and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Sec. 831.201(b)(1) also issued under 5 U.S.C. 8347(g); Sec. 831.201(b)(6) also issued under 5 U.S.C. 7701(b)(2); Sec. 831.201(g) also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251; Sec. 831.201(g) also issued under Sec. 7(b) and (e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.201(i) also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 831.204 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321; Sec. 831.205 also issued under Sec. 2207 of Pub. L. 106–265, 114 Stat. 784; Sec. 831.206 also issued under Sec. 1622(b) of Pub. L. 104–106, 110 Stat. 515; Sec. 831.301 also issued under Sec. 2203 of Pub. L. 106–265, 114 Stat. 780; Sec. 831.303 also issued under 5 U.S.C. 8334(d)(2) and Sec. 2203 of Pub. L. 106–235, 114 Stat. 780; Sec. 831.502 also issued under 5 U.S.C. 8337,

and Sec. 1(3), E.O. 11228, 3 CFR 1965–1965 Comp. p. 317; Sec. 831.663 also issued under 5 U.S.C. 8339(j) and (k)(2); Secs. 831.663 and 831.664 also issued under Sec. 11004(c)(2) of Pub. L. 103–66, 107 Stat. 412; Sec. 831.682 also issued under Sec. 201(d) of Pub. L. 99–261, 100 Stat. 23; Sec. 831.912 also issued under Sec. 636 of Appendix C to Pub. L. 106–554, 114 Stat. 2763A–164; Subpart P also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Subpart V also issued under 5 U.S.C. 8343a and Sec. 6001 of Pub. L. 100–203, 101 Stat. 1330–275; Sec. 831.2203 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388–328.

§ 831.114 [Amended]

- 8. In § 831.114, remove paragraph (p).

PART 842—FEDERAL EMPLOYEES' RETIREMENT SYSTEM—BASIC ANNUITY

- 9. The authority citation for part 842 continues to read as follows:

Authority: 5 U.S.C. 8461(g); Secs. 842.104 and 842.106 also issued under 5 U.S.C. 8461(n); Sec. 842.104 also issued under Secs. 3 and 7(c) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.105 also issued under 5 U.S.C. 8402(c)(1) and 7701(b)(2); Sec. 842.106 also issued under Sec. 102(e) of Pub. L. 104–8, 109 Stat. 102, as amended by Sec. 153 of Pub. L. 104–134, 110 Stat. 1321–102; Sec. 842.107 also issued under Secs. 11202(f), 11232(e), and 11246(b) of Pub. L. 105–33, 111 Stat. 251, and Sec. 7(b) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.108 also issued under Sec. 7(e) of Pub. L. 105–274, 112 Stat. 2419; Sec. 842.109 also issued under Sec. 1622(b) of Public Law 104–106, 110 Stat. 515; Sec. 842.208 also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042; Sec. 842.213 also issued under 5 U.S.C. 8414(b)(1)(B) and Sec. 1313(b)(5) of Pub. L. 107–296, 116 Stat. 2135; Secs. 842.304 and 842.305 also issued under Sec. 321(f) of Pub. L. 107–228, 116 Stat. 1383; Secs. 842.604 and 842.611 also issued under 5 U.S.C. 8417; Sec. 842.607 also issued under 5 U.S.C. 8416 and 8417; Sec. 842.614 also issued under 5 U.S.C. 8419; Sec. 842.615 also issued under 5 U.S.C. 8418; Sec. 842.703 also issued under Sec. 7001(a)(4) of Pub. L. 101–508, 104 Stat. 1388; Sec. 842.707 also issued under Sec. 6001 of Pub. L. 100–203, 101 Stat. 1300; Sec. 842.708 also issued under Sec. 4005 of Pub. L. 101–239, 103 Stat. 2106 and Sec. 7001 of Pub. L. 101–508, 104 Stat. 1388; Subpart H also issued under 5 U.S.C. 1104; Sec. 842.810 also issued under Sec. 636 of Appendix C to Pub. L. 106–554 at 114 Stat. 2763A–164; Sec. 842.811 also issued under Sec. 226(c)(2) of Public Law 108–176, 117 Stat. 2529; Subpart J also issued under Sec. 535(d) of Title V of Division E of Pub. L. 110–161, 121 Stat. 2042.

§ 842.213 [Amended]

- 10. In § 842.213, remove paragraph (p).

[FR Doc. 2015–30638 Filed 12–3–15; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE**Agricultural Marketing Service****7 CFR Part 958****[Doc. No. AMS-FV-15-0027; FV15-958-1 FIR]****Onions Grown in Certain Designated Counties in Idaho, and Malheur County, Oregon; Decreased Assessment Rate****AGENCY:** Agricultural Marketing Service, USDA.**ACTION:** Affirmation of interim rule as final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, without change, an interim rule that implemented a recommendation from the Idaho-Eastern Oregon Onion Committee (Committee) to decrease the assessment rate established for the 2015–2016 and subsequent fiscal periods from \$0.10 to \$0.05 per hundredweight of onions handled under the Idaho-Eastern Oregon onion marketing order (order). The Committee locally administers the order and is comprised of producers and handlers of onions operating within the area of production. Assessments upon onion handlers are used by the Committee to fund reasonable and necessary expenses of the program. The fiscal period begins July 1 and ends June 30. The assessment rate will remain in effect indefinitely unless modified, suspended, or terminated.

DATES: Effective December 7, 2015.

FOR FURTHER INFORMATION CONTACT: Sue Coleman, Marketing Specialist, or Gary D. Olson, Regional Director, Northwest Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (503) 326-2724, Fax: (503) 326-7440, or Email: Sue.Coleman@ams.usda.gov or GaryD.Olson@ams.usda.gov.

Small businesses may obtain information on complying with this and other marketing order and agreement regulations by viewing a guide at the following Web site: <http://www.ams.usda.gov/rules-regulations/moa/small-businesses/>; or by contacting Jeffrey Smutny, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250-0237; Telephone: (202) 720-2491, Fax: (202) 720-8938, or Email: Jeffrey.Smutny@ams.usda.gov.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement

No. 130 and Order No. 958, both as amended (7 CFR part 958), regulating the handling of onions grown in designated counties in Idaho, and Malheur County, Oregon, hereinafter referred to as the “order.” The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the “Act.”

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 12866, 13563, and 13175.

Under the order, Idaho-Eastern Oregon onion handlers are subject to assessments, which provide funds to administer the order. Assessment rates issued under the order are intended to be applicable to all assessable onions for the entire crop year, and continue indefinitely until amended, suspended, or terminated. The Committee’s fiscal period begins on July 1, and ends on June 30.

In an interim rule published in the **Federal Register** on August 19, 2015, and effective on August 20, 2015 (80 FR 50193, Doc. No. AMS-FV-15-0027, FV15-958-1 IR) § 958.240 was amended by decreasing the assessment rate established for Idaho-Eastern Oregon onions for the 2015–2016 and subsequent fiscal periods from \$0.10 to \$0.05 per hundredweight of onions. The decrease in the assessment rate takes into account budget reductions in the Committee’s promotion program while still providing adequate funding to meet program expenses.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 250 producers of onions in the production area and approximately 31 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration as those having annual receipts less than

\$750,000, and small agricultural service firms are defined as those whose annual receipts are less than \$7,000,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service, as reported in the *Vegetables 2014 Summary*, the total freight on board (f.o.b.) value of onions in the regulated production area for 2014 was \$100,951,000. Based on an industry estimate of 31 handlers, the average value of onions handled per handler is \$3,256,484, well below the SBA threshold for defining small agricultural service firms. In addition, based on an industry estimate of 250 producers, the average f.o.b. value of onions produced in the production area is \$403,804 per producer. Therefore, it can be concluded that the majority of handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities.

This rule continues the action that decreased the assessment rate established for the Committee and collected from handlers for the 2015–2016 and subsequent fiscal periods from \$0.10 to \$0.05 per hundredweight of onions handled. The Committee recommended 2015–2016 expenditures of \$705,473 and an assessment rate of \$0.05 per hundredweight. The assessment rate of \$0.05 is \$0.05 lower than the 2014–2015 rate. The quantity of assessable onions for the 2015–2016 fiscal period is estimated at 8,800,000 hundredweight. Thus, the \$0.05 rate should provide \$440,000 in assessment income. Assessment income, along with interest and other income, contributions and grants, and funds from the Committee’s authorized reserve, \$217,223, should be adequate to cover budgeted expenses of \$705,473.

This rule continues in effect the action that decreased the assessment obligation imposed on handlers. Assessments are applied uniformly on all handlers, and some of the costs may be passed on to producers. However, decreasing the assessment rate reduces the burden on handlers, and may reduce the burden on producers.

In addition, the Committee’s meeting was widely publicized throughout the Idaho-Eastern Oregon onion industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the April 21, 2015, meeting was a public meeting and all entities, both large and small, were able to express views on this issue.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C.

Chapter 35), the order's information collection requirements have been previously approved by the Office of Management and Budget (OMB) and assigned OMB No. 0581-0178, Vegetable and Specialty Crops. No changes in those requirements as a result of this action are necessary. Should any changes become necessary, they would be submitted to OMB for approval.

This action imposes no additional reporting or recordkeeping requirements on either small or large Idaho-Eastern Oregon onion handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Comments on the interim rule were required to be received on or before October 19, 2015. No comments were received. Therefore, for the reasons given in the interim rule, we are adopting the interim rule as a final rule, without change.

To view the interim rule, go to: <http://www.regulations.gov/#!documentDetail;D=AMS-FV-15-0027-0001>.

This action also affirms information contained in the interim rule concerning Executive Orders 12866, 12988, 13175, and 13563; the Paperwork Reduction Act (44 U.S.C. Chapter 35); and the E-Gov Act (44 U.S.C. 101).

After consideration of all relevant material presented, it is found that finalizing the interim rule, as published in the **Federal Register** (80 FR 50193, August 19, 2015) will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 958

Marketing agreements, Onions, Reporting and recordkeeping requirements.

■ Accordingly, the interim rule amending 7 CFR part 958, which was published at 80 FR 50193 on August 19, 2015, is adopted as final without change.

Dated: December 1, 2015.

Rex A. Barnes,

Associate Administrator, Agricultural Marketing Service.

[FR Doc. 2015-30671 Filed 12-3-15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2015-6546; Directorate Identifier 2015-NM-179-AD; Amendment 39-18338; AD 2015-24-06]

RIN 2120-AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Gulfstream Aerospace Corporation Model GVI airplanes. This AD requires repetitive breakaway torque checks and torqueing of the brake inlet self-sealing couplings. This AD also requires revising the airplane flight manual to include procedures to follow in the event of certain display indications. This AD was prompted by reports of the self-sealing couplings on the brake inlet fitting that have been found backed out of the fully seated position. We are issuing this AD to detect and correct inadequate torque on the self-sealing coupling. This condition could result in an unannounced total loss of braking capability on one or multiple brakes, which could result in a runway overrun or asymmetrical braking that can lead to a lateral runway excursion.

DATES: This AD is effective December 4, 2015.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of December 4, 2015.

We must receive comments on this AD by January 19, 2016.

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:** U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402-2206; telephone 800-810-4853; fax 912-965-3520; email pubs@gulfstream.com; Internet http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm. 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. It is also available on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2015-6546.

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-2015-6546; 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 AD, 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:

Gideon Jose, Aerospace Engineer, Systems and Equipment Branch, ACE-119A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404-474-5569; fax: 404-474-5606; email: Gideon.Jose@faa.gov.

SUPPLEMENTARY INFORMATION:

Discussion

We have received reports of self-sealing couplings on the brake inlet fitting that have been found backed out of the fully seated position. Due to the function of these couplings, this issue allows for the self-sealing mechanism to activate and cut off hydraulic pressure to the brake caliper, resulting in reduced or no braking ability on the affected wheel while the brake pressure indications remain normal on the flight deck indicators. Multiple coupling failures may lead to loss of braking capability on more than one wheel, creating the potential for loss of aircraft braking effectiveness on one or multiple brakes. Since the flight deck brake pressure indications would appear normal under these conditions, the crew will have no indications other than the loss of braking control on one or

multiple brakes. Unannounced total loss of braking capability on one or multiple brakes, could result in a runway overrun or asymmetrical braking that can lead to a lateral runway excursion.

Related Service Information Under 1 CFR Part 51

Gulfstream has issued G650 Alert Customer Bulletin 4A, dated November 13, 2015; and G650ER Alert Customer Bulletin 4A, dated November 13, 2015. The service information describes procedures for a breakaway torque check and torqueing the brake inlet self-sealing couplings. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

FAA's Determination

We are issuing 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.

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Difference Between the AD and the Service Information."

Difference Between the AD and the Service Information

Although Gulfstream G650 Alert Customer Bulletin 4A, dated November 13, 2015; and G650ER Alert Customer Bulletin 4A, dated November 13, 2015; recommend that the breakaway torque check and torqueing the brake inlet self-sealing couplings be repeated only one time, this AD requires repetitive accomplishment of the checks and torqueing of the brake inlet self-sealing coupling at intervals not to exceed 100 flight cycles. We have determined repetitive actions are necessary to address the identified unsafe condition.

We have coordinated this difference with Gulfstream.

Interim Action

We consider this AD interim action. The manufacturer is currently developing a modification that will address the unsafe condition identified in this AD and would terminate the repetitive actions in this AD. Once this modification is developed, approved, and available, we might consider additional rulemaking.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because an unannounced total loss of braking capability on one or multiple brakes can cause a runway overrun or asymmetrical braking that can lead to a lateral runway excursion. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA-2015-6546 and Directorate Identifier 2015-NM-179-AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this 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 AD.

www.regulations.gov, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this AD.

Explanation of "RC" Steps in Service Information

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (ARC), to enhance the AD system. One enhancement was a new process for annotating which steps in the service information are required for compliance with an AD. Differentiating these steps from other tasks in the service information is expected to improve an owner's/operator's understanding of crucial AD requirements and help provide consistent judgment in AD compliance. The steps identified as Required for Compliance (RC) in any service information identified previously have a direct effect on detecting, preventing, resolving, or eliminating an identified unsafe condition.

For service information that contains steps that are labeled as RC, the following provisions apply: (1) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD, and an AMOC is required for any deviations to RC steps, including substeps and identified figures; and (2) steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

Costs of Compliance

We estimate that this AD affects 120 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Breakaway torque check and torqueing of inlet self-sealing couplings.	2 work-hours × \$85 per hour = \$170 per check/torque cycle.	\$170 per check/torque cycle.	\$20,400 per check/torque cycle.
AFM revision	1 work-hour × \$85	\$85	\$10,200.

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We

do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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

This AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that this AD:

- (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),
- (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.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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):

2015–24–06 Gulfstream Aerospace

Corporation: Amendment 39–18338; Docket No. FAA–2015–6546; Directorate Identifier 2015–NM–179–AD.

(a) Effective Date

This AD is effective December 4, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Model GVI airplanes, certificated in any category, serial numbers 6001 and 6003 through 6163 inclusive.

Note 1 to paragraph (c) of this AD: Model GVI airplanes are also referred to by marketing designations G650 and G650ER.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by reports of the self-sealing couplings on the brake inlet

fitting that have been found backed out of the fully seated position. We are issuing this AD to detect and correct inadequate torque on the self-sealing coupling. This condition could result in an unannounced total loss of braking capability on one or multiple brakes, which could result in a runway overrun or asymmetrical braking that can lead to a lateral runway excursion.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Repetitive Breakaway Torque Checks and Torqueing

(1) Within 15 days after the effective date of this AD, perform a breakaway torque check and torque the brake inlet self-sealing couplings, in accordance with Part I of the Accomplishment Instructions of Gulfstream G650 Alert Customer Bulletin 4A, dated November 13, 2015; or Gulfstream G650ER Alert Customer Bulletin 4A, dated November 13, 2015; as applicable.

(2) Within 100 flight cycles after completing the actions required by paragraph (g)(1) of this AD, perform a breakaway torque check and torque the brake inlet self-sealing couplings, in accordance with Part II of the Accomplishment Instructions of Gulfstream G650 Alert Customer Bulletin 4A, dated November 13, 2015; or Gulfstream G650ER Alert Customer Bulletin 4A, dated November 13, 2015; as applicable. Repeat the actions thereafter at intervals not to exceed 100 flight cycles.

(h) Revision to Airplane Flight Manual (AFM)—Dispatch Limitations

Within 15 days after the effective date of this AD, revise the Limitations section of the AFM to include the statement found in figure 1 to paragraph (h) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 1 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 1 to Paragraph (h) of this AD - Dispatch Limitation

BRAKE MAINTENANCE REQUIRED

“IF THE BLUE BRAKE MAINTENANCE REQD CAS MESSAGE DISPLAYS DURING AIRCRAFT OPERATIONS, FLIGHT CREWS **MUST NOT DISPATCH OR PERFORM A TAKEOFF** UNTIL AFTER MAINTENANCE PERSONNEL HAVE DETERMINED THE CAUSE OF THE MESSAGE AND CONFIRM IT IS NOT A BRAKE FAILURE RESULTING FROM ONE OR MORE LOOSE BRAKE CONNECTOR LINE FITTINGS.”

(i) Revision to AFM—In-flight Warning

Within 15 days after the effective date of this AD, revise the Limitations section of the AFM to include the statement found in figure

2 to paragraph (i) of this AD. This may be done by inserting a copy of this AD into the AFM. When a statement identical to that in figure 2 to paragraph (i) 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 (i) of this AD – In-flight Warning**WHEEL DESPIN FAIL**

"WARNING: IF AMBER WHEEL DESPIN FAIL CAS MESSAGE DISPLAYS, BRAKING CAPABILITY MAY BE REDUCED AND/OR THERE MAY BE NO BRAKING ON ONE SIDE, RESULTING IN ASYMMETRIC BRAKING. **SELECT THE LONGEST RUNWAY POSSIBLE FOR LANDING**"

(j) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Gulfstream G650 Alert Customer Bulletin 4, dated November 6, 2015; or Gulfstream G650ER Alert Customer Bulletin 4, dated November 6, 2015; which are not incorporated by reference in this AD.

(k) No Reporting Requirement

Although Gulfstream G650 Alert Customer Bulletin 4A, dated November 13, 2015; and Gulfstream G650ER Alert Customer Bulletin 4A, dated November 13, 2015; specify to submit certain information to the manufacturer, this AD does not require that action.

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta Aircraft Certification Office (ACO), 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 manager of the ACO, send it to the attention of the person identified in paragraph (m) of this AD.

(2) 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.

(3) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (l)(3)(i) and (l)(3)(ii) of this AD apply.

(i) The steps labeled as RC, including substeps under an RC step and any figures identified in an RC step, must be done to comply with the AD. An AMOC is required for any deviations to RC steps, including substeps and identified figures.

(ii) Steps not labeled as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining

approval of an AMOC, provided the RC steps, including substeps and identified figures, can still be done as specified, and the airplane can be put back in an airworthy condition.

(m) Related Information

For more information about this AD, Gideon Jose, Aerospace Engineer, Systems and Equipment Branch, ACE-119A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404-474-5569; fax: 404-474-5606; email: Gideon.Jose@faa.gov.

(n) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the service information listed in this paragraph under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use this service information as applicable to do the actions required by this AD, unless the AD specifies otherwise.

(i) Gulfstream G650 Alert Customer Bulletin 4A, dated November 13, 2015.

(ii) Gulfstream G650ER Alert Customer Bulletin 4A, dated November 13, 2015.

(3) For Gulfstream service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402-2206; telephone 800-810-4853; fax 912-965-3520; email pubs@gulfstream.com; Internet http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.

(4) You may view this service information at 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.

(5) You may view this service information that is incorporated by reference at the National Archives and Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on November 25, 2015.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015-30629 Filed 12-3-15; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**24 CFR Parts 91 and 578**

[Docket No. FR-5809-F-01]

RIN 2506-AC37

Homeless Emergency Assistance and Rapid Transition to Housing: Defining "Chronically Homeless"

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

ACTION: Final rule.

SUMMARY: This final rule establishes the definition of "chronically homeless" that will be used in HUD's Continuum of Care Program, and in the Consolidated Submissions for Community Planning and Development Programs. This definition has been the subject of significant public comment which has guided HUD in establishing the definition of "chronically homeless" that will be used in its homeless assistance programs. The final rule also establishes the necessary recordkeeping requirements that correspond to the definition of "chronically homeless" for the Continuum of Care Program. Historically, other programs within HUD, as well as other agencies such as the United States Interagency Council on Homelessness and the Department of Veteran Affairs, have adopted HUD's definition of chronically homeless and

may also choose to adopt the definition of “chronically homeless” included in this final rule, however, it is not required.

DATES: *Effective Date:* January 4, 2016.

Compliance Dates: Continuum of Care recipients must comply with the regulations promulgated by this rule as of January 15, 2016. The Continuum of Care Program grant agreement provides that upon publication of a final rule for the Continuum of Care Program, that follows the July 31, 2012, interim rule, the final rule, not the prior interim rule, will govern the grant agreement. Continuum of Care Program recipients, therefore, must comply with the regulations promulgated by this rule for all program participants admitted after January 15, 2016. The regulations promulgated by this rule do not apply retroactively to program participants admitted to a Continuum of Care Program project prior to January 15, 2016.

FOR FURTHER INFORMATION CONTACT:

Norm Suchar, Director, Office of Special Needs Assistance Programs, Office of Community Planning and Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410-7000; telephone number 202-708-4300 (this is not a toll-free number). Hearing- and speech-impaired persons can access this number through TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Executive Summary

Purpose and Legal Authority

The purpose of this rule is to establish a final definition of the term “chronically homeless” that will be used in HUD’s Continuum of Care Program (24 CFR part 578) and the Consolidated Submissions for Community Planning and Development Programs (24 CFR part 91). “Chronically homeless” is defined in section 401(2) of the McKinney-Vento Homeless Assistance Act, 42 U.S.C. 11360 (McKinney-Vento Act or Act), as an individual or family that is homeless and resides in a place not meant for human habitation, a safe haven, or in an emergency shelter, and has been homeless and residing in such a place for at least 1 year or on at least four separate occasions in the last 3 years. The statutory definition also requires that the individual or family has a head of household with a diagnosable substance use disorder, serious mental illness, developmental disability, post-traumatic stress disorder, cognitive

impairments resulting from a brain injury, or chronic physical illness or disability.

Following the statutory definition, HUD first proposed a regulatory definition of “chronically homeless” in a December 5, 2011, interim rule that established regulations for the Emergency Solutions Grants program and made conforming amendments to HUD’s Consolidated Plan regulations (76 FR 75954). In response to concerns raised in public comments, HUD amended the definition of “chronically homeless” in the Continuum of Care Program interim rule, published July 31, 2012 (77 FR 45422), and sought further public comment on the definition of “chronically homeless.” At a convening held on May 30, 2012, HUD also solicited feedback from nationally recognized experts on a workable definition of “chronically homeless,” as described in the Rural Housing Stability Assistance Program proposed rule, published March 27, 2013 (78 FR 18726). This final rule results from HUD’s consideration of the public comments on the definition of “chronically homeless” and feedback from the convening of nationally recognized experts.

Summary of Major Provisions

This rule provides a definition of “chronically homeless” in 24 CFR 91.5, which applies to Consolidated Submissions for Community Planning and Development Programs, and in 24 CFR 578.3, which applies to the Continuum of Care Program. In addition, this rule amends 24 CFR 578.103, which stipulates recordkeeping requirements for the Continuum of Care Program, to include requirements that recipients and subrecipients of Continuum of Care funds must follow in order to demonstrate that an individual or family has met the definition of “chronically homeless.”

A “chronically homeless” individual is defined to mean a homeless individual with a disability who lives either in a place not meant for human habitation, a safe haven, or in an emergency shelter, or in an institutional care facility if the individual has been living in the facility for fewer than 90 days and had been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility. In order to meet the “chronically homeless” definition, the individual also must have been living as described above continuously for at least 12 months, or on at least four separate occasions in the last 3 years, where the combined

occasions total a length of time of at least 12 months. Each period separating the occasions must include at least 7 nights of living in a situation other than a place not meant for human habitation, in an emergency shelter, or in a safe haven.

Chronically homeless families are families with adult heads of household who meet the definition of a chronically homeless individual. If there is no adult in the family, the family would still be considered chronically homeless if a minor head of household meets all the criteria of a chronically homeless individual. A chronically homeless family includes those whose composition has fluctuated while the head of household has been homeless.

Recipients and subrecipients of Continuum of Care Program funds are required to maintain and follow written intake procedures to ensure compliance with the “chronically homeless” definition. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the individual seeking assistance third.

Benefits and Costs

This final rule establishes a regulatory definition for the term “chronically homeless” that meets the statutory definition of the term established in the McKinney-Vento Act and focuses on persons with the longest histories of homelessness, who often also have the highest need. This will ensure that funds are targeted to providing permanent supportive housing solutions for these individuals and families.

This final definition of “chronically homeless” provides greater clarity than the statutory definition and HUD’s previous proposed definitions so that recipients and subrecipients can benefit from understanding which homeless individuals and families can be considered “chronically homeless.” This final definition will ensure that communities are consistently using the same criteria when considering whether a person is chronically homeless, and that HUD receives consistent and accurate information nationwide. Communities previously used various standards for the length of time to define an “episode” for a person to be considered chronically homeless, which made it difficult for HUD to compare data nationally and failed to ensure resources were going to those with the longest histories of homelessness.

Although recordkeeping necessarily entails costs, and this rule establishes certain recordkeeping requirements for

the Continuum of Care Program, recipients of Continuum of Care Program-funded permanent supportive housing projects that serve the chronically homeless have always been required to document the chronically homeless status of program participants. Failure to maintain appropriate documentation of a household's eligibility is the monitoring finding that most often requires recipients of HUD funds to repay grant funds. This rule establishes recordkeeping requirements to assist Continuum of Care Program recipients in appropriately and consistently documenting chronically homeless status, which will help to ensure that recipients are not required to repay grant funds due to inappropriately documenting eligibility for these projects.

II. Background—HEARTH Act

The Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act), which was enacted on May 20, 2009, amended the McKinney-Vento Act and consolidates three separate homeless assistance programs administered by HUD under the McKinney-Vento Act into a single grant program, the Continuum of Care Program; revises the Emergency Shelter Grants Program and renames the program the Emergency Solutions Grants program; and creates the Rural Housing Stability Assistance Program to replace the Rural Homelessness Grant program. Commencing in 2010 with the publication of the proposed rule on the definition of “homeless,” HUD initiated the rulemaking process to establish the regulations for these new and revised programs. In this rule, HUD provides the final definition of “chronically homeless” that will apply to its homeless assistance programs, and makes this definition applicable, through amendments, to the regulations at 24 CFR part 91 (Consolidated Submissions for Community Planning and Development Programs) and 24 CFR part 578 (Continuum of Care Program).

III. Prior Proposed Rules

On December 5, 2011, at 76 FR 75954, HUD published an interim rule which established the regulations for the Emergency Solutions Grants program and made conforming amendments to HUD's Consolidated Plan regulations at 24 CFR part 91, which included a definition of “chronically homeless.” HUD received 28 public comments on this definition of “chronically homeless.” The majority of the commenters raised concerns over HUD's clarification that “an occasion” must equal at least 15 days of living or

residing in a place not meant for human habitation, in a safe haven, or in an emergency shelter. In response to these concerns, HUD included a definition of “chronically homeless” that omitted this clarification in the Continuum of Care Program interim rule, published July 31, 2012, in the **Federal Register** (77 FR 45422) and HUD sought further comment on the definition of “chronically homeless.” At a convening held on May 30, 2012, HUD also solicited feedback from nationally recognized experts on a workable definition of “chronically homeless” which was described in the Rural Housing Stability Assistance Program proposed rule. After considering the 28 public comments submitted in response to the conforming amendments to the Consolidated Plan published with the Emergency Solutions Grants interim rule, the 42 comments submitted in response to the Continuum of Care Program interim rule, and the feedback solicited at the convening of nationally recognized experts, HUD determined to propose for public comment a revised definition of “chronically homeless.”

On March 27, 2013, HUD published a proposed rule at 78 FR 18726 that would establish the regulations for the Rural Housing Stability Assistance Program. In addition to proposing the regulations that would govern this program, the Rural Housing Stability Assistance Program proposed rule submitted for public comment a further revised definition of “chronically homeless.” The public comment period for the definition of “chronically homeless” closed on May 28, 2013, and these public comments and HUD's responses to these comments are addressed later in this preamble.

IV. Overview of the Final Rule—Key Clarifications

In the Rural Housing Stability Assistance Program proposed rule, HUD defined a chronically homeless person as follows:

1. An individual who:
 - Is homeless and lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - Has been homeless and living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter continuously for at least 1 year or on at least four separate occasions in the last 3 years, where the cumulative total of the four occasions is at least one year. Stays in institutions of 90 days or less will not constitute as a break in homelessness, but rather such stays are included in the cumulative total; and

- Can be diagnosed with one or more of the following conditions: Substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability;

2. An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility for fewer than 90 days and met all of the criteria in paragraph (1), before entering that facility; or

3. A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1), including a family whose composition has fluctuated while the head of household has been homeless.

After reviewing the public comments, which are discussed in Section IV of this preamble, and upon HUD's further consideration of concerns related to the proposed definition of “chronically homeless,” the following highlights the changes that are made by this final rule.

The cumulative total of the length of homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter must be at least 12 months. The final rule provides that a person must have been homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter for a period of at least 12 months as opposed to “one year.” This includes a provision that where a person has experienced at least four occasions of homelessness living in a place not meant for human habitation, a safe haven, or in an emergency shelter over a period of 3 years, the cumulative total of the occasions must total at least 12 months as opposed to “one year.” While the requirement is essentially the same as that which was included in the Rural Housing Stability Assistance Program proposed rule, the change clarifies HUD's intent for less burdensome recordkeeping requirements, as discussed in Section IV of this preamble.

Establishing a break in homelessness. The final rule provides that a break in homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter is considered to be any period of 7 or more consecutive nights where an individual or family is not living or residing in such a place. Stays in an institutional care facility (e.g., a jail, substance abuse

or mental health treatment facility, hospital, or other similar facility) for fewer than 90 days and where the individual or family had been living in a place not meant for human habitation, a safe haven, or in an emergency shelter immediately before entering the institutional care facility will not constitute as a break.

Establish clear recordkeeping requirements. The final rule provides recordkeeping requirements at 24 CFR part 578 to help recipients and subrecipients of Continuum of Care Program funds understand the evidence that must be kept in the program participant file in order to demonstrate that an individual or family met the definition of “chronically homeless” at the point of entry into a program, when required. In general, the recordkeeping requirements establish HUD’s preferred order of documentation; provide clarity about how the length of time of homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter must be documented; and provide documentation standards for documenting disability.

Technical and additional clarifying changes. In addition to the changes highlighted above, this final rule also includes technical and minor clarifying changes to certain proposed regulatory provisions. Several of these changes are in response to requests by commenters for clarification, and are further discussed in Section IV of this preamble. HUD’s response to public comments identifies where the final rule makes these changes.

V. Discussion of the Public Comments

A. The Comments, Generally

The public comment period on the definition of “chronically homeless” portion of the Rural Housing Stability Assistance Program proposed rule closed on May 28, 2013, and HUD received 177 public comments related to this definition. HUD also received 23 comments for the Rural Housing Stability Assistance Program proposed rule unrelated to the definition of “chronically homeless” and will respond to those comments in the final rule for the Rural Housing Stability Assistance Program. Regarding the public comments on the definition of “chronically homeless,” HUD received comments from a variety of sources: Advocacy groups, service providers, case managers, State and local government agencies, nonprofit organizations, private companies, and private citizens.

General concerns most frequently expressed by commenters about the proposed definition were: (1) The length of time an individual or family must be homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter based on the proposed definition was too long and would require households to experience longer periods of homelessness in order to qualify as chronically homeless, and (2) documenting chronically homeless status based on the proposed definition would be too burdensome.

Regarding the first concern, it is not HUD’s intent to make an individual or family experience a longer period of homelessness. Rather, HUD’s primary intent is to align the period of time of those experiencing occasional homelessness with that of those who are experiencing continuous homelessness. This will also ensure that individuals and families who *already meet* these criteria are prioritized for assistance, that recipients and subrecipients can demonstrate to HUD that they are complying with the requirements established by HUD, and that HUD is able to make its required reports to Congress. Where there are no persons within a Continuum of Care that meet the definition of “chronically homeless,” permanent supportive housing beds that are required through their grant agreement to serve this population may serve other vulnerable and eligible households. HUD will provide guidance to assist communities on which populations to prioritize when there are no persons that meet the definition of “chronically homeless” established in this rule.

Regarding the second concern, it is critical to note that recipients of Continuum of Care Program-funded permanent supportive housing projects with one or more beds that are required through a grant agreement to serve individuals and families experiencing chronic homelessness have always been required to document the chronically homeless status of program participants that will occupy those beds, at the point of program entry. Failure to maintain appropriate documentation of a household’s eligibility is the monitoring finding that most often requires recipients of HUD funds to repay grant funds. HUD recognizes that not including recordkeeping requirements for documenting chronically homeless status in the regulatory text of the Rural Housing Stability Assistance Program proposed rule resulted in some confusion about HUD’s expectations and resulted in a number of commenters raising concerns that recordkeeping

requirements would be overly burdensome for those recipients. Therefore, this final rule includes, in the regulatory text, recordkeeping requirements to assist Continuum of Care Program recipients in appropriately documenting chronically homeless status that take into consideration that documenting the length of time homeless will be challenging. In addition, HUD notes that the revised Homeless Management Information System Data Standards published in May 2014 include data elements that are aligned with this definition in order to more easily allow for chronically homeless persons to be identified through the Continuum of Care’s Homeless Management Information System.

B. The Definition of “Chronically Homeless” in 24 CFR Parts 91 and 578

The Comments Generally

Comment: Concern that the expert panel was mainly composed of researchers and not practitioners. Several commenters expressed disappointment that the expert panel hosted by HUD to develop the proposed definition of “chronically homeless” was composed mostly of researchers and not practitioners or technicians. These commenters recommended that HUD invite stakeholders responsible for service delivery to such discussions prior to final rulemaking.

HUD Response: Although several of the experts that participated in the convening were researchers, HUD also included several practitioners. As stated in the summary of the convening, posted at www.hudexchange.info/rhsp, the group of experts included researchers, advocates, homeless services providers, and homelessness technical assistance providers, as well as Federal representatives from HUD, the United States Interagency Council on Homelessness, and the U.S. Department of Health and Human Services. In addition, by publishing the definition of “chronically homeless” one more time as a proposed definition, HUD provided a third opportunity for stakeholders responsible for service delivery and reporting to submit their comments on the proposed definition of “chronically homeless.”

Comment: Definition of “chronically homeless” should have been issued separately from the Rural Housing Stability Assistance Program proposed rule. A few commenters stated that in order to solicit the most comments on the definition of “chronically homeless,” requesting comments on the definition of “chronically homeless”

should have been a separate notice from the Rural Housing Stability Assistance Program proposed rule since the definition will apply to all programs authorized by the statute.

HUD Response: HUD's proposed rule on the Rural Housing Stability Assistance Program offered an opportunity to further solicit public comment on HUD's definition of "chronically homeless." HUD first introduced the definition of "chronically homeless" as part of its "Emergency Solutions Grants program and Consolidated Plan Conforming Amendments interim rule," not as a stand-alone rule on defining chronically homeless. Although HUD did not solicit public comment on specific aspects of the definition of "chronically homeless" in its Continuum of Care Program rule, HUD did address the definition in that rule, and informed interested parties of its intent to solicit further public comment. As the commenters note, the definition of "chronically homeless" applies to all of HUD's homeless assistance programs. Soliciting comments on HUD's proposed definition in connection with solicitation of comments on the Emergency Solutions Grants program interim rule or on the Rural Housing Stability Assistance Program rule did not diminish the importance of this definition, but rather underscored the significant role that this definition will have in each of these programs, and underscores the value that HUD placed on receiving public comment on this definition. Although HUD did not issue the definition of "chronically homeless" as a stand-alone proposed rule, it is HUD's intent to issue a final rule solely on the definition.

Comment: HUD needs to account for estimated hours and costs to service providers trying to meet requirements of the definition. A few commenters requested that HUD account for the total estimated hours and financial costs it would take service providers to complete the requirements of this rule.

HUD Response: This final rule establishes the final definition of "chronically homeless" by incorporating the definition into 24 CFR parts 91 and 578. HUD requires Continuum of Care Program recipients of permanent supportive housing that are required to serve persons experiencing chronic homelessness to determine and document that any individual or family assisted meets the definition of "chronically homeless" as defined in this final rule. Each recipient must obtain documentation of homeless status, disability, and the specific period of time the individual or head of

household was living in an emergency shelter, safe haven, or place not meant for human habitation. The burden for collecting the required homeless status and disability information was considered in the burden estimates for the Continuum of Care Program interim rule (77 FR 45421). The public had the opportunity to provide comments on those estimates during the public comment period. In some instances, the documentation obtained under the existing burden of the Continuum of Care Program interim rule will already meet the standards for documenting the length of time an individual or head of household resided in a place not meant for human habitation, an emergency shelter, or a safe haven as required in this rule. In other instances, recipients and subrecipients may need to spend more time acquiring the documents necessary to show that an individual meets the timeframe necessary residing in a place not meant for human habitation, an emergency shelter, or a safe haven to qualify as "chronically homeless." See Section VI, Information Collection Requirements, for more information about HUD's change to its existing recordkeeping and reporting requirements.

Comments Related to Data Collection and Reporting

Comment: Problems in reporting such information in Homeless Management Information Systems. Several commenters expressed concerns about how to document and report chronically homeless status in their Homeless Management Information System. One commenter pointed to the variations across the country around how chronic homelessness is reported in the Homeless Management Information System and noted that Continuums of Care would not be able to uniformly and accurately document homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter over a 3-year period in their Homeless Management Information Systems. Other commenters stated that many Homeless Management Information Systems are closed and do not share information with other Continuums of Care, which could create a problem in documenting chronically homeless status for homeless persons moving between Continuums of Care. Another commenter expressed concern that data entry personnel and case managers do not have the expertise to determine whether a person meets the criteria to be classified as chronically homeless, and concern about the time service providers would spend on data entry rather than on providing services.

Further, the commenter requested that HUD improve the Homeless Management Information System and the data entry process and establish data elements to capture a person's chronically homeless status.

HUD Response: HUD acknowledges that Homeless Management Information Systems across the country do not always collect data on chronically homeless status uniformly. HUD believes that the promulgation of its definition of "chronically homeless" will assist communities in collecting consistent data. HUD also included specific data elements in the 2014 Homeless Management Information System Data Standards to allow for uniform data collection on chronically homeless status. These data standards take into account that not all chronically homeless persons have a service interaction with the Continuum of Care's Homeless Management Information System and allow for history of homelessness to be documented based on the information provided by the program participant. It should also be noted that it is not HUD's expectation that the person entering data into the Homeless Management Information System also be responsible for determining program eligibility.

Comment: Proposed definition impedes ability to compare data. Many commenters expressed concerns that the new definition of "chronically homeless" would impede their ability to compare current and future data with data from previous years. A few commenters stated that the new definition would hinder efforts to measure "real" progress in reducing the chronically homeless population, as data would not be comparable.

HUD Response: HUD acknowledges that the change in the definition of "chronically homeless" may mean that the number of persons experiencing chronic homelessness within a community may change as a result of the new definition. However, this more detailed definition is necessary in order to ensure that communities are consistently using the same criteria when considering whether a person is chronically homeless. A uniformly applied definition also serves to ensure that HUD has more consistent and accurate information. Previously, communities used various standards for the length of time to define an "episode" for a person to be considered chronically homeless, which made it difficult for HUD to compare data nationally. The definition of "chronically homeless" in the final rule will ensure consistency in the data nationwide. HUD notes that this will

only affect the number of persons considered to be chronically homeless and not the Continuum of Care's total homeless count.

Comments Related to Community Strategies To Serve the Chronically Homeless, Including Eligibility for Housing Resources

Comment: A narrow definition of "chronically homeless" will result in an increase in vacancies in units designated for the chronically homeless and individuals and families spending a longer time in a place not meant for human habitation. Several commenters expressed concerns that the more narrow definition of "chronically homeless" included in the proposed rule would result in an increase in vacant units otherwise dedicated to the chronically homeless. Several commenters suggested that they would have difficulty locating individuals or families who meet the criteria of the proposed definition.

One commenter expressed concern that the proposed definition would affect local and State governments, in addition to homeless individuals, stating that the new definition would result in more people being on the street for longer periods of time resulting in the following: an increased demand for emergency shelters, a burden on local police services since more individuals would be in unstable situations, and a decrease in property values. The commenter suggested that HUD phase in the new definition over a few years by incrementally increasing the cumulative episode threshold in order to provide localities time to plan their budgets and give homeless individuals time to adjust their expectations.

Another commenter requested guidance on what providers with dedicated permanent supportive housing beds should do if they are unable to locate persons that meet this definition.

Several commenters recommended that HUD establish a "tiering system" where communities that are unable to identify people who meet requirements for "chronically homeless" may target permanent supportive housing for other vulnerable homeless persons. Similarly, other commenters recommended that HUD consider a prioritization policy for homeless individuals eligible for permanent supportive housing and remove the requirement that 100 percent of new permanent supportive housing units be designated for the chronically homeless.

HUD Response: HUD recognizes that the definition of "chronically homeless" is not inclusive of all vulnerable

homeless populations; however, HUD has intentionally focused the definition of "chronically homeless" on those persons with the longest histories of homelessness and with the highest need and believes that this is a reasonable implementation of the statutory requirements established in section 401 of the McKinney-Vento Act. The definition is not intended to require individuals and families to have longer periods of homelessness before being served; rather, the definition allows for persons who already meet such criteria to be prioritized for Continuum of Care Program-funded permanent supportive housing dedicated to persons experiencing chronic homelessness.

In addition, HUD published guidance¹ to clarify that, to the extent that there are no persons who meet the criteria of chronic homelessness included in this rule, Continuum of Care Program-funded dedicated permanent supportive housing providers are not required to keep a unit vacant. Instead, the recipient may house non-chronically homeless individuals or families who are eligible for permanent supportive housing generally and are encouraged to prioritize those homeless individuals or families who are the most vulnerable or at risk of becoming chronically homeless.

Comment: Definition does not target those with longest histories and most severe cases of homelessness. One commenter stated that the proposed definition of "chronically homeless" does not target those with the longest histories and most severe cases of homelessness, such as those with histories of homelessness that have four or more episodes in more than the past 3 years.

HUD Response: HUD recognizes that there are individuals and families with long histories of homelessness that may not meet the definition of "chronically homeless" included in the final rule. For example, individuals and families who have been homeless and living in a place not meant for human habitation, a safe haven, or in an emergency shelter for 12 months or longer in the past 3 years but where there were fewer than four distinct occasions and the current occasion lasted less than 12 months would not be considered chronically homeless. However, because the

statutory definition of "chronically homeless" requires at least four occasions over a 3-year time frame, the number of occasions necessary to be considered chronically homeless cannot be changed. Individuals or families who have longer histories of homelessness spent living a place not meant for human habitation, a safe haven, or in an emergency shelter and who have experienced at least four occasions in the last 3 years are considered chronically homeless so long as the adult head of household (or minor head of household where no adult is present) has a disability as required by the definition. However, an individual or family who has a history of homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter where the period of homelessness has not totaled 12 months either continuously or over a period of at least four occasions in the past 3 years would not be considered chronically homeless. For this reason, HUD has provided flexibility around what constitutes an occasion of homelessness and how to document the period of homelessness while still maintaining a uniform standard to ensure consistency across the country. HUD encourages recipients of Continuum of Care Program-funded permanent supportive housing not dedicated to the chronically homeless to prioritize persons that are most at risk of becoming chronically homeless and who are the most vulnerable.

Comment: Periods of homelessness do not automatically correlate to need. A commenter stated that those who have been homeless for shorter, sporadic periods of time that do not cumulatively total 365 days might be more physically and mentally prepared to use permanent supportive housing than those who have had longer episodes of homelessness. Similarly, one commenter stated that a longer length of time spent homeless does not necessarily indicate a higher level of need, and those who have been homeless for shorter periods might make better use of housing services.

HUD Response: HUD has determined that the definition of "chronically homeless" in section 401 of the McKinney-Vento Act should define those persons as chronically homeless that have had the longest histories of homelessness and highest need. The definition of "chronically homeless" set forth in 24 CFR parts 91 and 578 intentionally narrows the statutory definition to further ensure that limited resources targeted to this population are used to serve persons with the longest histories of homelessness and highest need. HUD acknowledges that there are

¹ Notice CPD-14-012: Prioritizing Persons Experiencing Chronic Homelessness in Permanent Supportive Housing and Recordkeeping Requirements for Documenting Chronic Homeless Status. Available at: <https://www.hudexchange.info/resource/3897/notice-cpd-14-012-prioritizing-persons-experiencing-chronic-homelessness-in-psh-and-recordkeeping-requirements/>.

other factors that might also correlate to need, however, length of time residing in emergency shelters, safe havens, and places not meant for human habitation is one factor of need, and when combined with the statutory requirement that the head of household have a disabling condition, HUD has determined that it effectively defines those persons with the highest needs as chronically homeless. Therefore, the definition of “chronically homeless” included in this final rule maintains the requirement that was included in the Rural Housing Stability Assistance Program proposed rule, that the four or more separate occasions of homelessness living in a place not meant for human habitation, a safe haven, or in an emergency shelter must total 12 months or include additional criteria related to vulnerability. HUD also recognizes that persons meeting the definition of “chronically homeless” included in the final rule may require a higher level of support in order to obtain and maintain housing. Not all permanent supportive housing is limited to serving persons that meet the definition of chronically homeless. HUD has encouraged Continuums of Care and recipients of Continuum of Care Program-funded permanent supportive housing to take other factors, such as vulnerability, into account when prioritizing households for permanent supportive housing.

Comment: Require jurisdictions to produce a plan to specifically address dealing with chronic homelessness. A commenter stated that every region in the country should be required to have a plan that deals directly with the chronically homeless to show proof that they have worked on the issue through a statement with a local provider.

HUD Response: Each Continuum of Care submits its plan for addressing chronic homelessness through the Continuum of Care Application submitted under each Notice of Funding Availability for the Continuum of Care Program. This requirement will continue to be addressed through the Continuum of Care Program Competition; therefore, no additional requirements have been added to the final rule. In addition, each Consolidated Plan jurisdiction is required to develop a homeless strategy and this strategy must address the needs of, and resources available to, chronically homeless persons. This requirement will continue to be addressed through the Consolidated Plan requirements at 24 CFR part 91.

Comments Related to the Definition

Comment: Adhere to the definition of “chronically homeless” included in the conforming amendments to the Consolidated Plan published with the Emergency Solutions Grants program interim rule. Several commenters stated that they preferred the definition of “chronically homeless” that was included in the conforming amendments to the Consolidated Plan published with the Emergency Solutions Grants program interim rule, which defined a homeless occasion as a period of at least 15 days.

HUD Response: The majority of public comments received on the definition of “chronically homeless” that was included in the conforming amendments to the Consolidated Plan published with the Emergency Solutions Grants program interim rule related to the requirement that to be considered an “occasion” a period of homelessness had to be a period of at least 15 days. Several commenters stated that the period of 15 days to define an “occasion” was arbitrary and was not the ideal definition. Upon review of these comments, HUD concluded that the 15-day standard did not effectively target persons with the longest histories of homelessness and highest level of need. The definition in the conforming amendments to the Consolidated Plan published with the Emergency Solutions Grants interim rule would have allowed for an individual or family experiencing occasions of homelessness to be considered chronically homeless within a period of as few as 65 days, while persons experiencing homelessness without a break would have to be homeless and residing in a place not meant for human habitation, in a safe haven, or an emergency shelter for at least 1 year. Consistent with research,² HUD has determined that requiring 1 year (12 months) of homelessness living in a place not meant for human habitation, a safe haven, or an emergency shelter will ensure that the definition focuses on those persons with the longest histories of such homelessness and highest needs. The definition included in this final rule allows for limited resources to be effectively targeted and does not adopt the definition originally published in 24 CFR part 91.

Comment: Use “vulnerability index” to measure chronic homelessness. Several commenters proposed

alternative definitions for targeting the homeless population most in need of permanent supportive housing. Several commenters recommended that HUD replace the proposed definition of “chronically homeless” with “homeless persons determined to be vulnerable through the application of a standardized vulnerability index tool” that would be developed with stakeholders. These commenters also stated that homeless persons could be assigned spots on a community’s “vulnerability list” so those most in need of services could be identified.

HUD Response: HUD agrees that it is important to consider a person’s vulnerability or the severity of a person’s needs when determining housing placement; however, the statutory definition of “chronically homeless” does not permit HUD to adopt the definition proposed by the commenters. HUD recognizes that individuals and families should be prioritized for permanent supportive housing under the Continuum of Care Program based on the severity of their needs. To this point, HUD has provided guidance to recipients of all Continuum of Care Program-funded permanent supportive housing encouraging Continuums of Care and permanent supportive housing providers to take other factors, such as vulnerability, into account when prioritizing households for permanent supportive housing.

Comment: Allow communities to define “chronically homeless” locally. A commenter suggested that establishing a global definition of “chronically homeless” has limitations and that communities should be encouraged to set their own “prioritization benchmarks” based on local conditions.

Another commenter recommended that the term “chronic” is a medical term, and is not an appropriate term to measure severity of homelessness, and suggested that HUD allow local Continuums of Care to submit their own definitions based on people with serious health conditions who have experienced multiple and/or long episodes of homelessness.

Finally, another commenter suggested that HUD provide rural communities the flexibility to determine what is meant by “not meant for human habitation” since many of these communities do not have condemnation procedures like those often used by urban areas.

HUD Response: The definition of “chronically homeless” in section 401 of the McKinney-Vento Act provides the basis for the definition of “chronically homeless” set forth in 24 CFR parts 91 and 578. Although the Act does allow

² Thomas Byrne and Dennis P. Culhane. “Testing Alternative Definitions of Chronic Homelessness” *Psychiatric Services* 66.5 (2015). Available at: http://works.bepress.com/dennis_culhane/146.

HUD the discretion to allow communities to define certain terms such as “not meant for human habitation” locally. HUD has determined that all Continuums of Care must use the same standard when determining whether or not an individual or family is chronically homeless. Using a universal standard will also allow HUD to track progress, nationally, on the goal of ending chronic homelessness.

Comment: Include individuals and families who meet the McKinney-Vento Homeless Assistance Education Act in the definition of chronically homeless. A commenter stated that individuals or families who meet the McKinney-Vento Homeless Education Act definition of “homeless” should also be considered chronically homeless.

HUD Response: The definition of “chronically homeless” included in this final rule reflects the statutory definition in section 401 of the Act. The statutory definition provides specific minimum criteria that an individual or family must meet in order to be defined as chronically homeless. Although HUD has the discretion to make the definition of “chronically homeless” more narrow in the final rule, the definition must include the minimum statutory requirements. Further, it is HUD’s intention to ensure that the definition of “chronically homeless” targets those persons with the longest histories of homelessness who have been living in a place not meant for human habitation, a safe haven, or in an emergency shelter. Therefore, HUD has chosen to not change the final rule to include all individuals and families who meet the definition in section 725(2) of the McKinney-Vento Act. HUD recognizes that there are vulnerable populations who are not included in this definition of “chronically homeless.” The definition of “chronically homeless” is not intended to include all vulnerable populations.

Comment: HUD should consider persons chronically at risk of homelessness the same as chronically homeless. A commenter suggested that HUD should treat “chronically homeless” and “chronically at risk of homelessness” as the same so that those who have not been able to maintain permanent supportive housing because of a loss of income due to a disability and inability to attain a permanent voucher are not penalized.

HUD Response: HUD recognizes that there are vulnerable populations who are not included in this definition of “chronically homeless”; however, defining chronically homeless more narrowly will allow limited resources to

be prioritized for persons with the longest histories of homelessness and who are most likely to have the most severe service needs, which is consistent with the requirements established in section 401 of the McKinney-Vento Act. The statute does not support defining persons who are “at risk of homelessness” (on a recurring basis or otherwise) as chronically homeless as these persons do not meet the definition of homeless or chronically homeless as set forth in the Act. HUD reminds stakeholders that individuals and families who meet the definition of at risk of homelessness might be eligible for homelessness prevention assistance under either the Continuum of Care Program, if the Continuum of Care is a High Performing Community, or the Emergency Solutions Grants program.

Comment: Provide for different definitional criteria for “chronically homeless” for youth and families with children. Several commenters suggested that the definition of “chronically homeless” should have different definitional criteria for families with children and youth than for adult individuals. One commenter suggested that there should be different cumulative time frames for individuals, families, and youth. Specifically, the commenter proposed, “that the definition be changed so that a chronically homeless individual is defined as one who is homeless for at least 1 year or for a cumulative total of 180 days in the previous 3 years over multiple occasions, a chronically homeless family is defined as one that is currently homeless and has moved multiple times in the previous 12 months, where an adult and/or child family member is involved with more than one public service system, and a category is added for chronically homeless youth, who would be currently homeless individuals under the age of 25 who have moved multiple times in the previous 6 months, and this pattern of housing instability can be expected to continue.”

HUD Response: The single statutory definition of “chronically homeless” is inclusive of individuals, families with children, and unaccompanied youth and sets a minimum threshold that must be met for any person, regardless of age or household composition. HUD strived to reasonably implement the statutory definition by clarifying in the regulation that, for family households, only the head of household must meet the criteria for individuals who are defined as chronically homeless. The definition in the regulation also allows for changes to family composition over time.

Beyond this clarification, creating a broader or less restrictive threshold for unaccompanied youth or families with children would undermine one of the goals of the “chronically homeless” definition, which is to help ensure that resources are focused on individuals and families with the longest experiences of homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter. In addition, a person’s status as part of a family may change and a youth may become an adult during his or her time living in an emergency shelter, safe haven, or place not meant for human habitation. Therefore, a single definition helps ensure that an individual’s status does not change depending on whether he or she is part of a family at the time of intake or turns 25. Therefore, in the final rule, HUD has maintained that the standard for qualifying as chronically homeless is the same for all individuals, families with children, and unaccompanied youth. Families with children and unaccompanied youth, like single adults, who do not meet the criteria of chronically homeless might still meet the definition of “homeless” and if they do they are eligible for assistance under the Continuum of Care Program and Emergency Solutions Grants program.

Comment: Define family in the definition of “chronically homeless.” Several commenters sought clarification on how HUD defines “family” for the purposes of defining “chronically homeless.” One commenter asked that HUD define the term “family” in a manner consistent with how it is defined in the *Equal Access to Housing in HUD Program Regardless of Sexual Orientation or Gender Identity* final rule. Another commenter expressed confusion over whether a chronically homeless family must have a child under the age of 18. Another commenter stated that the term family is “misused to identify a demographic of a household and that the term “household” should be defined consistently with the proposed data standards.”

HUD Response: The proposed definition of “chronically homeless” did not define the term “family.” The *Equal Access to Housing in HUD Programs Regardless of Sexual Orientation or Gender Identity* final rule provides the following definition of “family” in 24 CFR 5.403 which applies to programs authorized under the Act. The definition “Family” includes, but is not limited to, the following, regardless of actual or perceived sexual orientation, gender identity, or marital

status: (1) A single person, who may be an elderly person, displaced person, disabled person, near-elderly person, or any other single person; or, (2) A group of persons residing together, and such group includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family, a displaced family, and remaining members of a tenant family.

This definition of “family” applies in both the Emergency Solutions Grants and Continuum of Care Program rules. The McKinney-Vento Act distinguishes individuals from families. Therefore, paragraph (1) of the definition of “family” under the Equal Access Rule is considered an individual for the purposes of the definition of “chronically homeless” included in this final rule. This means that a chronically homeless family is any group of persons presenting for assistance together, where the head of household meets all of the criteria established in this final rule, regardless of marital status, actual or perceived sexual orientation, or gender identity, with or without children and irrespective of age or relationship. A child who is temporarily away from the home because of placement in foster care is considered a member of the family.

Comment: Clarify that any family member who meets the criteria of chronically homeless can qualify the family as chronically homeless. A few commenters requested that any member of the family could make the entire family meet the definition of “chronically homeless.” A commenter recommended that HUD consider revising the definition of “chronically homeless” specifically to allow for a minor child in a family to qualify the family household as chronically homeless. Another commenter recommended only that the children, instead of the adult head of household, be able to have one of the listed disabling conditions and qualify the family as chronically homeless because the barriers a disability presents to an individual are similar to the barriers faced by a parent of a child with a disability. Similarly, one commenter proposed adding language to clarify that the members of a family household all qualify as chronically homeless based on the head of household regardless of changes within the household composition.

HUD Response: The statutory definition of “chronically homeless” dictates that the adult head of household (or minor head of household if there is no adult in the family) must meet the criteria set forth in the definition. Therefore, the final rule

cannot be revised from the proposed rule to allow for *any* household member besides the head of household to qualify the family as chronically homeless; this includes experiencing the occasion(s) of homelessness and being diagnosed with the disabling condition.

However, because it is the adult head of household who qualifies a family as chronically homeless, the whole family is considered chronically homeless even if the household composition changed during the course of the head of household’s homelessness. Language stating this was included in the proposed definition of “chronically homeless” and remains in the final definition of “chronically homeless.” For example, if an adult head of household has a qualifying disability and has been homeless continuously for 12 months and has been accompanied by another family member for only part of that time frame, the whole household meets the definition of a chronically homeless family.

Comment: Eliminate the requirement that to be chronically homeless an individual or family must experience four separate occasions of homelessness. Several commenters requested that HUD eliminate the requirement for four separate occasions of homelessness in favor of considering anyone that has been homeless for a cumulative total of 365 days over the past 3 years to be considered chronically homeless. One commenter stated that occasions are “too sloppy to define” and the concept is of little value.

HUD Response: HUD recognizes that the requirement for four or more separate occasions of homelessness over a 3-year period will not include individuals or families who have experienced only two occasions of homelessness over a 3-year period where the cumulative total is 12 months or greater. However, the requirement of four or more occasions is statutory and included in the definition of “chronically homeless” in the McKinney-Vento Act and, therefore, cannot be changed without a change to the statute. For this reason, HUD has provided maximum flexibility within the statutory framework about what constitutes a break between occasions and how to document the period of homelessness. In addition, HUD notes, for those stakeholders who submitted this comment because of concerns about these individuals and families not being eligible for needed resources, that the Continuum of Care and Emergency Solutions Grants programs fund a variety of housing and services for individuals and families who are

homeless, but do not meet the criteria of chronically homeless.

Comment: Include a cumulative time frame for the four or more occasions but make that time frame less than 1 year. Many commenters disagreed with the proposed rule’s cumulative length of time the four or more occasions must total in order for an individual or family to be considered chronically homeless. A few commenters proposed reducing the requirement from 1 year to 120 days. Several commenters suggested that the time frame should be reduced from 1 year to 6 months or 180 days. One commenter proposed that this 6-month time frame should apply to both occasional and consecutive periods of homelessness.

HUD Response: The statutory definition of “chronically homeless” requires individuals and families who meet the definition through a continuous occasion to have been homeless and living or residing in a place not meant for human habitation, safe haven, or in an emergency shelter for at least 1 year. The statute set a different standard for persons who experience frequent occasions of homelessness, requiring at least four occasions over 3 years. The statute was silent on what qualified as an occasion of homelessness. HUD has determined that requiring four or more occasions to total at least 12 months would set a threshold of need comparable to the requirement for a continuous episode. This will help ensure that resources that are dedicated to serving chronically homeless persons are targeted to individuals and families with the longest experiences of homelessness regardless of whether they meet the threshold for chronic homelessness through a continuous occasion or through multiple occasions.

Comment: For the cumulative time frame for four or more occasions, count the time in months as opposed to days. One commenter proposed that the definition be revised to count homeless occasions in terms of months and not days. Another commenter recommended that the actual number of days homeless need not be counted and a single encounter with a service provider on a single day in one month could count for homeless status for the entire month.

HUD Response: The definition of “chronically homeless” included in the proposed rule did not specify how the time frame should be counted and instead just stated that the cumulative total of occasions must total at least 1 year. HUD agrees with the comment that changing 1 year to 12 months helps provide clarification about how to count

an individual or family's time spent in places not meant for human habitation, in a safe haven or in an emergency shelter. Furthermore, since HUD did not include recordkeeping requirements in the proposed rule, it was not clear that HUD does not intend to make homeless service providers document every day of homelessness spent living in a place not meant for human habitation, a safe haven, or in an emergency shelter to equal 365 days, for either continuous or occasional homelessness. HUD agrees that counting in months instead of days is a more reasonable requirement for documentation purposes. In addition, HUD agrees with the comment that a single encounter with a homeless service provider on a single day within 1 month would be sufficient to count the individual or family as homeless for the entire month. HUD understands that there is not an Homeless Management Information System record for every interaction or for every day in which a person is homeless and did not want to create a recordkeeping requirement that was overly burdensome. This requirement has been clarified in the recordkeeping requirements; however, HUD has also added language stating that this does not apply if the provider has evidence of a break, defined as 7 or more consecutive nights not living in a safe haven or in an emergency shelter, or living in a place meant for human habitation, during that month. Again, this will help ensure that resources dedicated to persons experiencing chronic homelessness are targeted to individuals and families with the longest experiences of homelessness. When considering how to determine a break, HUD understands that people often find themselves with a place to stay for a couple of nights (hotel, with a friend, etc.), however, their primary nighttime residence is still a place not meant for human habitation, an emergency shelter, or a safe haven. HUD determined that up to 7 nights is a reasonable period of time for an individual or family to stay for a few nights in a place other than an emergency shelter, a safe haven, or in a place that is meant for human habitation without considering it a break in their total length of time homeless for purposes of determining chronically homeless status.

Rule clarification. To clarify that, for documentation purposes, the cumulative length of time of occasions must total 12 months instead of 365 days, the language in paragraph (1)(ii) of the definition of "chronically homeless" has been revised to provide that the homeless individual with a disability

has been homeless and living as described continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living in a place not meant for human habitation. The definition further provides that stays in institutional care facilities for fewer than 90 days will generally not constitute as a break in homelessness, but rather such stays are included in the 12-month total.

In addition, to clarify the recordkeeping requirements related to paragraph (1)(ii), § 578.103(a)(4) has been revised to include language on how documenting a single encounter within 1 month is sufficient documentation to count the individual or family as homeless for the entire month.

Comment: Give discretion to Continuums of Care to determine the length of the occasions of homelessness. Several commenters suggested that Continuums of Care should be provided with the flexibility to determine when an individual or family is chronically homeless and whether they have been homeless at least four times over the past 3 years.

HUD Response: In order to ensure that Continuums of Care nationwide are defining chronically homeless consistently for counting, eligibility, and reporting purposes, it is necessary to have one uniform definition of "chronically homeless" that applies nationwide. A uniform definition will allow for data from each community to be compared nationally, and that persons with the longest histories of homelessness who have been living in a place not meant for human habitation, a safe haven, or in an emergency shelter and with the most severe service needs are prioritized for assistance in permanent supportive housing. As more communities meet the Administration's goal of ending chronic homelessness, HUD will use the annual Continuum of Care Program Competition Notice of Funding Availability to reflect changes in priorities. However, the definition of "chronically homeless" will not change, as it is meant to encompass those homeless persons with the longest histories of living in places not meant for human habitation, in a safe haven, or in emergency shelters and who have the most severe service needs, and to the extent that there are persons that meet this criteria within a Continuum of Care they should always be counted and be prioritized for assistance.

Comment: Need guidance on what constitutes as a break in homelessness. Many commenters requested guidance on what constitutes as a break in homelessness in order to distinguish between occasions. One commenter requested guidance on how to document such breaks in Homeless Management Information System. Another commenter suggested that temporary housing situations of less than 1 week not constitute as a break. Several commenters suggested that periods of "couch surfing" should not constitute as a break in homelessness.

HUD Response: HUD agrees that in order to accurately document occasions of homelessness, it is necessary to understand and document the housing situation that ended the occasion; therefore, HUD has clarified in the recordkeeping requirements that a break in homelessness is any period of 7 or more consecutive nights where the individual or family is not residing in a safe haven, or in an emergency shelter or is residing in a place meant for human habitation. In addition, the final rule allows for stays in an institutional care facility where the individual has been residing for fewer than 90 days to not constitute as a break in homelessness either. HUD provided this clarification because of a comment provided through the comment process on the Continuum of Care Program interim rule recognizing that many hard-to-serve chronically homeless individuals and families have an opportunity to spend 1 or 2 nights on someone's couch, in a motel using all or most of the beneficiary's monthly Social Security Income or Social Security Disability Income check, in another location that allows them to briefly not sleep in a place not meant for human habitation, in an emergency shelter, or in a safe haven. HUD does not consider these periods of less than 7 nights a break in homelessness. Instead, these days would be counted towards a single occasion of homelessness living in a place not meant for human habitation, a safe haven, or in an emergency shelter. Only periods of 7 or more consecutive nights where the individual or family is not living in a place not meant for human habitation, in a safe haven, or in an emergency shelter would qualify as a break. Intake workers must follow the general recordkeeping standards of third-party evidence first, intake worker observation second, and self-certification of the head of household third, when documenting the break in homelessness.

Rule Clarification: Section 578.3 of the final rule includes language in paragraph (1)(ii) of the definition of

“chronically homeless” that clarifies that a break is considered to be 7 or more consecutive nights where the individual or family is not living in a place not meant for human habitation, in a safe haven or in an emergency shelter.

Comment: Stays in living situations other than the streets, emergency shelters, or safe havens should be included in places an individual or family can reside and still meet the definition of “chronically homeless.” Several commenters suggested that HUD consider expanding the definition to allow for individuals and families in certain living situations to be considered chronically homeless. Numerous commenters suggested that individuals and families who have been living in “doubled up” situations should qualify as being chronically homeless. One commenter stated that periods spent “doubled up” should be counted if the individual or family moves two or more times within 60 days. Another commenter suggested that in addition to periods of living in “doubled up” situations, the definition should also include those living in unsuitable housing for long periods of time, such as old mobile homes or cabins without electricity and sewage. Another commenter suggested that the definition include “a person or family who does not have a permanent residence AND has moved two or more times in the past 60 days.”

Several commenters asked HUD to consider stays in transitional housing towards a person’s homeless history when determining an individual or family’s chronically homeless status. The commenters had various suggestions about how such stays could be incorporated. One commenter suggested that stays of 90 days or less in transitional housing should not constitute as a break. Similarly, another commenter asked HUD to consider including transitional housing programs in the definition of “institutional care facility,” which would allow stays in transitional housing for 90 days or less to not constitute as a break in homelessness. Another commenter proposed that the definition be expanded so that persons who have been living in transitional housing, for any period of time, may also be considered chronically homeless. Finally, one commenter was concerned that excluding time in transitional housing would disadvantage homeless veterans who would otherwise be eligible for the HUD-Veterans Affairs Supportive Housing (HUD-VASH) program because many of those veterans

are initially housed in transitional housing.

HUD Response: HUD has interpreted the criteria in paragraphs (1) and (2) of the statutory definition by clarifying that short-term stays in institutional care facilities do not count as breaks in homelessness. HUD believes this clarification is supported by the widespread and longstanding recognition that persons experiencing chronic homelessness frequently cycle between short-term stays in institutional care facilities and emergency shelters, safe havens, and places not meant for human habitation. HUD also believes this widespread and longstanding recognition is implicit in paragraph (2) of the statutory definition, which allows certain individuals to qualify as chronically homeless even if they currently live in an institutional care facility, as opposed to an emergency shelter, safe haven, or place not meant for human habitation. There is nothing in the statutory definition to suggest that certain people should qualify as chronically homeless even if they are currently living in transitional housing or in “doubled up” locations as opposed to emergency shelters, safe havens, or places not meant for human habitation. Therefore, HUD has decided not to expand the qualifying residences beyond the places explicitly mentioned in paragraphs (1) and (2) of the statute.

Regarding HUD-VASH, specifically, the U.S. Department of Veterans Affairs (VA) determines chronic homeless status at the initial intake to VA homeless services. Therefore, veterans who qualify as chronically homeless at initial intake will maintain that status throughout the episode of care, even if they are served in a VA program that is characterized as transitional housing immediately prior to entry into HUD-VASH.

Comment: Clarification of how the word “continuously” is defined in the phrase “continuously homeless for at least one year.” A commenter asked how HUD is defining the word “continuously” in the phrase “continuously homeless for at least one year” in the definition of “chronically homeless.”

HUD Response: HUD has clarified that a break in homelessness is defined as 7 or more consecutive nights in a place that does not qualify as a place not meant for human habitation, a safe haven, or an emergency shelter and, therefore, does not consider it to be necessary to define the word “continuously.”

Comment: Clarification is needed on “conditions” versus “disability.” Several commenters wrote about

paragraph (1)(iii) in the proposed rule’s definition of “chronically homeless,” which provides that a chronically homeless person is a person who can be diagnosed with one of the following conditions: “substance use disorder, serious mental illness, developmental disability (as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), post-traumatic stress disorder, cognitive impairments resulting from brain injury, or chronic physical illness or disability.”

Commenters asked for clarification on what constitutes a “condition.” Other commenters asked about the specific list of “conditions” included in the definition. One commenter asked why the term “serious mental illness” is used instead of “severe and persistent mental illness,” while another commenter asked why “post-traumatic stress disorder” was included here but not in the definition of “disability” included in the McKinney-Vento Act. Other commenters referenced the Homeless Management Information System Data Standards and recommended that they be consistent.

Another commenter suggested that the language be revised to say that a chronically homeless person is a person who *has been* diagnosed with a condition as opposed to saying *can be* diagnosed, so that it is more definitive.

Finally, one commenter said that the requirement to have a disability determination for each of the identified disabilities will cause an underreporting of disabilities, which will result in an underreporting of chronic homelessness.

HUD Response: The language included in the proposed definition of “chronically homeless” regarding the types of conditions a person must have in order to qualify as chronically homeless comes from the statute. HUD analyzed the list of conditions included in the statute in comparison with those included under the definition of “homeless individual with a disability” under the Act and determined that each of the “conditions” included under the statutory definition of “chronically homeless” are also included under the definition of “homeless individual with a disability.” Because an individual with one or more of the “conditions” included under the statutory definition of “chronically homeless” would qualify as a “homeless individual with a disability” under the Act, and because HUD wants to clarify that chronically homeless individuals and families are eligible for permanent supportive housing, which under the Continuum of Care Program interim rule means

“permanent housing in which supportive services are provided to assist homeless persons with a disability to live independently,” HUD has replaced the list of “conditions” found in the proposed rule with the requirement that an individual must meet the definition of “homeless individual with a disability” in the Act. In addition, HUD has added to the Continuum of Care Program interim rule recordkeeping requirements for documenting the disability, and has created standards for collecting information on disability in the Homeless Management Information System Data Standards that are consistent with this definition.

Regarding the comment related to the phrase “can be diagnosed” found in the proposed rule, HUD decided to replace the list of “conditions” found in the proposed rule with the requirement that an individual must meet the definition of “homeless individual with a disability” in the Act. Therefore, the phrase “can be diagnosed” is not found in the final rule. It should be noted, however, that for the purposes of recordkeeping, the final rule permits evidence of a disability to be documented using an intake staff-recorded observation of disability that, no later than 45 days of the application for assistance, is confirmed and accompanied by evidence in 24 CFR 578.103(a)(4)(i)(B)(1), (2), (3), or (5).

Finally, regarding the last comment, there is no such “requirement to have a disability determination for each of the identified disabilities.” An adult head of household is only required to meet the definition of “homeless individual with a disability” as defined in section 401(9) of the McKinney-Vento Act in order to meet the definition of “chronically homeless” and the recipient is only required to keep on file evidence of the qualifying disabling condition as HUD has clarified in the recordkeeping requirements.

Rule Clarification: To provide for a more uniform definition, this final rule revised the language in paragraph (3) of the definition of “chronically homeless” to state that to be considered chronically homeless a family must have an adult head of household (or a minor head of household if no adult is present in the household) who meets the criteria of “homeless individual with a disability” as defined in section 401(9) of the McKinney-Vento Act.

Comment: The definition of “chronically homeless” should include an income variable. A commenter recommended that HUD add an income variable as an indicator of chronic homelessness.

HUD Response: HUD disagrees with this recommendation. The statute does not include an income variable for either the definition of “homeless” or “chronically homeless” and HUD does not seek to expand either definition to include this component.

Comment: Provide guidance on what is meant by “institution.” One commenter stated that HUD should provide clear guidance on what constitutes an “institution.” Other commenters suggested that HUD include foster care in the definition of an institution and clarify that temporary placement in child welfare systems and foster care should constitute as a break in homelessness.

HUD Response: HUD acknowledges that clarification of institutional care facility is necessary, however, rather than establishing a fixed set of institutional care facilities in the final rule, HUD intends to issue guidance on the meaning of “institutional care facility.”

Comment: Consistently refer to stays in institutions that do not constitute as a break in homelessness for purposes of defining “chronically homeless” as either “90 days or less” or “fewer than 90 days.” One commenter stated that HUD should be consistent when referencing institutional stays because “90 days or less” in paragraph (1)(ii) of the definition is not the same as “fewer than 90 days” in paragraph (2) of this definition.

HUD Response: HUD agrees that the language around stays in an institution included in the proposed definition was inconsistent. The definition in this rule has been revised to clarify that an individual can be considered chronically homeless if they are residing in or have a history of residing in an institution for fewer than 90 days, where the individual or family resided in a place not meant for human habitation, in a safe haven, or in an emergency shelter immediately prior to entering the institution.

Rule clarification: HUD has revised the definition of “chronically homeless” to state that a homeless individual with a disability may be considered to be chronically homeless if they live in an institutional care facility, as long as the individual has been living there for fewer than 90 days and had been living in a place not meant for human habitation, a safe haven, or an emergency shelter prior to entering the institutional care facility.

Comment: Define residence in institutional care facility as present and not past residence. A commenter suggested that HUD change the wording in paragraph (2) of the definition from

“An individual who has been residing in an institutional care facility. . .” to “An individual who is residing in an institutional care facility. . .”

HUD Response: HUD disagrees that this rewording is necessary. The phrase “has been residing in an institutional care facility” encompasses both the recent past and the current living situation of the individual and describes persons who are currently living or residing in an institutional care facility and whose total current stay in that facility will be fewer than 90 days.

Comment: Difficulty in documenting periods of homelessness. Many commenters expressed concern that it would be difficult to document or verify the time period of homelessness required in the proposed definition of “chronically homeless.” Some commenters stated that it would be difficult to verify where homeless individuals or families have slept if the individual or family had not had regular interaction with a homeless service provider. Other commenters stated that chronically homeless individuals and families would not be able to remember or provide documentation for the exact period of time during which they had been homeless. Several commenters suggested that self-certification by the head of household of homeless status should be sufficient for documenting homeless status and history. Many commenters expressed concern that the requirement to track and verify cumulative lengths of homelessness would place an undue burden on homeless service providers, particularly in rural areas where there are fewer institutions or shelters. Commenters also requested that the final rule include specific guidance on how to document homeless status and history, particularly for persons that have been unsheltered. Finally, several commenters expressed concern that the definition would make counting chronically homeless persons in the Point-in-Time counts more difficult because enumerators will not have sufficient time to determine lengths of homelessness.

HUD Response: After reviewing the public comments, HUD acknowledges the lack of recordkeeping requirements for chronically homeless status in the proposed rule caused confusion and concern and HUD agrees it must provide specific guidance on documentation requirements for projects that are required to serve the chronically homeless. For this reason, the final rule includes a section on recordkeeping requirements. When creating the recordkeeping requirements, HUD acknowledged many of the potential difficulties expressed by the

commenters might occur if the burden-of-proof is too high. Therefore, the language in the recordkeeping section will allow for the period of homelessness to be documented by a self-certification by the head of household seeking assistance on a limited basis. In rare instances where persons have been unsheltered and out of contact for long periods of time, the recordkeeping requirements provide that up to the full period of homelessness could be documented by a self-certification by the individual or head of household seeking assistance, however, this accommodation is limited to no more than 25 percent of all chronically homeless individuals and families assisted. HUD determined that 25 percent was a reasonable limit for this accommodation as it is consistent with a previous policy used by HUD that limited the percentage of program participants in transitional housing funded through the Supportive Housing Program who could be assisted for longer than 2 years. Further, the recordkeeping section clarifies that homeless service providers are not required to verify every day of homelessness in a given month but instead, that a single encounter with a homeless service provider in a given month would be sufficient third-party evidence that the individual or family has been homeless for the entire month, unless there is evidence that the individual or family had a break of at least 7 consecutive nights in their homeless occasion during that month (e.g., was housed with a friend or family member). HUD does not expect Continuums of Care to document a person's chronically homeless status when conducting the annual Point-in-Time count. HUD will provide clarification and guidance regarding how to enumerate persons experiencing chronic homelessness through notices and other guidance in advance of the Point-in-Time count.

Rule clarification. To clarify the records HUD expects Continuum of Care Program recipients and subrecipients to maintain when they are required to serve chronically homeless individuals and families, HUD has revised § 578.103(a)(4) to incorporate recordkeeping requirements for the definition of "chronically homeless." In addition, as a result of incorporating a new paragraph (4) in § 578.103(a), the remainder of § 578.103(a) has been reordered and HUD has amended § 578.87(b)(4) to update the reference from § 578.103(a)(13) to § 578.103(a)(14).

Comment: If there is no penalty for lying there will be fraud. A commenter

expressed concern that if there is no penalty for lying by the program participants about the length of time homeless, there is likely to be fraud.

HUD Response: In general, HUD expects that all homeless service providers will exercise due diligence when documenting periods of homelessness. The final rule includes recordkeeping requirements that will require third-party documentation where it is available, but allows for self-certification by the head of household seeking assistance in certain instances.

Rule clarification: To clarify that HUD expects Continuum of Care Program recipients and subrecipients documenting chronic homeless status to obtain third-party documentation whenever possible, HUD has established § 578.103(a)(4) to incorporate recordkeeping requirements for the definition of "chronically homeless" and to provide that the order of priority for documenting chronically homeless status is third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. In addition, HUD has clarified that, except for in limited circumstances, at least 9 months of the homeless occasion(s) must be documented with third-party documentation.

VI. Findings and Certifications

Regulatory Planning and Review

This final rule establishes a regulatory definition for the term "chronically homeless." This rule focuses on persons with the longest histories of homelessness to ensure that funds are targeted to providing permanent supportive housing solutions for these individuals and families who are chronically homeless, consistent with the statutory definition of the term established in the McKinney-Vento Act. This definition will also ensure that communities are using the same criteria in determining whether a person is chronically homeless, and that HUD receives consistent and accurate information nationwide.

This new definition will use existing recordkeeping requirements for the Continuum of Care Program to document the homeless status of program participants, but adds that such documentation covers a program participant's homelessness status over a specific time period—at least 1 year or on at least 4 separate occasions in the last 3 years—to document the chronically homeless status of program participants. While in some instances additional program participant records will need to be obtained to identify an

individual's "chronically homeless" status, the additional burden of obtaining these records will ensure that communities are appropriately targeting HUD funds to those with the greatest need.

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866, "Regulatory Planning and Review." This rule was determined to be a "significant regulatory action," as defined in section 3(f) of the order (although not an economically significant regulatory action under the order). The docket file is available for public inspection in the Regulations Division, Office of the General Counsel, 451 7th Street SW., Room 10276, Washington, DC 20410-0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Division at 202-402-3055 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number via TTY by calling the Federal Relay Service at 800-877-8339 (this is a toll-free number).

Information Collection Requirements

The information collection requirements contained in this final rule have been submitted to OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520) and assigned OMB control number 2506-0112. In accordance with the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless the collection displays a currently valid OMB control number.

Environmental Impact

This rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Accordingly, under 24 CFR 50.19(c)(1), this rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private

sector. This rule does not impose a Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule solely addresses the definition of “chronically homeless.” The purpose of this rule is to determine the universe of individuals and families who qualify as “chronically homeless” under the McKinney-Vento Act. Given the narrow scope of this rule, HUD has determined that it would not have a significant economic impact on a substantial number of small entities.

Executive Order 13132, Federalism

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

List of Subjects

24 CFR Part 91

Aged, Grant programs—housing and community development, Homeless, Individuals with disabilities, Low- and moderate-income housing, Reporting and recordkeeping requirements.

24 CFR Part 578

Community development, Community facilities, Grant programs—housing and community development, Grant program—social programs, Homeless, Reporting and recordkeeping requirements.

Accordingly, for the reasons described in the preamble, parts 91 and 578 of title 24 of the Code of Federal Regulations are amended as follows:

PART 91—CONSOLIDATED SUBMISSIONS FOR COMMUNITY PLANNING AND DEVELOPMENT PROGRAMS

■ 1. The authority citation for 24 CFR part 91 continues to read as follows:

Authority: 42 U.S.C. 3535(d), 3601–3619, 5301–5315, 11331–11388, 12701–12711, 12741–12756, and 12901–12912.

■ 2. In § 91.5, the definition of “Chronically homeless” is revised to read as follows:

§ 91.5 Definitions.

* * * * *

Chronically homeless means:

- (1) A “homeless individual with a disability,” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:
 - (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - (ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
- (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
- (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

* * * * *

PART 578—CONTINUUM OF CARE PROGRAM

■ 3. The authority citation for 24 CFR part 578 continues to read as follows:

Authority: 42 U.S.C. 11371 *et seq.*, 42 U.S.C. 3535(d).

■ 4. In § 578.3, the definition of “Chronically homeless” is revised to read as follows:

§ 578.3 Definitions.

* * * * *

Chronically homeless means:

- (1) A “homeless individual with a disability,” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)), who:
 - (i) Lives in a place not meant for human habitation, a safe haven, or in an emergency shelter; and
 - (ii) Has been homeless and living as described in paragraph (1)(i) of this definition continuously for at least 12 months or on at least 4 separate occasions in the last 3 years, as long as the combined occasions equal at least 12 months and each break in homelessness separating the occasions included at least 7 consecutive nights of not living as described in paragraph (1)(i). Stays in institutional care facilities for fewer than 90 days will not constitute as a break in homelessness, but rather such stays are included in the 12-month total, as long as the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately before entering the institutional care facility;
- (2) An individual who has been residing in an institutional care facility, including a jail, substance abuse or mental health treatment facility, hospital, or other similar facility, for fewer than 90 days and met all of the criteria in paragraph (1) of this definition, before entering that facility; or
- (3) A family with an adult head of household (or if there is no adult in the family, a minor head of household) who meets all of the criteria in paragraph (1) or (2) of this definition, including a family whose composition has fluctuated while the head of household has been homeless.

* * * * *

§ 578.87 [Amended]

■ 5. In § 578.87, paragraph (b)(4) is amended by removing the reference “§ 578.103(a)(13)” and adding in its place “§ 578.103(a)(14)”.

■ 6. In § 578.103, redesignate paragraphs (a)(4) through (17) as paragraphs (a)(5) through (18) and add paragraph (a)(4) to read as follows:

§ 578.103 Recordkeeping requirements.

(a) * * *

(4) *Chronically homeless status.* The recipient must maintain and follow

written intake procedures to ensure compliance with the chronically homeless definition in § 578.3. The procedures must require documentation at intake of the evidence relied upon to establish and verify chronically homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. Records contained in an HMIS, or comparable database used by victim service or legal service providers, are acceptable evidence of third-party documentation and intake worker observations if the HMIS, or comparable database, retains an auditable history of all entries, including the person who entered the data, the date of entry, and the change made, and if the HMIS prevents overrides or changes of the dates on which entries are made.

(i) For paragraph (1) of the “Chronically homeless” definition in § 578.3, evidence that the individual is a “homeless individual with a disability” as defined in section 401(9) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11360(9)) must include:

(A) Evidence of homeless status as set forth in paragraph (a)(3) of this section; and

(B) Evidence of a disability. In addition to the documentation required under paragraph (a)(4)(i)(A) of this section, the procedures must require documentation at intake of the evidence relied upon to establish and verify the disability of the person applying for homeless assistance. The recipient must keep these records for 5 years after the end of the grant term. Acceptable evidence of the disability includes:

(1) Written verification of the disability from a professional licensed by the state to diagnose and treat the disability and his or her certification that the disability is expected to be long-continuing or of indefinite duration and substantially impedes the individual's ability to live independently;

(2) Written verification from the Social Security Administration;

(3) The receipt of a disability check (e.g., Social Security Disability Insurance check or Veteran Disability Compensation);

(4) Intake staff-recorded observation of disability that, no later than 45 days from the application for assistance, is confirmed and accompanied by evidence in paragraph (a)(4)(i)(B)(1), (2), (3), or (5) of this section; or

(5) Other documentation approved by HUD.

(ii) For paragraph (1)(i) of the “Chronically homeless” definition in § 578.3, evidence that the individual lives in a place not meant for human habitation, a safe haven, or an emergency shelter, which includes:

(A) An HMIS record or record from a comparable database;

(B) A written observation by an outreach worker of the conditions where the individual was living;

(C) A written referral by another housing or service provider; or

(D) Where evidence in paragraphs (a)(4)(ii)(A) through (C) of this section cannot be obtained, a certification by the individual seeking assistance, which must be accompanied by the intake worker's documentation of the living situation of the individual or family seeking assistance and the steps taken to obtain evidence in paragraphs (a)(4)(ii)(A) through (C).

(iii) For paragraph (1)(ii) of the “Chronically homeless” definition in § 578.3, evidence must include a combination of the evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section, subject to the following conditions:

(A) Third-party documentation of a single encounter with a homeless service provider on a single day within 1 month is sufficient to consider an individual as homeless and living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter for the entire calendar month (e.g., an encounter on May 5, 2015, counts for May 1–May 31, 2015), unless there is evidence that there have been at least 7 consecutive nights not living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter during that month (e.g., evidence in HMIS of a stay in transitional housing);

(B) Each break in homelessness of at least 7 consecutive nights not living or residing in a place not meant for human habitation, a safe haven, or in an emergency shelter between separate occasions must be documented with the evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section;

(C) Evidence of stays in institutional care facilities fewer than 90 days included in the total of at least 12 months of living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter must include the evidence in paragraphs (a)(4)(iv)(A) through (B) of this section and evidence described in paragraphs (a)(4)(ii)(A) through (D) of this section that the individual was living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter immediately prior to

entering the institutional care facility; and

(D) For at least 75 percent of the chronically homeless individuals and families assisted by a recipient in a project during an operating year, no more than 3 months of living or residing in a place not meant for human habitation, a safe haven, or an emergency shelter may be documented using the evidence in paragraph (a)(4)(ii)(D) of this section for each assisted chronically homeless individual or family. This limitation does not apply to documentation of breaks in homelessness between separate occasions, which may be documented entirely based on a self-report by the individual seeking assistance.

(iv) If an individual qualifies as chronically homeless under paragraph (2) of the “Chronically homeless” definition in § 578.3 because he or she has been residing in an institutional care facility for fewer than 90 days and met all of the criteria in paragraph (1) of the definition, before entering that facility, evidence must include the following:

(A) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institutional care facility stating the beginning and end dates of the time residing in the institutional care facility. All oral statements must be recorded by the intake worker; or

(B) Where the evidence in paragraph (a)(4)(iv)(A) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (a)(4)(iv)(A) and a certification by the individual seeking assistance that states that he or she is exiting or has just exited an institutional care facility where he or she resided for fewer than 90 days; and

(C) Evidence as set forth in paragraphs (a)(4)(i) through (iii) of this section that the individual met the criteria in paragraph (1) of the definition for “Chronically homeless” in § 578.3, immediately prior to entry into the institutional care facility.

(v) If a family qualifies as chronically homeless under paragraph (3) of the “Chronically homeless” definition in § 578.3, evidence must include the evidence as set forth in paragraphs (a)(4)(i) through (iv) of this section that the adult head of household (or if there is no adult in the family, a minor head of household) met all of the criteria in paragraph (1) or (2) of the definition.

* * * * *

Dated: November 13, 2015.

Harriet Tregoning,

*Principal Deputy Assistant Secretary for
Community Planning and Development.*

Dated: Approved on November 24, 2015.

Nani A. Coloretti,

Deputy Secretary.

[FR Doc. 2015–30473 Filed 12–3–15; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Bureau of Safety and Environmental Enforcement

30 CFR Part 250

[Docket ID: BSEE–2015–0012; 15XE1700DX
EEEE500000 EX1SF0000.DAQ000]

RIN 1014–AA24

Oil and Gas and Sulphur Operations in the Outer Continental Shelf— Decommissioning Costs

AGENCY: Bureau of Safety and
Environmental Enforcement, Interior.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to require lessees and owners of operating rights to submit summaries of actual decommissioning expenditures incurred after completion of certain decommissioning activities for oil and gas and sulphur operations on the Outer Continental Shelf. This information will help BSEE to better estimate future decommissioning costs related to OCS leases, rights-of-way, and rights of use and easement.

DATES: This final rule becomes effective on January 4, 2016.

FOR FURTHER INFORMATION CONTACT:
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1552.

SUPPLEMENTARY INFORMATION:

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Executive Summary

This final rule requires lessees and owners of operating rights (collectively, “lessees”) to submit to the Bureau of Safety and Environmental Enforcement (BSEE) summaries of actual expenditures for decommissioning of wells, platforms and other facilities on the Outer Continental Shelf (OCS) that

are required under BSEE’s existing regulations. This information will help BSEE to better estimate future decommissioning costs related to OCS leases, rights-of-way, and rights of use and easement. The Bureau of Ocean Energy Management (BOEM) may then use BSEE’s future decommissioning cost estimates to set necessary financial assurance levels to minimize or eliminate the possibility that the government will incur decommissioning liability.

In a proposed rule published on May 27, 2009, the Minerals Management Service (BSEE’s predecessor agency) proposed to require lessees to submit information (including supporting documentation) regarding expenditures actually incurred for certain mandatory decommissioning activities within 30 days of completion of each activity. Based on BSEE’s review of public comments on the proposed rule, the final rule generally requires only certified summaries of the actual expenditures (without other supporting documentation) for those decommissioning activities and extends the time period for submission of such reports to 120 days after completion of each such activity. BSEE may, however, require additional supporting information for specific decommissioning costs on a case-by-case basis.

I. Background

On May 27, 2009, the former Minerals Management Service (MMS) published a Notice of Proposed Rulemaking in the **Federal Register** (*Leasing of Sulphur or Oil and Gas and Bonding Requirements in the Outer Continental Shelf*) in order to update and streamline the existing OCS leasing regulations under the Outer Continental Shelf Lands Act (OCSLA) and to clarify implementation of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (see 74 FR 25177). In 2010 and 2011, the Secretary of the Interior (Secretary) reorganized MMS into three bureaus: BSEE, BOEM, and the Office of Natural Resources Revenue. The Secretary then delegated to BSEE certain responsibilities under OCSLA that were formerly held by MMS, including responsibilities for overseeing decommissioning.¹ BSEE’s primary purpose as an agency is to promote safety, protect the environment, and ensure responsible development and conservation of offshore oil and natural

gas resources through vigorous regulatory oversight and enforcement.

This final rule completes the rulemaking for one of the issues covered by the proposed rule that is now under BSEE’s authority. Specifically, this final rule addresses the proposed requirement that lessees submit information regarding actual expenditures incurred for certain decommissioning activities required under the existing regulations.

The other issues covered by the proposed rule now under BSEE’s authority include proposed consolidation of mechanisms for maintaining and extending leases past their primary terms and a proposed requirement for submittal of pipeline-related reports after approval of an assignment or change of designated operator (see 74 FR 25177–25178). BSEE may issue a final rule in the future regarding the proposed consolidation of mechanisms for extending and maintaining leases beyond their primary terms. Similarly, BSEE will decide at a later date whether to finalize the proposed pipeline report requirement or to address that issue again, potentially in a broader rulemaking under 30 CFR part 250, Subpart J—*Pipelines and Pipeline Rights-of-Way*. Therefore, these two issues are not included in this final rule. In addition, this final rule does not include sections of the proposed rule that now fall under BOEM’s authority.

II. What This Final Rule Covers

This final rule revises portions of BSEE’s regulations at 30 CFR part 250, Subpart Q—*Decommissioning Activities*. Specifically, the final rule requires lessees to submit certified summaries of actual decommissioning expenditures incurred for certain decommissioning activities that are required under Subpart Q (i.e., plugging and abandonment of wells, removal of platforms and other facilities, and site clearance)² within 120 days of completion of each such activity. This information will help BSEE better estimate future decommissioning costs related to OCS leases, rights-of-way, and rights of use and easement. BSEE’s decommissioning cost estimates may then be used by BOEM to set financial assurance levels necessary to minimize

² For example, §§ 250.1710 and 250.1711 require wells to be plugged within a year after termination of a lease or when ordered by BSEE, respectively. Section 250.1725 requires platforms and other facilities to be removed within a year of termination of a lease unless the lessee has received approval to maintain the facility to conduct other activities. Section 250.1740 requires verification that a site has been cleared of obstructions within 60 days after a well has been plugged or a platform or other facility has been removed.

¹ For convenience, hereafter we use the term “BSEE” rather than “MMS” in this document, where appropriate, when referring to past actions of MMS.

or eliminate the possibility that the government will incur decommissioning liability.

The proposed rule would have added new reporting provisions to three separate existing regulatory provisions—§§ 250.1717, 250.1729 and 250.1743—that require submission of decommissioning information (including supporting documentation) regarding well plugging and abandonment, removal of platforms and other facilities, and site clearance, respectively. BSEE has determined, however, that adding the decommissioning cost reporting requirements to three separate sections would be unnecessarily redundant and potentially confusing. Therefore, this final rule adds two new paragraphs—(h) and (i)—containing the decommissioning cost reporting requirements to the existing § 250.1704, which already provides other decommissioning applications and reporting requirements. This approach is intended to prevent unnecessary repetition and to provide for consistent cost reporting procedures for all of the specified decommissioning activities.

III. Differences Between Proposed Rule and Final Rule

The following is a discussion of differences between the proposed rule and the final rule with regard to 30 CFR part 250.

Subpart Q—Decommissioning Activities—The proposed rule would have amended §§ 250.1717, 250.1729 and 250.1743 to require submission of information, including supporting documentation, on expenditures for the decommissioning activities previously described in parts II and III. Instead of amending those sections, however, the final rule adds new paragraphs (h) and (i) to § 250.1704. Those new paragraphs require a lessee to submit to BSEE, after completing the specified decommissioning activities, a certified summary of actual decommissioning expenditures and, if requested by the Regional Supervisor, additional information to support the summary. The addition of paragraphs (h) and (i) to § 250.1704 eliminates the need to insert repetitive language in §§ 250.1717, 250.1729, and 250.1743, and results in a more consolidated regulation, with consistent reporting procedures applicable to all of the specified decommissioning activities.

Under the proposed rule, BSEE would have expected supporting documentation to include a statement certifying the truth and accuracy of the reported costs. The final rule addresses that expectation, and eliminates any

potential ambiguity, by expressly requiring that cost summaries include such a certification statement.

In addition, after consideration of comments received regarding potential burdens on lessees from the proposed requirement for submission of supporting documentation for each expenditure, the final rule requires that lessees submit, to the appropriate BSEE Regional Supervisor, only a certified summary of decommissioning expenditures.³ The final rule requires additional supporting information only if the appropriate Regional Supervisor specifically requires it on a case-by-case basis.

Finally, based on BSEE's review of the comments on the proposed rule, the final rule requires that lessees submit the summary of actual decommissioning costs within 120 days of completion of those decommissioning activities, instead of the proposed requirement for reporting within 30 days. BSEE has determined that 120 days constitutes a more appropriate period for lessees to collect, summarize, and submit this information.

IV. Comments and Responses

In response to the proposed rule, BSEE received three comments, all from representatives of the offshore oil and gas industry, related to the provisions for reporting costs of decommissioning activities. The full text of the relevant comments can be viewed at: www.regulations.gov. To access those comments, enter MMS-2007-OMM-0069 in the Search box. A summary of the comments, with BSEE's responses, follows.

Comment: One industry commenter stated that the proposed addition of §§ 250.1717(e), 250.1729(d), and 250.1743(b)(8) to the regulations, requiring submittal of actual expenditures for every instance of site clearance, platform removal and well plugging, would be unduly burdensome in light of the potential benefits. The commenter stated that, while BSEE may need some access to accurate decommissioning cost data, there are alternatives available to obtain the same information, although the commenter did not state what those alternatives might be. The commenter also asserted that the proposed provisions gave no guidance as to exactly what expenditures should be included from an accounting perspective, and that the proposal to require each lessee to

³ As a practical matter, BSEE recognizes that a designated operator may submit the required summary of decommissioning costs on behalf of a lessee.

account for such expenses separately would diminish the usefulness of the information provided to BSEE. The commenter also stated that lessees are willing to work with BSEE on a case-by-case basis to provide specific cost information as necessary. Finally, the commenter stated that, to the extent any trade secret, or confidential or proprietary information might be included in submissions to BSEE, the proposed rule did not include a mechanism to protect that information from disclosure.

Response: Contrary to the commenter's assertion, BSEE does not have ready access to other sources of information for actual expenditures incurred for decommissioning activities. As previously explained, BSEE needs and will use decommissioning cost data to estimate future decommissioning costs, which BOEM will use to set the amount of required bonds and other forms of financial security. However, while the final rule provides that a lessee must report actual decommissioning expenditures incurred for the specified decommissioning activities, it now requires, in general, that the lessee submit only a summary of such expenditures rather than specific supporting documentation for each expenditure. The information needed to prepare such a summary is readily available to industry as a matter of business practice, and supplying this summary information does not constitute an unreasonable burden.

In addition, the final rule provides examples of activities (including, but not limited to, expenses incurred for the use of rigs, vessels, equipment, supplies and materials, transportation of any kind, personnel, and services) associated with the specified decommissioning activities for which summaries of actual expenditures incurred must be submitted.

While the final rule does not include the proposed requirement to submit supporting documentation for each decommissioning expenditure, the final rule provides that BSEE may request additional information on a case-by-case basis to support the summary, as suggested by the commenter. However, in such cases, BSEE will minimize the burden by working directly with the lessee to determine what specific supporting information is required.⁴ In

⁴ Although BSEE does not anticipate that such supporting information will be needed often, there may be situations (e.g., when a lessee's summary reflects decommissioning expenditures substantially higher or lower than other lessees' summaries for similar activities in the same area)

addition, by working together on a case-by-case basis whenever supporting information is requested, BSEE and the lessee can help reduce the need to submit any confidential information. Any confidential information that is provided will be handled in accordance with the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Department of the Interior's (DOI's) FOIA regulations (43 CFR part 2), and section 26 of OCSLA, 43 U.S.C. 1352.

Comment: Another commenter also stated that the proposed requirement to submit all "expenses" with "supporting documentation" would impose a significant burden. Further, the commenter observed that since the proposed rule provided no guidelines on what constitutes an "expense," BSEE likely would receive inconsistent reporting from lessees. The commenter's preference is for BSEE to work directly with lessees to develop specific information requirements and to allow the lessees to exclude confidential or proprietary information.

Response: As previously explained, BSEE needs information regarding actual decommissioning expenditures incurred by lessees in order to appropriately estimate future costs and minimize the government's risk of potential decommissioning liability. However, since the final rule typically will require only a summary of actual decommissioning expenditures, the overall potential burden on lessees will likely be less than under the proposed rule, and the summary will be less likely to reflect confidential or proprietary information. In addition, as suggested by two commenters, BSEE will work directly with lessees on a case-by-case basis, as necessary, whenever additional supporting information may be required in order to avoid or minimize the potential need for submission of any confidential information.

Finally, since the final rule now lists several examples of the types of expenditures that must be included in the summaries, and since BSEE will work with individual lessees to determine what additional supporting information, if any, is needed in specific cases, the possibility of inconsistent reporting suggested by the commenter will be minimized. In addition, BSEE expects to issue further guidance to assist lessees in preparing expenditure summaries, such as using cost classifications and accounting methods consistent with current OCS joint

interest summary form billing standards and practices.

Comment: A third commenter stated that BSEE did not need cost data with supporting documentation to help assess bonding requirements. Rather, the commenter suggested that BSEE could request operators to certify the cost information instead of requiring supporting documentation.

Response: As suggested by the commenter, instead of requiring supporting information in every case, the final rule requires that a lessee submit only a summary of its decommissioning costs, with a certification statement by an authorized company representative. Additional supporting information is required only when the Regional Supervisor requests such information on a case-by-case basis.

V. Procedural Matters

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 (E.O. 12866) provides that the Office of Management and Budget (OMB), Office of Information and Regulatory Affairs (OIRA), will review all significant rules. BSEE has determined that this final rule is not a significant regulatory action as defined by section 3(f) of E.O. 12866 because:

- It is not expected to have an annual effect on the economy of \$100 million or more;
- It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities;
- It will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;
- It will not alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights or obligations of their recipients; and
- It does not raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in E.O. 12866.

Accordingly, BSEE has not prepared an economic analysis, and OIRA has not reviewed this rule.

Executive Order 13563 (E.O. 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. E.O. 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. It also emphasizes 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. BSEE developed this rule in a manner consistent with these requirements.

Regulatory Flexibility Act (RFA)

BSEE certifies that this final rule will not have a significant economic effect on a substantial number of small entities under the RFA (5 U.S.C. 601 *et seq.*). This rule potentially affects offshore lessees who perform decommissioning activities under 30 CFR part 250. This could include about 130 active companies. Offshore lessees fall under the Small Business Administration's North American Industry Classification System (NAICS) codes 211111 (Crude Petroleum and Natural Gas Extraction) and 213111 (Drilling Oil and Gas Wells). For these NAICS code classifications, a small company is one with fewer than 500 employees. Based on these criteria, an estimated 90 (or 69 percent) of the active companies are considered small. Thus, this final rule would affect a substantial number of small entities.

However, because the final rule requires only summary reports of actual expenditures related to performance of decommissioning activities, it will not impose significant new costs or burdens on offshore oil and gas companies. Accordingly, this rule will not have a significant economic effect on a substantial number of small entities, and BSEE is not required by the RFA to prepare a regulatory flexibility analysis for this rule.

Your comments are important. The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the actions of BSEE, call 1-888-734-3247. You may comment to the Small Business Administration (SBA) without fear of retaliation. Allegations of discrimination/retaliation filed with the SBA will be investigated for appropriate action.

where additional supporting information would be appropriate.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under the SBREFA (5 U.S.C. 801 *et seq.*). This rule will not:

- Have an annual effect on the economy of \$100 million or more;
- Cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or
- 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 of 1995

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than \$100 million per year. The rule also will not have a significant or unique effect on state, local, or tribal governments or the private sector. Thus, a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

Takings Implication Assessment (Executive Order 12630)

Under the criteria in Executive Order 12630, this rule will not have significant takings implications. The rule is not a governmental action capable of interference with constitutionally protected property rights. Therefore, a Takings Implication Assessment is not required.

Federalism (Executive Order 13132)

Under the criteria in Executive Order 13132, this rule does not have federalism implications. This rule does not substantially and directly affect the relationship between the Federal and State governments. To the extent that State and local governments have a role in OCS activities, this rule does not

affect that role. Accordingly, a Federalism Assessment is not required.

Civil Justice Reform (Executive Order 12988)

This rule complies with the requirements of Executive Order 12988 (E.O. 12988), *Civil Justice Reform* (February 7, 1996). Specifically, this rule:

- Meets the criteria of section 3(a) of E.O. 12988 requiring that all regulations be reviewed to eliminate drafting errors and ambiguity and be written to minimize litigation; and
- Meets the criteria of section 3(b)(2) of E.O. 12988 requiring that all regulations be written in clear language and contain clear legal standards.

Consultation With Indian Tribal Governments (Executive Order 13175)

We have evaluated this rule under the Department's tribal consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes, or on the relationship or distribution of power and responsibilities between the Federal Government and Indian tribes, and that consultation under the Department's tribal consultation policy is not required.

Paperwork Reduction Act (PRA)

This rule contains new information collection (IC) requirements and submission to the OMB under the PRA of 1995 (44 U.S.C. 3501 *et seq.*) is required. The OMB has approved the IC in this rule under OMB Control Number 1014-0029, expiration November 30, 2018. We estimate the annual burden associated with this IC to be 820 hours per year.

The title of the collection of information for this rule is *30 CFR part 250, subpart Q, Decommissioning Costs*. Potential respondents include approximately 130 OCS lessees. Responses to this collection are mandatory. The frequency of response is

on occasion. The IC does not include questions of a sensitive nature. BSEE will protect confidential commercial and proprietary information according to section 26 of OCSLA (43 U.S.C. 1352), FOIA (5 U.S.C. 552) and DOI's implementing regulations (43 CFR part 2), and according to 30 CFR 250.197 (*Data and information to be made available to the public or for limited inspection*). Once the requirements of this rulemaking have been codified, BSEE will consolidate these additional burden hours into the primary collection for 30 CFR part 250, Subpart Q, under OMB Control Number 1014-0010 (expiration 10/31/16; 29,437 burden hours and \$2,152,644 non-hour cost burdens).

We received three comments stating that the proposed requirements would impose a significant burden. Although we reduced the regulatory requirements for this final rule, as previously described, we felt it was prudent to use the same number of burden hours as in the proposed rule. We will adjust the burden hours accordingly in the IC renewal when industry has had enough experience with the final rule to determine the actual burden associated with these requirements. Also, based on comments received, there are some regulatory text revisions, which consist of the following. The final rule:

- Requires lessees to submit to BSEE only a summary of actual decommissioning expenditures incurred for each decommissioning activity (unless additional information is specifically required by the BSEE Regional Supervisor on a case-by-case basis); and
- Changes the summary submission period from 30 days to 120 days after completion of each decommissioning activity, giving industry more time to comply.

There are no non-hour cost burdens associated with this rulemaking. The following table is a breakdown of the burden estimate:

BURDEN TABLE

Citation 30 CFR 250	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours
<i>Proposed 250.1717(e); 1729(d); 1743(b)(8). Final 250.1704(h), (i).</i>	Submit to the Regional Supervisor, within 120 days after completion of each identified decommissioning activity, a summary of expenditures incurred and subsequently, if requested, any additional information that will support and/or verify the summary.	1	820 summaries/ additional info.	820
Final 250.1704(h)	Submit certified statement attesting to accuracy of expenditures incurred data.	Exempt from the PRA under 5 CFR 1320.3(h)(1).		0

BURDEN TABLE—Continued

Citation 30 CFR 250	Reporting and recordkeeping requirements	Hour burden	Average number of annual responses	Annual burden hours
Total			820	820

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 public may comment at any time on the accuracy of the IC burden in this rule and may submit any comments to the Department of the Interior, Bureau of Safety and Environmental Enforcement, Attention: Regulations and Standards Branch, VA–ORP, 45600 Woodland Road, Sterling, VA 20166.

National Environmental Policy Act of 1969 (NEPA)

This rule meets the criteria set forth in 43 CFR 46.210(i) and 516 Departmental Manual (DM) 15.4C(1) for a categorical exclusion, because it involves modification of existing regulations, the impacts of which would be limited to administrative or economic effects with minimal environmental impacts.

We also analyzed this rule to determine if it involves any of the extraordinary circumstances set forth in 43 CFR 46.215 that would require an environmental assessment or an environmental impact statement for actions otherwise eligible for a categorical exclusion. We concluded that this rule does not meet any of the criteria for extraordinary circumstances.

Data Quality Act

In developing this rule, we did not conduct or use a study, experiment, or survey requiring peer review under the Data Quality Act (44 U.S.C. 3516 *et seq.*, Public Law 106–554, app. C § 515, 114 Stat. 2763, 2763A–153–154).

Effects on the Nation's Energy Supply (Executive Order 13211)

This rule is not a significant energy action under Executive Order 13211 (E.O. 13211) because:

- It is not a significant regulatory action under E.O. 12866;
- It is not likely to have a significant adverse effect on the supply, distribution or use of energy; and
- It has not been designated as a significant energy action by the Administrator of OIRA.

List of Subjects in 30 CFR Part 250

Administrative practice and procedure, Continental shelf, Environmental impact statements, Environmental protection, Investigations, Oil and gas exploration, Penalties, Reporting and recordkeeping requirements, Sulphur.

Dated: August 28, 2015.

Janice M. Schneider,
Assistant Secretary, Land and Minerals Management.

Editorial note: This document was received for publication by the Office of Federal Register on November 30, 2015.

For the reasons stated in the preamble, BSEE amends 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

- 1. The authority citation for part 250 continues to read as follows:

Authority: 30 U.S.C. 1751, 31 U.S.C. 9701, 43 U.S.C. 1334.

- 2. Amend § 250.1704 by revising the section heading and the introductory text, and by adding new paragraphs (h) and (i) to the Decommissioning Applications and Reports Table, to read as follows:

§ 250.1704 What decommissioning applications and reports must I submit and when must I submit them?

You must submit decommissioning applications, receive approval of those applications, and submit subsequent reports according to the requirements and deadlines in the following table.

* * * * *

DECOMMISSIONING APPLICATIONS AND REPORTS TABLE

Decommissioning applications and reports	When to submit	Instructions
(h) A certified summary of expenditures for permanently plugging any well, removal of any platform or other facility, and clearance of any site after wells have been plugged or platforms or facilities removed.	Within 120 days after completion of each decommissioning activity specified in this paragraph.	Submit to the Regional Supervisor a complete summary of expenditures actually incurred for each decommissioning activity (including, but not limited to, the use of rigs, vessels, equipment, supplies and materials; transportation of any kind; personnel; and services). Include in, or attach to, the summary a certified statement by an authorized representative of your company attesting to the truth, accuracy and completeness of the summary. The Regional Supervisor may provide specific instructions or guidance regarding how to submit the certified summary.
(i) If requested by the Regional Supervisor, additional information in support of any decommissioning activity expenditures included in a summary submitted under paragraph (h) of this section.	Within a reasonable time as determined by the Regional Supervisor.	The Regional Supervisor will review the summary and may provide specific instructions or guidance regarding the submission of additional information (including, but not limited to, copies of contracts and invoices), if requested, to complete or otherwise support the summary.

[FR Doc. 2015-30585 Filed 12-3-15; 8:45 am]

BILLING CODE 4310-VH-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0999]

Drawbridge Operation Regulation; Upper Mississippi River, Dubuque, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Illinois Central Railroad Drawbridge across the Mississippi River, mile 579.9, at Dubuque, Iowa. The deviation is necessary to allow the bridge owner time to perform preventive maintenance that is essential to the safe operation of the drawbridge. Maintenance is scheduled in the winter when there is less impact on navigation, instead of scheduling work in the summer when river traffic increases. This deviation allows the bridge to open on signal if at least 24-hours advance notice is given. It further allows the bridge to remain closed for up to 120 hours in duration occasionally to replace larger components as long as 72-hours notice is given to the USCG District Eight Western Rivers Bridge Branch.

DATES: This deviation is effective from 5 p.m., December 14, 2015 until 9 a.m., February 29, 2016.

ADDRESSES: The docket for this deviation, (USCG-2015-0999) is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH". Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION: The Chicago, Central & Pacific Railroad requested a temporary deviation for the Illinois Central Railroad Drawbridge, across the Upper Mississippi River, mile 579.9, at Dubuque, Iowa to open on signal if at least 24-hours advance notice is given for 77 days from 5 p.m., December 14, 2015 until 9 a.m., February 29, 2016 for scheduled

maintenance on the bridge. The deviation further allows the bridge to remain closed for up to 120 hours in duration occasionally to replace larger components as long as 72-hours notice is given to the USCG District Eight Western Rivers Bridge Branch.

The Illinois Central Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River. The bridge cannot open in case of emergency.

Winter conditions on the Upper Mississippi River coupled with the closure of Army Corps of Engineer's Lock No. 13 (Mile 522.5 UMR) and Lock No. 21 (Mile 324.9 UMR) from 7 a.m. January 4, 2016 until 12 p.m., March 4, 2016 will preclude any significant navigation demands for the drawspan opening. In addition, Army Corps Lock No. 14 (Mile 493.3 UMR) and Lock No. 17 (Mile 437.1 UMR) will be closed from 7 a.m. December 14, 2015 until 12 p.m. March 2, 2016.

The Illinois Central Railroad Drawbridge provides a vertical clearance of 19.9 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. The drawbridge will open if at least 24-hours advance notice is given and will close for up to 120 hours provided 72-hours advance notice is given to the USCG District Eight Western Rivers Bridge Branch. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 27, 2015.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2015-30637 Filed 12-3-15; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2015-0975]

Drawbridge Operation Regulation; Upper Mississippi River, Clinton, IA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Clinton Railroad Drawbridge across the Mississippi River, mile 518.0, at Clinton, Iowa. The deviation is necessary to allow the bridge owner time to perform preventative maintenance that is essential to the continued safe operation of the drawbridge. Maintenance is scheduled in the winter when there is less impact on navigation; instead of scheduling work in the summer, when river traffic increases. This deviation allows the bridge to open on signal if at least 24-hours advance notice is given. It further allows the bridge to remain closed for up to 120 hours in duration occasionally between January 4, 2016 and February 19, 2016 to replace larger bridge components as long as 72-hours notice is given to the USCG District Eight Western Rivers Bridge Branch.

DATES: This deviation is effective from 5 p.m., December 15, 2015 until 9 a.m., on March 1, 2016.

ADDRESSES: The docket for this deviation, (USCG-2015-0975) is available at <http://www.regulations.gov>. Type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Eric A. Washburn, Bridge Administrator, Western Rivers, Coast Guard; telephone 314-269-2378, email Eric.Washburn@uscg.mil.

SUPPLEMENTARY INFORMATION: The Union Pacific Railroad requested a temporary deviation for the Clinton Railroad Drawbridge, across the Upper Mississippi River, mile 518.0, at Clinton, Iowa to open on signal if at least 24-hours advance notice is given for 76 days from 5 p.m., December 15, 2015 to 9 a.m., March 1, 2016 for scheduled maintenance on the bridge. This deviation further allows the bridge to remain closed for up to 120 hours in

duration occasionally between January 4, 2016 and February 19, 2016 to replace larger bridge components as long as 72-hours notice is given to the USCG District Eight Western Rivers Bridge Branch.

The Clinton Railroad Drawbridge currently operates in accordance with 33 CFR 117.5, which states the general requirement that the drawbridge shall open on signal.

There are no alternate routes for vessels transiting this section of the Upper Mississippi River. The bridge cannot open in case of emergency.

The Clinton Railroad Drawbridge provides a vertical clearance of 18.7 feet above normal pool in the closed-to-navigation position. Navigation on the waterway consists primarily of commercial tows and recreational watercraft and will not be significantly impacted. This temporary deviation has been coordinated with waterway users. No objections were received.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: November 25, 2015.

Eric A. Washburn,

Bridge Administrator, Western Rivers.

[FR Doc. 2015-30636 Filed 12-3-15; 8:45 am]

BILLING CODE 9110-04-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 721

[EPA-HQ-OPPT-2014-0390; FRL-9939-20]

RIN 2070-AB27

Significant New Use Rule on Certain Chemical Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing significant new use rules (SNURs) under the Toxic Substances Control Act (TSCA) for 29 chemical substances that were the subject of premanufacture notices (PMNs). This action requires persons who intend to manufacture (including import) or process any of the chemical substances for an activity that is designated as a significant new use by this rule to notify EPA at least 90 days before commencing that activity. The required notification would provide EPA with the opportunity to evaluate

the intended use and, if necessary, to prohibit or limit the activity before it occurs.

DATES: This final rule is effective February 2, 2016.

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2014-0390, is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Kenneth Moss, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-9232; email address: moss.kenneth@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this action apply to me?

You may be potentially affected by this action if you manufacture, process, or use the chemical substances contained in this proposed rule. 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:

- Manufacturers (including importers) or processors of one or more subject chemical substances (NAICS codes 325 and 324110), e.g., chemical manufacturing and petroleum refineries.

This action may also affect certain entities through pre-existing import certification and export notification rules under TSCA. Chemical importers are subject to the TSCA section 13 (15 U.S.C. 2612) import certification requirements promulgated at 19 CFR 12.118 through 12.127 and 19 CFR 127.28. Chemical importers must certify

that the shipment of the chemical substance complies with all applicable rules and orders under TSCA. Importers of chemicals subject to these SNURs must certify their compliance with the SNUR requirements. The EPA policy in support of import certification appears at 40 CFR part 707, subpart B. In addition, any persons who export or intend to export a chemical substance to a proposed or final rule are subject to the export notification provisions of TSCA section 12(b) (15 U.S.C. 2611(b)) (see § 721.20), and must comply with the export notification requirements in 40 CFR part 707, subpart D.

II. Background

A. What action is the Agency taking?

EPA is finalizing SNURs, under TSCA section 5(a)(2), for 29 chemical substances that were the subject of PMNs. This final rule requires persons who intend to manufacture or process any of these chemical substances for an activity that is designated as a significant new use to notify EPA at least 90 days before commencing that activity.

In the **Federal Register** of October 27, 2014 (79 FR 63821) (FRL-9914-56), EPA issued a direct final SNUR for 30 chemical substances. EPA received notice of intent to submit adverse comments for the direct final SNUR. In response to that notification a rule was proposed for the chemical substances in the **Federal Register** of June 10, 2015 (80 FR 32879) (FRL-9927-60). EPA is not finalizing one of the proposed SNURs, as described below.

For the substance submitted as PMN P-14-72, EPA received a comment from the PMN submitter requesting review of a screening hydrolysis study on the PMN substance (Organisation for Economic Co-operation and Development (OECD) Test Guideline 111). The commenter suggested that this study would aid in understanding the fate of the chemical substance and lead to a decision by EPA to rescind the significant new use designation of a 3 parts per billion (ppb) surface water concentration limit contained in that proposed SNUR. EPA completed its review and has determined that while the study satisfies the screening level stage of the OECD 111 test protocol, it is not the full OECD 111 study as it does not measure the hydrolysis products of the PMN chemical substance. The purpose of OECD 111 is to determine (1) the rate of hydrolysis of the test substance as a function of pH and (2) the identity or nature and rates of formation and decline of hydrolysis products to which organisms may be

exposed. This test guideline is designed as a tiered approach which is shown and explained in the guideline. Each tier is triggered by the results of the previous tier.

As stated in the proposed rule, EPA determined that the results of a ready biodegradability test with product-specific chemical analytics to validate the degradation products (including intermediate products) and the rates of degradation (including intermediate degradation rates) and a hydrolysis as a function of pH and temperature test would help characterize the environmental effects of the PMN substance P-14-72. Without additional data identifying the hydrolysis products EPA continues to have concerns for toxicity at surface water concentrations as low as 3 ppb. As a result, EPA is finalizing the SNUR as proposed and has determined that additional information is still necessary in order to determine whether or to what extent hydrolysis products may be of concern to aquatic organisms, which was the basis for the original direct final SNUR of October 27, 2014. Tier 3 of OECD Test Guideline 111, the identification of hydrolysis products, could be conducted to better understand those products. The results of this full hydrolysis study on PMN substance P-14-72 would then inform the need for further recommended testing, including aquatic toxicity or ready biodegradability testing.

EPA received comments from the PMN submitter of the remaining 28 chemicals in the proposed rule. These chemicals were submitted as three consolidated PMNs: P-14-89 through P-14-92, P-14-158, P-14-159, P-14-161, P-14-162, P-14-163, P-14-173, P-14-175 through P-14-188, and P-14-190 through P-14-193. The commenter stated that the Agency had changed its regulatory decision on these PMN substances in an arbitrary and capricious manner, from a SNUR with the significant new use defined as uses other than as described in the PMNs to one with the significant new use defined as any release of the PMN substances to surface waters resulting in the quotient from the equation provided in 40 CFR 721.90 exceeding a certain surface water concentration listed in the SNUR. Further, the commenter claimed that a SNUR for water releases (or a limit on water concentration) presents an analytical and record-keeping burden on customers for the intended PMN end uses of mineral flotation products and surfactants in asphalt emulsions that will cause the customers to instead select other less-environmentally beneficial products. The PMN submitter

cited its practice of environmentally-beneficial reuse and recycling in the manufacture of these PMN substances starting with byproducts and other waste streams from industrial processes. The commenter also noted that there is no incentive to conduct any testing to address the Agency's aquatic toxicity concerns, because the PMN substances are expected to exhibit some aquatic toxicity and such results may only result in an adjustment of the water concentration levels while the analytical and record-keeping burden remains.

EPA examined the comments on these 28 chemicals and has decided to modify the proposed SNURs. EPA has determined that any manufacturing, processing or use of the substances *excluding* uses as described in the PMNs may result in surface water concentrations exceeding the listed concentrations of concern, which may result in significant adverse environmental effects. Because (1) the potential benefits from use of low-value byproduct waste streams to produce the PMN substances and (2) the Agency has determined that the uses described in the PMNs are not expected to result in significant releases exceeding the listed concentrations of concern, EPA is finalizing the SNURs on these 28 chemicals to limit the significant new use to use other than as described in the PMNs where the use is as a surfactant in asphalt emulsions (for P-14-89 through P-14-92); additives in mineral flotation products and as chemical intermediates (for P-14-158, P-14-159, P-14-161, P-14-162, P-14-163); or flotation additives in mineral processing (for P-14-173, P-14-175 through P-14-188, and P-14-190 through P-14-193). In addition, this final rule retains the significant new use of where the surface water concentrations described under the significant new uses in a new paragraph (a)(3)(i) are exceeded, but these water release concentrations only apply for uses other than as described in the PMNs and mentioned in the previous sentence.

EPA also received comments on the proposed SNUR for the chemical substance that is the subject of PMN P-13-793. EPA is deferring action on that substance to a later date, and intends to respond to those comments and issue a final SNUR at that time.

B. What is the Agency's authority for taking this action?

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors,

including the four bulleted TSCA section 5(a)(2) factors, listed in Unit IV. of this rule. Once EPA determines that a use of a chemical substance is a significant new use, TSCA section 5(a)(1)(B) requires persons to submit a significant new use notice (SNUN) to EPA at least 90 days before they manufacture or process the chemical substance for that use. Persons who must report are described in § 721.5.

C. Applicability of General Provisions

General provisions for SNURs appear in 40 CFR part 721, subpart A. These provisions describe persons subject to the rule, recordkeeping requirements, exemptions to reporting requirements, and applicability of the final rule to uses occurring before the effective date of the final rule. Provisions relating to user fees appear at 40 CFR part 700.

According to § 721.1(c), persons subject to these SNURs must comply with the same SNUN requirements and EPA regulatory procedures as submitters of PMNs under TSCA section 5(a)(1)(A). In particular, these requirements include the information submission requirements of TSCA section 5(b) and 5(d)(1), the exemptions authorized by TSCA section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUN, EPA may take regulatory action under TSCA section 5(e), 5(f), 6, or 7 to control the activities for which it has received the SNUN. If EPA does not take action, EPA is required under TSCA section 5(g) to explain in the **Federal Register** its reasons for not taking action.

III. Rationale and Objectives of the Final Rule

A. Rationale

During review of the PMNs 29 chemical substances which were the subject of PMNs P-14-72, P-14-89, P-14-90, P-14-91, P-14-92, P-14-158, P-14-159, P-14-161, P-14-162, P-14-163, P-14-173, P-14-175, P-14-176, P-14-177, P-14-178, P-14-179, P-14-180, P-14-181, P-14-182, P-14-183, P-14-184, P-14-185, P-14-186, P-14-187, P-14-188, P-14-190, P-14-191, P-14-192, and P-14-193, EPA determined that one or more of the criteria of concern established at § 721.170 were met. For additional discussion of the rationale for the SNUR on this chemical, see Units II., IV., and V. of the proposed rule.

B. Objectives

EPA is issuing final SNURs for 29 chemical substances described above to achieve the following objectives with

regard to the significant new uses designated in this final rule:

- EPA will receive notice of any person's intent to manufacture or process a listed chemical substance for the described significant new use before that activity begins.
- EPA will have an opportunity to review and evaluate data submitted in a SNUN before the notice submitter begins manufacturing or processing a listed chemical substance for the described significant new use.
- EPA will be able to regulate prospective manufacturers or processors of a listed chemical substance before the described significant new use of that chemical substance occurs, provided that regulation is warranted pursuant to TSCA sections 5(e), 5(f), 6, or 7.

Issuance of a SNUR for a chemical substance does not signify that the chemical substance is listed on the TSCA Chemical Substance Inventory (TSCA Inventory). Guidance on how to determine if a chemical substance is on the TSCA Inventory is available on the Internet at <http://www.epa.gov/opptintr/existingchemicals/pubs/tscainventory/index.html>.

IV. Significant New Use Determination

Section 5(a)(2) of TSCA states that EPA's determination that a use of a chemical substance is a significant new use must be made after consideration of all relevant factors, including:

- The projected volume of manufacturing and processing of a chemical substance.
- The extent to which a use changes the type or form of exposure of human beings or the environment to a chemical substance.
- The extent to which a use increases the magnitude and duration of exposure of human beings or the environment to a chemical substance.
- The reasonably anticipated manner and methods of manufacturing, processing, distribution in commerce, and disposal of a chemical substance.

In addition to these factors enumerated in TSCA section 5(a)(2), the statute authorized EPA to consider any other relevant factors.

To determine what would constitute a significant new use for the chemical substances listed in this final rule, EPA considered relevant information about the toxicity of the chemical substances, likely human exposures and environmental releases associated with possible uses, and the four bulleted TSCA section 5(a)(2) factors listed in this unit.

V. Applicability of the Significant New Use Designation

If uses begun after the proposed rule was published were considered ongoing rather than new, any person could defeat the SNUR by initiating the significant new use before the final rule was issued. Therefore EPA has designated the date of publication of the proposed rule as the cutoff date for determining whether the new use is ongoing. Consult the **Federal Register** Notice of April 24, 1990 (55 FR 17376, FRL 3658-5) for a more detailed discussion of the cutoff date for ongoing uses.

Any person who began commercial manufacture or processing of the chemical substances identified in this rule for any of the significant new uses designated in the proposed SNUR after the date of publication of the proposed SNUR, must stop that activity before the effective date of the final rule. Persons who ceased those activities will have to first comply with all applicable SNUR notification requirements and wait until the notice review period, including any extensions, expires, before engaging in any activities designated as significant new uses. If a person were to meet the conditions of advance compliance under 40 CFR 721.45(h), the person would be considered to have met the requirements of the final SNUR for those activities.

VI. Test Data and Other Information

EPA recognizes that TSCA section 5 does not require the development of any particular test data before submission of a SNUN. The two exceptions are:

1. Development of test data is required where the chemical substance subject to the SNUR is also subject to a test rule under TSCA section 4 (see TSCA section 5(b)(1)).
2. Development of test data may be necessary where the chemical substance has been listed under TSCA section 5(b)(4) (see TSCA section 5(b)(2)).

In the absence of a TSCA section 4 test rule or a TSCA section 5(b)(4) listing covering the chemical substance, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them (see § 720.50). However, upon review of PMNs and SNUNs, the Agency has the authority to require appropriate testing.

Recommended testing that would address the criteria of concern of § 721.170 can be found in Unit IV. of the proposed rule. Descriptions of tests are provided only for informational purposes. EPA strongly encourages persons, before performing any testing,

to consult with the Agency pertaining to protocol selection.

SNUN submitters should be aware that EPA will be better able to evaluate SNUNs which provide detailed information on the following:

- Human exposure and environmental release that may result from the significant new use of the chemical substances.
- Potential benefits of the chemical substances.
- Information on risks posed by the chemical substances compared to risks posed by potential substitutes.

VII. SNUN Submissions

According to 40 CFR 721.1(c), persons submitting a SNUN must comply with the same notice requirements and EPA regulatory procedures as persons submitting a PMN, including submission of test data on health and environmental effects as described in § 720.50. SNUNs must be on EPA Form No. 7710-25, generated using e-PMN software, and submitted to the Agency in accordance with the procedures set forth in §§ 721.25 and 720.40. E-PMN software is available electronically at <http://www.epa.gov/opptintr/newchems>.

VIII. Economic Analysis

EPA evaluated the potential costs of SNUN requirements for potential manufacturers and processors of the chemical substances in the rule. The Agency's complete Economic Analysis is available in the docket under docket ID number EPA-HQ-OPPT-2014-0390.

IX. Statutory and Executive Order Reviews

A. Executive Order 12866

This final rule establishes SNURs for chemical substances that were the subject of PMNs. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "*Regulatory Planning and Review*" (58 FR 51735, October 4, 1993).

B. Paperwork Reduction Act (PRA)

According to PRA (44 U.S.C. 3501 *et seq.*), an agency may not conduct or sponsor, and a person is not required to respond to a collection of information that requires OMB approval under PRA, unless it has been approved by OMB and displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register**, are listed in 40 CFR part 9, and included on the related collection instrument or form, if applicable. EPA is amending the table in 40 CFR part 9 to list the OMB approval

number for the information collection requirements contained in this final rule. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the display requirements of PRA and OMB's implementing regulations at 5 CFR part 1320. This Information Collection Request (ICR) was previously subject to public notice and comment prior to OMB approval, and given the technical nature of the table, EPA finds that further notice and comment to amend it is unnecessary. As a result, EPA finds that there is "good cause" under section 553(b)(3)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)) to amend this table without further notice and comment.

The information collection requirements related to this action have already been approved by OMB pursuant to PRA under OMB control number 2070-0012 (EPA ICR No. 574). This action does not impose any burden requiring additional OMB approval. If an entity were to submit a SNUN to the Agency, the annual burden is estimated to average between 30 and 170 hours per response. This burden estimate includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete, review, and submit the required SNUN.

Send any comments about the accuracy of the burden estimate, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques, to the Director, Collection Strategies Division, Office of Environmental Information (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001. Please remember to include the OMB control number in any correspondence, but do not submit any completed forms to this address.

C. Regulatory Flexibility Act (RFA)

On February 18, 2012, EPA certified pursuant to RFA section 605(b) (5 U.S.C. 601 *et seq.*), that promulgation of a SNUR does not have a significant economic impact on a substantial number of small entities where the following are true:

1. A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
2. The SNUR submitted by any small entity would not cost significantly more than \$8,300.

A copy of that certification is available in the docket for this final rule.

This final rule is within the scope of the February 18, 2012 certification. Based on the Economic Analysis

discussed in Unit VIII. and EPA's experience promulgating SNURs (discussed in the certification), EPA believes that the following are true:

- A significant number of SNUNs would not be submitted by small entities in response to the SNUR.
- Submission of the SNUN would not cost any small entity significantly more than \$8,300.

Therefore, the promulgation of the SNUR would not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act (UMRA)

Based on EPA's experience with proposing and finalizing SNURs, State, local, and Tribal governments have not been impacted by these rulemakings, and EPA does not have any reasons to believe that any State, local, or Tribal government will be impacted by this final rule. As such, EPA has determined that this action does not impose any enforceable duty, contain any unfunded mandate, or otherwise have any effect on small governments subject to the requirements of UMRA sections 202, 203, 204, or 205 (2 U.S.C. 1501 *et seq.*).

E. Executive Order 13132

This action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999).

F. Executive Order 13175

This action does not have Tribal implications because it is not expected to have substantial direct effects on Indian Tribes. This final rule does not significantly nor uniquely affect the communities of Indian Tribal governments, nor does it involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), do not apply to this final rule.

G. Executive Order 13045

This action is not subject to Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866, and this action does not address

environmental health or safety risks disproportionately affecting children.

H. Executive Order 13211

This action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because this action is not expected to affect energy supply, distribution, or use and because this action is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

In addition, since this action does not involve any technical standards, NTTAA section 12(d) (15 U.S.C. 272 note), does not apply to this action.

J. Executive Order 12898

This action does not entail special considerations of environmental justice related issues as delineated by Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

X. Congressional Review Act (CRA)

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: November 24, 2015.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR parts 9 and 721 are amended as follows:

PART 9—[AMENDED]

- 1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33

U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

■ 2. In § 9.1, add entries for “721.10780,” “721.10781,” “721.10782,” and “721.10783” in numerical order under the undesignated center heading “Significant New Uses of Chemical Substances” to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

40 CFR Citation	OMB Control No.
* * *	
Significant New Uses of Chemical Substances	
* * *	
721.10780	2070–0012
721.10781	2070–0012
721.10782	2070–0012
721.10783	2070–0012
* * *	
* * *	

PART 721—[AMENDED]

■ 3. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

■ 4. Add § 721.10780 to subpart E to read as follows:

§ 721.10780 Propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester.

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified as propaneperoxoic acid, 2,2-dimethyl-, 1,1,3,3-tetramethylbutyl ester (PMN P–14–72; CAS No. 22288–41–1) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Release to water.* Requirements as specified in § 721.90 (a)(4), (b)(4), and (c)(4) (N=3).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in

§ 721.125(a), (b), (c), and (k) are applicable to manufacturers and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 5. Add § 721.10781 to subpart E to read as follows:

§ 721.10781 Fatty acid amide hydrochlorides (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substances identified generically as fatty acid amide hydrochlorides (PMNs P–14–89, P–14–90, P–14–91 and P–14–92) are subject to reporting under this section for the significant new uses described in paragraphs (a)(2) and (3) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. The significant new use is any use other than as a surfactant in asphalt emulsions where the surface water concentrations described under the significant new uses in paragraph (a)(3)(i) of this section are exceeded.

(ii) [Reserved].

(3) The significant new uses for any use other than as a surfactant in asphalt emulsions:

(i) *Release to water.* Requirements as specified 721.90 (a)(4), (b)(4), and (c)(4) (where N=110 for PMNs P–14–89 and P–14–92; N=240 for PMN P–14–90; N=53 for PMN P–14–91).

(ii) [Reserved].

(b) *Specific Requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i), and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 6. Add § 721.10782 to subpart E to read as follows:

§ 721.10782 Fatty acid amides (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as fatty acid amides (PMN P–14–158, P–14–159, P–14–161, P–14–162, and P–14–163) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as

specified in § 721.80. The significant new use is any use other than as additives in mineral flotation products and as chemical intermediates where the surface water concentrations described under the significant new uses in paragraph (a)(3)(i) of this section are exceeded.

(ii) [Reserved].

(3) The significant new uses for any use other than as additives in mineral flotation products and as chemical intermediates:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N=1 for PMNs P–14–158, P–14–159, P–14–161, and P–14–163; N=140 for PMN P–14–162).

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i) and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

■ 7. Add § 721.10783 to subpart E to read as follows:

§ 721.10783 Fatty acid amide acetates (generic).

(a) *Chemical substance and significant new uses subject to reporting.*

(1) The chemical substance identified generically as fatty acid amide acetates (PMNs P–14–173, P–14–175, P–14–176, P–14–177, P–14–178, P–14–179, P–14–180, P–14–181, P–14–182, P–14–183, P–14–184, P–14–185, P–14–186, P–14–187, P–14–188, P–14–190, P–14–191, P–14–192 and P–14–193) are subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80. The significant new use is any use other than as flotation additives in mineral processing where the surface water concentrations described under the significant new uses in paragraph (a)(3)(i) of this section are exceeded.

(ii) [Reserved].

(3) The significant new uses for any use other than as flotation additives in mineral processing:

(i) *Release to water.* Requirements as specified in § 721.90(a)(4), (b)(4), and (c)(4) (where N = concentration of concern as follows):

PMN No.	Concentration of concern
P-14-173, P-14-175, P-14-178, P-14-179, P-14-181, P-14-183, P-14-184, P-14-192, P-14-193	1 ppb.
P-14-176, P-14-180, P-14-185, P-14-186, P-14-187, P-14-190	2 ppb.
P-14-177, P-14-188	3 ppb.
P-14-191	4 ppb.
P-14-182	140 ppb.

(ii) [Reserved]

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping.* Recordkeeping requirements as specified in § 721.125(a), (b), (c), (i) and (k) are applicable to manufacturers and processors of these substances.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this section.

[FR Doc. 2015-30677 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA-HQ-OAR-2013-0290 and EPA-HQ-OAR-2013-0291; FRL-9939-35-OAR]

RIN 2060-AP69

NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing: Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: The Environmental Protection Agency (EPA) published a final rule in the **Federal Register** on October 26, 2015, titled NESHAP for Brick and Structural Clay Products Manufacturing; and NESHAP for Clay Ceramics Manufacturing. These amendments make two technical corrections to the published regulation.

DATES: This action is effective December 28, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Sharon Nizich, Sector Policies and Programs Division (D243-04), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number: (919) 541-2825; facsimile number: (919) 541-5450;

email address: nizich.sharon@epa.gov. For information about the applicability of the national emission standards for hazardous air pollutants, contact Mr. Patrick Yellin, Monitoring, Assistance and Media Programs Division (2227A), Office of Enforcement and Compliance Assurance, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, Washington, DC 20460; telephone number (202) 564-2970; email address yellin.patrick@epa.gov.

SUPPLEMENTARY INFORMATION: The EPA published a document in the **Federal Register** of October 26, 2015 (80 FR 65470). There were two errors included in the final rule. First, the reference to the IBR method (ASTM D6348-03) was incorrect. The incorrect IBR method reference included in the **Federal Register** was paragraph (h)(75). The correct reference is paragraph (h)(76). Second, there was a typographical error in 40 CFR 63.8605(c) referencing a requirement of a non-existing section. The incorrect non-existing reference is 40 CFR 63.8630(e). The correct reference is 40 CFR 63.8630(c).

Correction

In rule FR Doc. 2015-25724 published on October 26, 2015 (80 FR 65470), make the following corrections:

§ 63.14 [Corrected]

■ 1. On page 65520:

■ a. In the second column, correct amendatory instruction number 2.b. to read “Revising paragraph (h)(76);”.

■ b. In the second column, redesignate paragraph (h)(75) as paragraph (h)(76).

§ 63.8605 [Corrected]

■ 2. On page 65549, second column, in paragraph (c), fifth line, remove “§ 63.8630(e).” and add “§ 63.8630(c).” in its place.

Dated: November 18, 2015.

Janet G. McCabe,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 2015-30379 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 95

Centers for Medicare & Medicaid Services

42 CFR Part 433

[CMS-2392-F]

RIN 0938-AS53

Medicaid Program; Mechanized Claims Processing and Information Retrieval Systems (90/10)

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Final rule.

SUMMARY: This final rule will extend enhanced funding for Medicaid eligibility systems as part of a state’s mechanized claims processing system, and will update conditions and standards for such systems, including adding to and updating current Medicaid Management Information Systems (MMIS) conditions and standards. These changes will allow states to improve customer service and support the dynamic nature of Medicaid eligibility, enrollment, and delivery systems.

DATES: *Effective Date:* These regulations are effective on January 1, 2016.

FOR FURTHER INFORMATION CONTACT:

Victoria Guarisco (410) 786-0265, for issues related to administrative questions.

Carrie Feher (410) 786-8905, for issues related to the regulatory impact analysis.

Christine Gerhardt (410) 786-0693 or Martin Rice (410) 786-2417, for general questions.

SUPPLEMENTARY INFORMATION:

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VI. Regulatory Impact Analysis

Acronyms

APD	Advance Planning Document
API	Application program interface
ASO	Administrative Services Organization
BPM	Business Process Model
CALT	Collaborative Application Lifecycle Tool
COTS	Commercial Off-the-Shelf
CSF	Critical success factor
CY	Calendar year
DDI	Design, development and installation
E&E	Eligibility and enrollment
ELC	Enterprise Life Cycle
FDSH	Federal Data Services Hub
FFM	Federally-Facilitated Marketplace
FFP	Federal financial participation
IAPD	Implementation Advance Planning Documents
IV&V	Independent Verification & Validation
M&O	Maintenance and operations
MAGI	Modified adjusted gross income
MITA	Medicaid Information Technology Architecture
MMIS	Medicaid Management Information Systems
MOU	Memorandum of Understanding
ONC	[HHS'] Office of the National Coordinator for Health IT
PAPD	Planning Advance Planning Documents
PHI	Protected health information
PoC	Proof of Concept
SaaS	Software-as-a-Service
SMM	State Medicaid Manual
SNAP	Supplemental Nutrition Assistance Program
SOA	Service-oriented architecture
XLC	Expedited Lifecycle

I. Executive Summary

A. Purpose

This final rule will revise the regulatory definition of Medicaid mechanized claims processing and information retrieval systems to include Medicaid eligibility and enrollment (E&E) systems, which would make available for E&E systems the enhanced federal financial participation (FFP) specified in section 1903(a)(3) of the Social Security Act (the Act) on an ongoing basis. Enhanced FFP will be available, under certain circumstances, for costs of such systems at a 90 percent federal match rate for design, development and installation (DDI) activities, and at a 75 percent federal match rate for maintenance and operations (M&O) activities. In addition to lifting the time limit that currently applies to the inclusion of E&E systems in the definition of mechanized claims processing and information retrieval systems, we proposed changes to the standards and conditions applicable to such systems to access enhanced funding. We also solicited comment on new approaches to systems development, the inclusion of Commercial Off-the-Shelf (COTS) software at a 90 percent matched cost, acquisition approvals and MMIS certification. Specifically, we are publishing new definitions for “Commercial Off-the-Shelf (COTS),” “open source,” “proprietary,” “service,”

“shared services,” “Software-as-a-Service (SaaS),” and “module.”

B. Summary of the Major Provisions

On April 16, 2015, (80 FR 20455), we proposed changes to §§ 433.110, 433.111, 433.112, 433.116, 433.119, and 433.120. These changes provide for the 90 percent enhanced FFP for DDI activities for E&E systems to continue on an ongoing basis. These proposed changes would also allow the states to complete fully modernized E&E systems and will support the dynamics of national Medicaid enrollment and delivery system needs. These changes would further set forth additional criteria for the submission, review, and approval of Advance Planning Documents (APDs).

In addition, we proposed changes to provisions within 45 CFR part 95, subpart F, § 95.611. These changes align all Medicaid IT requirements with existing policy for Medicaid Management Information Systems (MMIS) pertaining to prior approvals when states release acquisition solicitation documents or execute contracts above certain threshold amounts. Lastly, we proposed to amend § 95.611(a)(2) by removing the reference to 45 CFR 1355.52, which references enhanced funding for Title IV–E programs. Enhanced funding for Title IV–E programs expired in 1997.

C. Summary of Costs and Benefits

Provision description	Total costs	Total benefits
42 CFR part 433	The federal net costs from FY 2016 through 2025 of implementing the final regulation on eligibility systems is approximately \$3 billion. This includes approximately \$5.1 billion in increased federal costs for system design, development, or installation, offset by lower anticipated maintenance and operations costs. These costs represent only the federal share. These figures were derived from states' actual system development and maintenance costs as the foundation for projected costs.	We project lower costs over the 10-year budget window due to the increased savings to operating one E&E system and eliminating legacy systems. The costs shift from mostly 90 percent FFP for design, development, or installation to 75 percent FFP for maintenance and operations over time (federal share only).
42 CFR part 433	The state net costs from FY 2016 through 2025 of implementing the final regulation on eligibility systems is approximately –\$1.1 billion. This includes approximately \$572 million in state costs for system design, development, or installation, offset by lower anticipated maintenance and operations costs. These costs represent only the state share.	We project savings for states over the 10-year budget window due to moving away from operating two or more systems, and replacing legacy systems.
45 CFR part 95, subpart F: § 95.611.	This is an administrative change with no associated costs	This administrative change is expected to result in nominal savings from increased efficiency.

* See section VI. of this final rule for the underlying assumptions in support of these totals and further explanation.

II. Background

A. Legislative History and Statutory Authority

Section 1903(a)(3)(A)(i) of the Act provides for FFP at the rate of 90 percent for state expenditures for the DDI of mechanized claims processing

and information retrieval systems as the Secretary of the Department of Health and Human Services (the Secretary) determines are likely to provide more efficient, economical and effective administration of the state plan. In addition, section 1903(a)(3)(B) of the Act provides for FFP at the rate of 75

percent for state expenditures for M&O of such systems.

In a final rule published October 13, 1989 (54 FR 41966), we revised the definition of a mechanized claims processing and information retrieval system at § 433.111(b) to provide that eligibility determination systems

(referred to in this rule as E&E systems) would not be considered part of mechanized claims processing and information retrieval systems or enhancements to those systems. As a result, we also indicated at § 433.112(c) that the enhanced FFP for mechanized claims processing and information retrieval systems in accordance with section 1903(a)(3) of the Act would not be available for eligibility determination systems.

We published a final rule entitled, “Federal Funding for Medicaid Eligibility Determination and Enrollment Activities” on April 19, 2011 (76 FR 21949–21975) that temporarily reversed the 1989 rule. We explained that this reversal was in response to changes made by the Affordable Care Act that required sweeping changes in Medicaid E&E systems and removed certain linkages between Medicaid eligibility determinations and eligibility determinations made by other federal-state programs, as well as changes in Medicaid eligibility and business processes that have occurred since our 1989 final rule to integrate eligibility and claims processing systems. The reversal was temporary to address the immediate need for eligibility system redesign to coordinate with the overall claims processing and reporting systems. Specifically, in the April 19, 2011 final rule (76 FR 21950), we included eligibility determination systems in the definition of mechanized claims processing and information retrieval systems in § 433.111(b)(3). We also provided that the enhanced FFP would be available at the 90 percent rate for DDI or enhancement of E&E systems and at the 75 percent rate for M&Os of such systems, to the extent that the E&E systems were developed on or after April 19, 2011, operational by December 31, 2015, and met all standards for such systems. Under that rule, the 90 percent enhanced matching rate for system development is available through calendar year (CY) 2015 for state expenditures on E&E systems that meet specific standards and conditions, and the 75 percent match for M&Os is available for systems that meet specific standards and conditions before the end of CY 2015, as long as those systems are in operation.

In the April 19, 2011 final rule (76 FR 21950), under the authority of sections 1903(a)(3)(A)(i) and 1903(a)(3)(B) of the Act, we codified the conditions at § 433.112(b) that must be met by the states for Medicaid technology investments including traditional claims processing systems, as well as eligibility systems, to be eligible for the enhanced

funding match. We also issued subregulatory guidance, “Medicaid IT Supplement Version 1.0; Enhanced Funding Requirements: Seven Conditions and Standards,” in April 2011 that outlined in greater detail the seven new standards and conditions for enhanced funding.

As explained in more detail below, we proposed to make permanent the inclusion of E&E systems in the definition of mechanized claims processing and information retrieval systems, and to consequently extend the availability of enhanced FFP. We proposed to define a state Medicaid E&E system as the system of software and hardware used to process applications, renewals, and updates from Medicaid applicants and beneficiaries. In part, this change reflects a better understanding of the complexity of the required E&E system redesign based on our experience with states since finalizing the April 29, 2011 regulation, and an appreciation of the need for E&E systems to operate as an integral part of the mechanized claims processing and information retrieval systems using a standard Medicaid Information Technology Architecture (MITA).

We previously expected that fundamental changes to state systems would be completed well before December 31, 2015. It is now clear that additional improvements would benefit states and the federal government. It is also clear that such systems are integral to the operation of the state’s overall mechanized claims processing and information retrieval systems and must be designed and operated as a coordinated part of such systems. Without recognition as an integral part of such systems, and without ongoing enhanced federal funding, state Medicaid E&E systems are likely to become out of date and would not be able to coordinate with, and further the purposes of, the overall mechanized claims processing and information retrieval systems.

B. Program Affected

Since 2011, we have worked with the states on the DDI of modernized Medicaid and CHIP E&E systems, supported by the enhanced FFP, to achieve the technical functionality necessary for the implementation of the new eligibility and renewal policies on January 1, 2014. In December 2012, we identified critical success factors (CSFs) in order for the states to demonstrate operational readiness, including: Ability to accept a single, streamlined application; ability to convert existing state income standards to modified adjusted gross income (MAGI); ability to

convey state-specific eligibility rules to the Federally-Facilitated Marketplace (FFM), as applicable; ability to process applications based on MAGI rules; ability to accept and send application files (accounts) to and from the Marketplace; ability to respond to inquiries from the Marketplace on current Medicaid or CHIP coverage; and, ability to verify eligibility based upon electronic data sources (the Federal Data Services Hub (FDSH) or an approved alternative).

The states are in varying stages of completion of their E&E system functionality, with work still ahead to maximize automation, streamline processes, and to migrate non-MAGI Medicaid programs into the new system. In addition, the majority of the states are engaged in system integration with human services programs, further increasing efficiencies and improving the consumer experience for those seeking benefits or services from programs in addition to Medicaid.

The response to our proposed rule indicated a need for the development of supporting policy. The responses also expressed the desire from stakeholders and partners to have further input into the policy development and implementation process. Following the effective date of this final rule, we intend to issue subregulatory guidance in the form of a series of State Medicaid Director Letters, each to address discrete subject areas affected by this rule, such as the new conditions for enhanced funding, COTS products, new APD requirements, new MMIS certification rules and reuse. In developing that guidance, we will consider the comments that have been submitted in response to our proposed rule, and will engage our partners and stakeholders to ensure that the guidance fully addresses the issues raised and that any procedures that are included in such guidance can be appropriately implemented by all actors. This engagement may take place within already established forums, such as Technical Advisory Groups, workgroups, or conferences, but may also include focused discussions with our partners and stakeholders. We wish to acknowledge that our federal and state partners, industry representatives, beneficiary advocates, and other stakeholders have valuable experience and unique perspectives that can improve the effectiveness of this rule and the overall quality of our guidance. For this reason we will seek out support from these sources as we move forward in the development of subregulatory guidance.

The response to our proposed rule also indicated a need for an update to the State Medicaid Manual (SMM). The responses suggested collaboration to address how this final rule will be implemented. Although the SMM is not within scope of this final rule, we recognize the need to update it, especially for funding of E&E systems and IT requirements subregulatory guidance referenced above will take precedence over any obsolete content in the SMM, until this update is complete. We are investigating the best approach to re-issuing the SMM in a more accessible, searchable and easily updated format. In the interim, we will continue to point to subregulatory guidance as the official source for needed updates, and such guidance takes precedence over conflicting material in the existing SMM. We believe that § 433.112(b)(5) as written is adequate, and can be expanded upon in subregulatory guidance; therefore, we will not be revising it in this rule.

We will take these recommendations under consideration as we formulate our plan for updating the SMM.

This rule finalizes provisions set forth in the “Mechanized Claims Processing and Information Retrieval Systems (90/10)” proposed rule, published on April 16, 2015 (80 FR 20455 through 20464).

III. Provisions of the Proposed Rule and Responses to Comments

We received 54 timely responses from the public on the April 16, 2015, Medicaid Program; Mechanized Claims Processing and Information Retrieval Systems (90/10) proposed rule, (80 FR 20455 through 20464). The following sections, arranged by subject area, include a summary of the proposed revisions and the public comments received, and our responses.

A. Amendments to 42 CFR Part 433

We proposed to amend § 433.110 by removing paragraphs (a)(2)(ii) and (iii) and paragraph (b). Previously, regulations at § 433.119 indicated that we would review at least once every 3 years each system operation initially approved under § 433.114 and, based on the results of the review, reapprove it for FFP at 75 percent of expenditures if certain standards and conditions were met. The final rule published April 19, 2011 (75 FR 21905) eliminated the requirement for the scheduled triennial review. Through a drafting error in the final rule published on April 19, 2011 (75 FR 21950), the reference to the scheduled triennial performance reviews at § 433.110(a)(2)(ii) and (iii) was not deleted as intended, and we proposed to delete the references here.

The Secretary retains authority to perform periodic reviews of systems receiving enhanced FFP to ensure that these systems continue to meet the requirements of section 1903(a)(3) of the Act and that they continue to provide efficient, economical, and effective administration of the state plan.

We proposed technical corrections to amend § 433.110 by removing paragraph (b) and by updating the reference to 45 CFR part 74. The proposed changes were necessary because the statutory waiver authority that supported paragraph (b) was deleted by section 4753 of the Balanced Budget Act of 1997 (Pub. L. 105–33) and because 45 CFR part 74 was supplanted; first by 45 CFR part 92 in September of 2003, and then by 45 CFR part 75 in December 2014. References made to 45 CFR part 74 should have been updated at those times but were not. The Department published Uniform Administrative Requirements, Cost Principles and Audit Requirements for HHS Awards at 45 CFR part 75 as an interim final rule at 79 FR 75871, 75889 (December 19, 2014), which supersedes HHS regulations at 45 CFR parts 74 and 92.

We proposed to amend § 433.111 to revise the definition of “mechanized claims processing and information retrieval system”, and provide new definitions for “Commercial Off-the-Shelf (COTS) software”, “open source”, “proprietary”, “shared services”, and “MMIS Module”. We proposed to amend § 433.112(c) to provide for the 90 percent enhanced FFP for DDI activities to continue on an on-going basis. Making enhanced E&E system funding available on an on-going basis, as is the case with the 90 percent match for the MMIS systems, would allow the states to complete fully modernized systems and avoid the situation where their ability to serve consumers well is limited by outdated systems. Enhanced funding will also support the dynamic and on-going nature of national Medicaid eligibility, enrollment, delivery system, and program integrity needs. Continued enhanced funding will support the retirement of remaining legacy systems, eliminating ongoing expenses for maintaining these outdated systems. It will also achieve additional staffing and technology efficiencies over time by allowing for a more phased and iterative approach to systems development and improvement.

Our 2011 final rule limited the availability of 75 percent enhanced funding for M&Os to those E&E systems that have complied with the standards and conditions in that rule by December 31, 2015. Given our proposed modifications to 42 CFR part 433,

subpart C, on-going successful performance, based upon CMS regulatory and subregulatory guidance, is a requisite for on-going receipt of the 75 percent FFP for operations and maintenance, including for any eligibility workers (<http://www.medicaid.gov/State-Resource-Center/FAQ-Medicaid-and-CHIP-Affordable-Care-Act-Implementation/Downloads/FAQs-by-Topic-75-25-Eligibility-Systems.pdf>). We intend to work with the states to do regular automated validation of accurate processing and system operations and performance.

We are authorized under the Act to approve enhanced federal funding for the DDI and operation and maintenance of such mechanized claims processing and information retrieval systems that are likely to provide more efficient, economical, and effective administration of the Medicaid program and to be compatible with the claims processing and information retrieval systems utilized in the administration of the Medicare program.

We implemented this authority in part under regulations at 42 CFR part 433, subpart C. This regulation provides the primary technical and funding requirements and parameters for developing and operating the state MMIS and the state Medicaid E&E systems.

We proposed to amend § 433.116, which details how MMIS are initially approved and certified to be eligible for the 75 percent FFP for operations. Specifically, we proposed that, given the modular design approach required by our 2011 regulation, certification should also be available for MMIS modules, rather than only when the entire MMIS system is completed and operational. Under existing regulations as amended in 2011, at § 433.112(b), we have already required that MMIS development be modular; the proposed change would make clear that approval, certification and funding could also be approached in a modular fashion. The states may accordingly take a phased approach, with the procurement of a module or modules occurring at different times. We also encourage a modular approach to E&E systems, although certification is not applicable to E&E systems since they are evaluated on the basis of meeting specified CSFs.

We strongly support the reusability of existing or shared components so in the case that technology products exist that can be used for MMIS or E&E, we want to encourage that by allowing FFP for the developmental costs of integrating existing or shared components as part of the MMIS or E&E systems. We clarify

that, while E&E system performance investments must be approved to be eligible for the 75 percent enhanced funding for M&Os, the MMIS system certification requirements are not applicable to E&E systems at this time.

We will provide a series of artifacts, supporting tools, documentation, and diagrams to the states as part of our technical assistance, monitoring, and governance of MMIS systems design and development. It is also our intent to work with the states as identified and addressed prior to the certification stage.

We received the following comments in response to our proposal to amend 42 CFR part 433:

Comment: Many commenters expressed strong support for the proposed rule at § 433.111(b)(2) to permanently broaden the definition of mechanized claims processing and information retrieval systems to include Medicaid E&E systems, and to permanently extend 90 percent FFP for DDI of E&E systems, and with the requirement that E&E systems meet the conditions specified in § 433.112(b).

Response: We appreciate the supportive comments.

Comment: Several commenters agreed with the proposal to remove the December 31, 2015 compliance date for E&E systems to qualify for 75 percent FFP for M&Os. Another commenter expressed that the extension of enhanced funding would enable states to modernize their renewal processes to minimize the burden on consumers and prevent gaps in coverage from occurring.

Response: We agree with commenters who believe permanent extension of this enhanced funding can play a vital role in helping consumers enroll and stay enrolled while balancing states' fiduciary commitments.

Comment: Many commenters agreed with the requirement that E&E systems meet the conditions specified in § 433.112(b). Commenters support the goal for states to have high-performing systems that meet CSFs with limited workarounds or mitigations. Commenters also support aligning regulations with modern standards and best practices for information technology systems and projects.

Response: We agree that these provisions will enhance the overall quality of the enterprise and facilitate improved customer service.

Comment: Several commenters supported aligning regulation with modern standards and best practices for information technology systems and projects.

Response: We will continue to work with the industry and other stakeholders to ensure the Medicaid enterprise continues its forward momentum.

Comment: One commenter expressed support related to MAGI and non-MAGI system functionality, as referenced in § 433.112(b)(10) which provides for the use of a modular, flexible approach to systems development, including the use of open interfaces and exposed application programming interfaces; the separation of business rules from core programming, available in both human and machine readable formats.

Response: We concur with this comment related to MAGI and non-MAGI system functionality.

Comment: One commenter suggested that we consider revising the definition of a claims system in light of the ongoing shift of State Medicaid programs toward managed care and the related need to "manage" the Medicaid program in a comprehensive manner.

Response: We are clarifying our intent that the term, "claims for medical assistance", which we used in the definition of a mechanized claims processing and information retrieval system includes capitation payments to Managed Care Plans. However, to state this explicitly, we modified the definition of the MMIS component in this final rule to include applicability to managed care.

Comment: A commenter asked about the inclusion of E&E systems in the definition of mechanized claims processing and information retrieval system. The commenter asked if it is CMS's intent that states should maintain one system that includes MMIS and E&E components, whether it is CMS's intent that states should have one APD to cover the MMIS and E&E systems, and whether this precludes states from continuing to maintain separate MMIS and E&E systems and APDs.

Response: The inclusion of E&E systems in the definition of mechanized claims processing and information retrieval systems does not mean that states must operate a single system or submit a single or combined APD; rather this language supports an enterprise perspective where individual processes, modules, sub-systems, and systems are interoperable and support a unified enterprise, working together seamlessly and transparently. This language also provides for consistent treatment of MMIS and E&E systems, especially for reuse, funding and standards and conditions. States may continue to operate separate E&E and MMIS but these must be fully interoperable and reflect an enterprise approach.

Comment: One commenter requested clarification on the inclusion of E&E systems into the definition of Mechanized Claims Processing and Information Retrieval System, particularly with the expanded list of standards and conditions.

Response: We intend to address how the revised list of standards and conditions applies to E&E systems in subregulatory guidance.

Comment: A few commenters requested clarification of the term, "subsystem," and one commenter requested clarification of the "required subsystem" in a Mechanized claims processing and information retrieval system and asked whether there is an existing list of required subsystems. Commenters also asked whether the definition applies to both MMIS and E&E.

Response: In this final rule we are substituting the word "module" for "subsystem" at § 433.111(b) to be consistent with our modular approach to systems. We agree that required modules need to be defined and will discuss this further in subregulatory guidance. This definition does apply to both MMIS and E&E.

Comment: A commenter recommended wording to define MMIS in § 433.111 as "the operations, management, monitoring and administration of the Medicaid program." The commenter has also suggested additional alternate wording for this section as well.

Response: We have revised the definition of MMIS in this final rule, and believe the definition now reflects the spirit of the commenter's recommendations.

Comment: A few commenters believe that the current definition of COTS will likely create issues regarding proprietary software, ownership, and customization of solutions that include COTS solutions. One alternative definition for COTS is offered, to add language after "little or no modification" to read "other than configuration to run in a specific hardware environment or to be used in combination with other software."

Response: We considered the addition of this language to our definition in this final rule, but we believe that this qualification will be better addressed in subregulatory guidance.

Comment: A commenter suggested revising the language at proposed § 433.111(b)(2)(ii) and offered the following alternative language: "The MMIS may include other automated transactions, encounter data, premium and option payments, provider and

consumer enrollments, drug rebates, and others.”

Response: We recognize that all of the functions mentioned by the commenter are MMIS functions, however, the description at § 433.111(b)(2)(ii) is not meant to be all inclusive, but rather to provide a foundational definition. Language has been added to the definition to include other necessary functions.

Comment: Many commenters generally stated support for our proposed definition of COTS software; but asked for clarification addressing why the COTS software definition does not include software that has been developed for public assistance programs. Several commenters suggested that some public assistance systems may serve E&E purposes for Medicaid and CHIP programs and should therefore not be excluded from the definition of COTS software, and suggested that the exclusion of public assistance programs from the definition of COTS seems to be in direct conflict with our intent to support integration.

Response: We concur with the recommendation that COTS software created for public assistance systems should not be excluded from this definition. Therefore, we have removed this exclusion from the definition in the final rule.

Comment: A commenter recommended a definition of open source similar to the definition in the proposed rule, but omits the references to free and open distribution and technology neutrality.

Response: The commenter's proposed definition omits what we believe are important elements for the effectiveness of open source software, so we are retaining the language of the proposed rule in the final rule.

Comment: Many commenters questioned the applicability of § 95.617 to COTS products matched at 90 percent. Several commenters asked for clarification regarding the issue of proprietary software with respect to COTS. The same commenters referred to the Ownership Rights provision in § 95.617(b) but point out that vendors invest time, money and intellectual capital in developing system capabilities, and they are only made whole through the ability to sell these capabilities. These commenters pointed out that vendors are not likely to seek to invest and innovate in the Medicaid systems market if they cannot recoup costs. One commenter recommends that we review the policy regarding royalty-free licensing of COTS products. The commenters recommend that if 90 percent FFP is used for enhancements to

a module, then CMS and the state own the modifications, which can then be shared and that when 90 percent FFP is used to purchase an “open source” module, by definition, the state and CMS can share the module with other states and contractors. Another commenter recommended that this final rule exempt COTS software from the Software and Ownership Rights provisions in § 95.617(b). The commenters expressed concern that the current language presents an immense financial risk to vendors and as such poses a barrier to the proliferation of COTS software.

Response: We acknowledge that the interpretation of 42 U.S.C. 1396b(a)(3)(A), which provides 90 percent FFP for the DDI of such mechanized claims processing and information retrieval systems, to include use of COTS as part of the design where that solution would be the more economical and efficient approach, necessitates a refinement and clarification of the policy relating to the applicability of § 95.617(b) to COTS software. We clarify that the 90 percent match is not available for the purchase of COTS, but is available for the initial licensing fee and costs to analyze, configure, install, and integrate the COTS into the design of the state's MMIS system. When the enhanced match is used for COTS enhancements, configuration or customization, those elements become subject to existing regulation at § 95.617 regarding ownership and royalty-free licensing. The COTS itself is not designed, developed or installed with the 90 percent match; but the initial licensing fee is a necessary part of the development of a system that uses the COTS. Subsequent licensing fees would not be necessary for the DDI process and would be considered to be operational expenditures that would be matched at the 75 percent rate applicable to operation of an MMIS.

We do not agree that this rule creates a disincentive to vendors to develop COTS products. Rather, we believe that paired with the existing regulations about software developed with federal funding, our final policies incentivize vendors to join the Medicaid IT market because more states will be willing to utilize COTS. Offering the 90 percent match for a substantial portion of states' costs related to the integration of COTS software solutions into the design of state systems will encourage more states to seek COTS software products and services, as will the requirements for modular architecture. These final policies will drive the emergence and adoption of more COTS solutions,

thereby increasing broader vendor participation while protecting state and federal funding from unnecessary duplicative development.

The regulation at § 95.617(a) requires that the state have ownership rights in software or modifications designed, developed or installed with FFP. For this requirement the emphasis should be on the, software or modifications designed, developed or installed with FFP. The COTS product itself is not designed, developed or installed with FFP, but is used in a system that meets those conditions. The initial licensing fee is necessary to allow the state to design a system that uses the COTS product, and there are also development and installation costs for the modifications that enhance, customize and configure it to the state and enable it to be installed in that state's system. The COTS product itself is designed and developed by the vendor, so the state is not entitled to ownership rights to the core program, only to those elements designed for, and paid for, specifically by that state so that the COTS product can be used in the state's system. In other words, we read the requirement for a royalty-free, non-exclusive and irrevocable license to software referenced in § 95.617(b) to apply in this instance only to the software related to the customization, modifications and configuration of a COTS product for state use, not the core product.

For these reasons, the final rule at § 433.112(c)(2) provides for the application of the 90 percent match to the cost to procure COTS software, that is, initial licensing fees, and costs to analyze, configure, install and integrate that software into a system. The 90 percent is not for the outright purchase of the COTS product itself. If such products were purchased outright with Federal funds then the provisions at § 95.617(a) and (b) would be applicable. We note that these same principles will be used to evaluate the eligibility of SaaS for enhanced match, that is, only costs related to analysis, configuration, installation and integration will be eligible for the 90 percent match.

The regulation at § 95.617(c) provides that FFP is not available for proprietary applications developed specifically for the public assistance programs covered under this subpart. For the Title XIX, Medicaid, and Title XXI, CHIP, programs under the newly developed enterprise systems that support the Affordable Care Act, CMS is supporting only systems that function seamlessly with the health insurance marketplace, whether the federally facilitated marketplace or state-based marketplaces. As such, functionality for

these systems cannot be considered specifically for the public assistance programs covered under this subpart, in this case, Titles XIX and XXI, but are necessarily broader than those programs. Indeed, seamless integration with the marketplaces, health information exchanges, public health agencies, human services programs, and community organizations providing outreach and enrollment assistance are requirements for the enhanced funding under § 433.112(b)(16) of this final rule. It should be noted that not all systems must interface with all of these entities, but where such integration is required for the efficient operation of the enterprise, such integration must be seamless and transparent to beneficiaries. The condition of § 95.617(c) regarding proprietary applications developed specifically for titles XIX and XXI do not apply to the COTS products for which certain costs are eligible for the 90 percent match, because these products are not specifically for title XIX and XXI, but must include the broader health insurance enterprise.

Comment: A commenter recommends that we develop a framework in conjunction with software vendors related to ownership to avoid a number of potential issues. The commenter made recommendations in the area of issues related to proprietary software and shared modules.

Response: We will take into consideration the commenter's concern regarding establishing software framework that other states may leverage. We will address issues related to proprietary software and shared modules in subregulatory guidance.

Comment: Many commenters made recommendations on the proposed definition of shared services. One commenter suggested that the definition be expanded to include sharing between and among states. Another commenter requested clarification on the use of the word "provision" in the definition of a shared service. One commenter proposed the following as a definition of "Software-as-a-Service": "Proprietary Software that is hosted by a service provider and used and accessed by the subscription holder licensee over a network such as the Internet. SaaS is provided to the subscription holder as a periodic or pay-as-you-go subscription with on-demand access to the Proprietary Software according to the terms of a SaaS subscription agreement."

Response: We clarified the definition of shared services in this final rule by removing the word "provision" and by referencing the availability of the

service whether within or outside of a state. We also included SaaS in the definition. We have considered the commenter's definition of SaaS, however, we are not adopting it because we believe it defines proprietary software rather than SaaS. We believe the definition in this final rule accurately describes the key characteristics of SaaS.

Comment: One commenter recommended the removal of the final sentence of the definition for Shared Services, which is: "The funding and resourcing of the service is shared and the providing department effectively becomes an internal service provider."

Response: We believe the final sentence for the definition of Shared Services is critical to the understanding of this phrase in the context of Medicaid and other human service programs. We modified language in this definition in this final rule to provide greater overall clarity.

Comment: One commenter recommended that we clarify the approach to and definition of a module. The commenter further recommended that a core set of modules be identified and defined through a collaborative workgroup of representative states, vendors, and CMS. Several commenters requested clarification of the definition of an "MMIS module" and guidance regarding timing for multiple modular implementations and the life expectancy of a module. Some commenters offered alternative definitions. Some commenters requested definitions for the following: Module, modular, modularity, and the Modularity Standard.

Response: The language in the final rule at § 433.111(h) has been modified to define a module as a packaged, functional business process or set of processes implemented through software, data, and interoperable interfaces that are enabled through design principles in which functions of a complex system are partitioned into discrete, scalable, reusable components. Each module of a system has well-defined, open interfaces for communicating with other modules, encapsulates unique system functionality and has a single purpose, is relatively independent of the other system modules. Two principles that measure module independence are coupling, which means loose interconnections between modules of a system and cohesion, which means strong dependence within and among a module's internal element (for example, data, functions, internal modules). Examples of modules include eligibility enrollment, fee for service claims

administration, managed care encounters & administration, etc. Other modules may be recognized based on new statutory regulatory requirements or federal state business needs. A listing of modules will be included in subregulatory guidance rather than in this final rule to allow for flexibility and future updates and revisions responsive to change requirements and IT development.

Comment: One commenter suggested consolidating the MMIS and E&E APD review, as well as other work products (that is, Enterprise Life Cycle (ELC) gate reviews, status reports, etc.).

Response: We will take this request under advisement but at this time consolidation of the MMIS and E&E APD review, as well as other work products (that is, ELC gate reviews, status reports, etc.) may not be a practical approach, we believe such tandem treatment will not be possible until the enterprise approach is fully matured.

Comment: We received a request for clarification on the meaning of "approved enhancements" found at § 433.111(b)(1)(iii).

Response: This term refers to our approval of states APDs for Medicaid systems DDI projects.

Comment: One commenter requested clarification as to any differences with respect to certification between MMIS and E&E.

Response: We require formal certification of MMIS for enhanced funding for operations and maintenance. Certification is not required for E&E systems, however E&E systems are subject to the Medicaid IT conditions and standards unless otherwise noted as MMIS-only and must meet CSFs and other performance standards to qualify for the 75 percent enhanced match for M&Os.

Comment: One commenter asked about whether modules implemented by the vendor community can be "harmonized" with the certification definition of a module.

Response: We believe that the MMIS Modular certification process will create an incentive for the states to take a modular approach both in IT architecture and in procurement strategy. States and vendors are encouraged to follow the modularity principles in their development of new MMIS modules. We are continuing to seek comments and collaboration from the vendor community. We believe that a harmonization of vendor activities, state needs, and federal requirements is possible and will pursue a means to achieve this goal.

Comment: A commenter requested clarification (for systems built with the 90 percent FFP) that we, “consider strategies to minimize the costs and difficulty of operating the software on alternate hardware or operating systems,” and asked whether this refers to MMIS, E&E, claims, or all of these. The commenter also asked whether this would refer to an open source system that could easily be moved to another platform or if it referred to a disaster recovery system.

Response: At § 433.112(b) we specify that the following conditions apply to both E&E and claims systems. The only exception to this is at § 433.112(b)(17), in which the regulation specifies applicability limited to E&E systems. The condition at § 433.112(b)(21) refers to operating on other hardware or operating systems. Disaster recovery is a separate requirement addressed at § 95.610(b)(11).

Comment: One commenter asked for clarification regarding the match for the modification of non-COTS software to ensure coordination of operations.

Response: DDI of non-COTS products, including modifications to ensure coordination of operations, continue to be matched at 90 percent FFP.

Comment: One commenter recommended that we clarify the difference between customization and configuration of COTS products. Several commenters inquired about the parameters regarding “little or no modification” and “over-customization” of COTS and how that will be measured.

Response: We appreciate this recommendation and we will clarify the difference between customization and configuration of COTS products in subregulatory guidance. We acknowledge the relevance of general IT industry definitions for distinguishing between software configuration and installation versus software customization. The degree of modification that is acceptable for enhanced match is dependent on a number of factors, including the size and scope of the project and the cost of the modifications relative to overall project costs. The acceptable degree of modification will be evaluated on a case by case basis.

Comment: One commenter recommended that we provide additional clarity as to when in the Advanced Planning Document process states should specify all costs associated with DDI and modifications to COTS software.

Response: Subregulatory guidance will include greater detail on the APD requirements and approval process.

Comment: One commenter recommended that CMS provide subregulatory guidance for states to develop comprehensive risk assessment and management plans that can be reviewed at the start of procurement planning, that is, the onset of the ELC; and updated as necessary during subsequent project phases.

Response: We will provide subregulatory guidance on these topics.

Comment: One commenter recommends alignment of the contract approach in the MMIS DDI process with both the prime vendor and Independent Verification & Validation (IV&V) vendor sharing the risk for the success of the project.

Response: Contracts are executed between the state Medicaid agency and the vendor. We agree that contracts should clearly identify accountability for risk. However, we are not in the position to intervene in the states’ contractual arrangements, but encourage states to address this risk in accordance with state procurement rules and project management.

Comment: A commenter requested clarification regarding whether the state can modify the base software for COTS products in addition to customizations required for integration.

Response: We believe it is outside of the scope of this regulation to address detailed questions that we would expect to be addressed in the APD review process.

Comment: One commenter recommended to continue using CSFs for discussing both project status and system readiness and using the CSF approach when approving proposed modifications and customizations to COTS and SaaS solutions.

Response: We intend to continue to use the CSF approach as a means to monitor state implementation performance. We will consider uses of the CSF approach for approving proposed modifications and customizations to COTS and SaaS solutions.

Comment: One commenter asked what the definition of “minimum necessary costs” is and who determines whether or not a state’s proposal meets this definition.

Response: “Minimum necessary costs,” means only those expenditures required to analyze the suitability of the COTS software, and to configure, install and integrate the COTS software. It may also include expenditures for modification of non-COTS software to ensure coordination of operations. During the APD, procurement, and contract reviews, we will determine if the proposed costs are limited to the

purposes specified previously. As is our current practice, these reviews will include dialogue with the state to ensure our decision is accurate and equitable.

Comment: A commenter asked for clarification on a case where CMS determines after the reapproval review that the system no longer meets the conditions for reapproval. CMS will reduce FFP for certain expenditures for system operations. Clarification is requested on what is meant by certain expenditures. Is there a predefined list, or is this determined on a case by case basis?

Response: We intend to assess on a case-by-case basis the extent to which that state’s system is non-compliant and will propose to reduce FFP for specific system functionality operation costs, which might be one or more module(s).

Comment: One commenter asked if mitigation plans have to be submitted with the APD. Another commenter requested a template for mitigation strategies.

Response: We will issue subregulatory guidance that includes more details on developing and submitting a mitigation strategy. However, we note that identification of potential projects risks, key milestones and potential mitigations is an industry standard for major IT builds.

Comment: One commenter raised a question concerning the phrase, “strategies for reducing the operational consequences of failure” and questioned who would determine what constitutes a failure. The commenter noted that the state is expected to address the operational consequences of failure, and the meaning of failure is for the state to determine. Another commenter suggested that CMS, HHS’ Administration for Children and Families (ACF), and the U.S. Department of Agriculture’s Food and Nutrition Services Program develop joint performance measures for integrated eligibility systems, in conjunction with states and other external stakeholders.

Response: We recognize this concern. We have identified CSFs and performance standards related to various systems functionality and will continue to work with states to identify additional metrics of success for E&E systems, including non-MAGI functionality, and for MMIS systems. We are taking the suggestion of joint performance measures for integrated eligibility systems into consideration and will address that effort independently of the final regulation.

Comment: One commenter requested clarification on the parameters of,

“limited mitigations and workarounds,” and suggested that factors such as time limitations, frequency, quantity, and/or severity be considered.

Response: We agree that these factors should be considered when evaluating what constitutes “limited” mitigations and workarounds, and would consider other factors such as impact on the beneficiary, impact on access to care, and impact on providers. Every system build varies for scope and impact, therefore we cannot specify within this rule specific parameters for what constitutes “limited”, but will evaluate on a case by case basis.

Comment: One commenter proposed that mitigation plans apply to both MMIS and E&E.

Response: The requirement in this final rule is to have mitigation plans for both MMIS and E&E, as specified at § 433.112(b)(18). We provide clarification on the process and procedure of contingency planning within the CMS Expedited Lifecycle (XLC) Model, as described in the CMS Expedited Lifecycle Process: Detailed Description 3.3 available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/CMS-Information-Technology/XLC/Downloads/XLC-DDD.pdf>. We will issue additional subregulatory guidance regarding the expanded discussion of mitigation planning to reduce risk, and will allow necessary flexibility depending on the nature and scope of the project.

Comment: Several commenters recommended adding an additional condition at § 433.112(b) for states to collect and submit key E&E performance indicator data on a regular basis to ensure that purchases of COTS software represent good value and will not subject the state to inappropriate future costs or loss of flexibility.

Response: Performance indicators already exist [see “Federal Funding for Medicaid Eligibility Determination and Enrollment Activities” (75 FR 21950) and “Eligibility Changes under the Affordable Care Act of 2010” (77 FR 17144)] for E&E Systems] and we will consider the development of MMIS performance measures in conjunction with the MMIS certification criteria for future subregulatory guidance.

Comment: One commenter expressed concern that all of the stipulations included in § 433.112(b) may not apply to each module for which a state may submit an APD and that CMS should consider changing the proposed wording of § 433.112(b) to, “CMS will approve the E&E or claims system or service modules described in an APD if the applicable conditions as determined by CMS are met. The conditions that a

system or service module, whether a claims or E&E system, must meet as applicable are:”

Response: We believe that the wording of § 433.112(b) does not require revision, so we are retaining the language of the proposed rule in this final rule. We believe that terminology such as “applicable” does not add clarity because it still fails to specify exactly what standards and conditions would apply in what circumstances. We believe that subsequent guidance and a case by case evaluation during the APD approval process will be supported by the language in this rule, but allow the flexibility to apply standards and conditions appropriate to each particular project.

Comment: A few commenters expressed concern over the new condition at § 433.112(b)(22), “Other conditions as required by the Secretary,” that reserves the right of CMS to add conditions without going through the rule making process, and suggested that this may exceed statutory authority. It was noted that this provision is incorporated into § 433.119, which pertains to conditions for re-approval to receive the 75 percent match, and there was concern that if the proposed language was adopted, a state’s enhanced funding could be jeopardized by a new condition on which the state has had no opportunity to comment and may not have sufficient notice. One commenter asked CMS to clarify whether the addition of new criteria and modifications to the existing standards and conditions under this revision will impact current state approvals. The commenter also asked CMS to clarify whether a state whose standards and conditions are currently approved will be required to obtain a new or revised approval of system compliance. One commenter suggested § 433.119(a)(1) be amended to require that CMS adopt any additional conditions in compliance with 5 U.S.C. 533’s public notice and comment process. The commenters asked us to delete the provision or, alternately, add some parameters to clarify the intent of the condition.

Response: We appreciate the comment and we are clarifying the language of § 433.112(b)(22) to provide that the additional conditions that may be issued by the Secretary will not be new requirements, but will be limited to guidance on conditions for compliance with existing statutory and regulatory requirements, as necessary to update and ensure proper implementation of those existing requirements. Should new requirements be necessary, we would follow required rulemaking

procedures to modify the regulations. The language of § 433.112(b)(22) is intended to recognize that implementation of the statutory and regulatory requirements may require interpretive guidance that sets forth conditions for compliance with those requirements. Moreover, we clarify that we do not intend to add conditions without first consulting with states and other stakeholders. Such standards would not be applicable retrospectively. We believe the flexibility to update guidance on conditions for compliance with statutory and regulatory requirements is necessary to meet the demands of evolving business processes, so we are retaining this modified language in this final rule.

Comment: Several commenters expressed concerns that the inclusion of E&E is confusing and that the Seven Standards and Conditions are MMIS-specific. Clarification is requested on how the new or expanded Standards and Conditions apply to E&E systems and asks whether the 7 Standards and Conditions apply to only MMIS or to E&E also.

Response: The standards and conditions in this rule apply to any systems projects within the Medicaid enterprise, E&E or MMIS, except the requirement at § 433.112(b)(17), which is specific only to E&E systems.

Comment: One commenter requested the clarification on whether the addition of new criteria and modifications to the existing standards and conditions under this revision will impact current state approvals.

Response: We do not intend to retroactively apply the revised standards and conditions to APDs already approved as of the effective date of this rule. However, they will be applicable to APDs pending as of this effective date, or approved on or after this effective date.

Comment: One commenter suggested we include non-MAGI Medicaid at § 433.112.

Response: This provision is applicable to all Medicaid programs, which include both MAGI and non-MAGI.

Comment: A commenter asked, with respect to MAGI-based system functionality, what is the definition of “acceptable” performance and who makes this determination. One commenter suggested CMS add a condition that E&E systems must deliver acceptable MAGI functionality, and identify the factors to be considered. Another commenter suggested that “acceptable” criteria be defined as part of the Payment Error Rate Measurement (PERM) audit work currently underway.

Response: Whether or not MAGI-based functionality is acceptable is determined in the gate review process and is evaluated with the language that follows in the same clause, “demonstrated by performance testing and results based on CSFs, with limited mitigations and workarounds.” We agree with the commenter’s suggestion to adopt a flexible approach to addressing deficiencies in this E&E, similar to that proposed for MMIS system modules, and will issue subregulatory guidance with additional detail on this topic.

Comment: Several commenters have requested clarification of the proposed language in § 433.112(b)(18) and § 433.112(c)(2) regarding the definition of “major milestones and functionality”.

Response: This refers to the major milestones in the State’s APD submission.

Comment: One commenter asked CMS to clarify whether CMS’s proposed wording at § 433.112(b)(21) that states, “consider” strategies to minimize costs, could be more explicitly stated with this rule.

Response: We believe that the wording in the proposed rule for states to consider certain strategies to minimize costs is sufficient, and therefore will not be making changes to this final rule. Further discussion will be included in subregulatory guidance.

Comment: A commenter asked that in the phrase, “the state must consider strategies to minimize costs”, the word “consider” be changed to “present”. Another commenter requested clarification on how states measure operating cost on any hardware system in order to minimize cost and effort. This commenter questioned how a state can measure this operating cost on any hardware system other than its intended use as specified in that states’ APD.

Response: We believe it is understood that all decisions included in the APD, including strategies to minimize costs must be documented and/or fully discussed to attain approval, therefore we do not believe it is necessary to change the word “consider” to “present”. We refer the commenters to the MITA Roadmap as an effective means to realize infrastructure cost savings. Further, a state can outline their progress toward meeting the MITA roadmap in their APD submission.

Comment: One commenter expressed concurrence that a state must submit plans that contain strategies for reducing the operational consequences of failure to meet applicable requirements for all major milestones and functionality with the APD submission.

Response: We appreciate the feedback. We consider risk management as an on-going activity during the planning, implementation and operations phases of the system lifecycle.

Comment: One commenter offered specific language to amend § 433.112(b)(6), which states that, “The Department has a royalty free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use, for Federal Government purposes, software, modifications to software, and documentation that is designed or developed with 90 percent FFP.”

Response: We did not propose any amendments to § 433.112(b)(6) and therefore we are accepting as final the provision set forth as stated in the April 16, 2015 proposed rule. However, we look forward to the possibility of further discussion of this subject matter during some of the established forums as outlined in the Program Affected section of this final rule.

Comment: We received several comments requesting clarification on providing the names and responsibilities of key state and vendor personnel in both the Planning and Implementation Advance Planning Documents (PAPD & IAPD). We received a recommendation to add additional language to this requirement to read, “identifying key state personnel for their primary responsibilities and their decision-making authority, and that CMS and the vendor are notified in writing when changes are made.” One commenter recommended limiting the reporting of key personnel per the IAPD template, to limit the burden on to the state. Additionally, we received a recommendation to issue subregulatory guidance on resource management plan and matrix reporting and what kinds of roles constitute key personnel.

Response: We agree that clarification is needed and changed the language to identify key state personnel by name. This applies to all APDs. We agree that key vendor personnel should be identified as cited in regulation related to CMS approval requirements. Additionally we will consider issuing subregulatory guidance on how to identify key state personnel based on their primary responsibilities and their decision-making authority, and if any personnel changes should be communicated in writing to CMS and the state.

Comment: One commenter suggested including vendor staff as identified key personnel, and encouraged states to limit the number of key staff that vendors are required to identify.

Additionally, the commenter suggested CMS might also want to consider including guidelines regarding the need to have vendor key staff onsite for the entirety of the project.

Response: We will include further discussion in subregulatory guidance, including when key vendor staff must be named. Given the changing world of software development and wireless communications, we encourage states to revisit their policies requiring all key vendor staff be onsite. However, to require such a change is outside of the scope of this regulation.

Comment: Two commenters asked if key state personnel résumés are required as part of the APD submission.

Response: Résumés are not a requirement.

Comment: One commenter expressed concern that identifying and providing key state staff/personnel as a new APD requirement may negatively influence or create a scenario where CMS may exert its influence over internal state staffing decisions, or that it might fundamentally alter and undermine existing relationships between the state and CMS.

Response: We disagree with the commenter’s assessment. We value our state and federal partnership, and believe that having states dedicate key state personnel to IT systems project is a best practice. Additionally, we want to emphasize the need to identify key personnel to identify those who may be over committed to multiple projects and therefore place projects at increased risk.

Comment: A commenter asked for clarification on whether the word “system”, in § 433.112(b)(16), refers to the E&E system, the MMIS system, or both systems.

Response: In this context we are referring to both an E&E system and a MMIS according to the approved E&E and/or MMIS APD.

Comment: One commenter recommended measuring progress of a state’s project as noted in subregulatory guidance released November 2012, entitled, “Medicaid and CHIP FAQs: Enhanced Funding for Eligibility and Enrollment Systems (90/10),” rather than identifying key personnel.

Response: We agree with the state’s recommendation to measure the progress of state projects as noted in subregulatory guidance released November 2012, entitled, “Medicaid and CHIP FAQs: Enhanced Funding for Eligibility and Enrollment Systems (90/10)”. However, we want to emphasize the need to identify key state personnel based on our observation that states may over commit staff to multiple projects

and therefore increase project risk and delays.

Comment: One commenter inquired about CMS's intent and application of § 433.112(b)(10), which allows the use of modular, flexible approaches to systems development, including the use of open interfaces and exposed application programming interfaces, on E&E systems.

Response: This final rule at § 433.112(b)(10), applies to all mechanized claims processing and information retrieval systems, including both E&E systems and MMIS.

Comment: A commenter recommended that CMS conduct a certification of vendor products that meet the Seven Conditions and Standards.

Response: We concur with the comment to certify vendor's MMIS products that meet the Seven Standards and Conditions. We intend to address this subject in subregulatory guidance.

Comment: One commenter stated that HIPAA transactions and code sets should be acceptable for certification purposes and FFP.

Response: We concur that HIPAA compliance is required for MMIS, but note that there are additional standards that states must incorporate to be fully compliant and interoperable as specified in this final rule at § 433.112(b).

Comment: Two commenters asked about whether they could leverage documentation provided to CMS during the GATE Review (XLC) process to support the Modular MMIS certification process.

Response: We encourage reuse in many different forms including leveraging documentation provided to us during the XLC process.

Comment: A commenter asks if the E&E APD must include assurances that the states' MMIS meets the MITA assessment criteria.

Response: An E&E APD need not include assurances regarding the states' MMIS MITA self-assessment. We remind states to use the CMS IT Guidance 2.0, which outlines the use of MITA for E&E systems.

Comment: One commenter requested CMS provide clarification on shared system components to encourage reuse between integrated eligibility systems and MMIS.

Response: We appreciate the commenter's recommendation and will take it into consideration for future subregulatory communications and guidance.

Comment: A commenter requested clarification that the requirements for detailed documentation and for analysis

of cost minimization and use of alternate hardware or operating systems are not required for legacy systems implemented prior to the effective date of the proposed rule.

Response: These requirements will not be required for a legacy system but we will apply to these requirements if any component from the legacy system were to be transferred or shared.

Comment: One commenter expressed concern that this documentation would be of limited value and that this requirement would be hard to meet due to differing methods and technical environments. This commenter also expressed that it does not support the proposed change to require such documentation.

Response: We acknowledge these concerns but believe that this documentation would contribute to sharing and reuse. We believe that this requirement may serve to provide more consistent methods and technical environments. We are therefore retaining this requirement in the final rule.

Comment: A commenter expressed some concerns regarding use of shared components. The commenter expressed that requiring the use of existing components may preclude some vendors from offering solutions in response to an RFP and that it may not be feasible to share components where the various modules are hosted in multiple separate data centers procured through separate contracts. The commenter explained that requiring the use of existing or shared components would reduce the solution options available to the states and requested that FFP not be restricted for the development costs of implementing new components as part of the MMIS or E&E systems.

Response: We acknowledge these points, and will provide clarification that sharing and reuse are intended as accelerators, not impediments, to be leveraged wherever they can produce an efficiency or gain. The final policies in this regulation do not prevent us from considering state proposals that justify the need for custom developed software for the enhanced match, or that only shared reused software will be eligible.

Comment: One commenter stated that the language of proposed § 433.112(c)(2) should include the cost of procuring the software (or licenses to use the software). The commenter also recommended that the regulation be clarified to clearly state that the infrastructure changes necessary to support the COTS system (for example, servers and storage) should also qualify for 90 percent FFP.

Response: The 90 percent match rate remains for the planning, DDI of systems and the 75 percent match remains for COTS licensing costs. No change to the regulation is needed to permit the enhanced match for procurement, as it already is matched at 90 percent FFP. Infrastructure and hardware costs will need to be included in the APD submission and will be evaluated for the applicability of the 90 percent match during the APD review.

Comment: A few commenters recommended updating § 433.116(j) by removing the December 31, 2015 end date.

Response: We concur with the recommendation to update § 433.116(j) by removing the December 31, 2015 end date, and included this change in this final rule.

Comment: One commenter disagreed with our justification to extend enhanced FFP to allow the states to complete fully modernized systems. The same commenter believes that extension of the FFP will result in two systems—one for Medicaid and one for human services—resulting in duplicative administrative costs and more than twice the burden for program participants eligible for Medicaid and any one of the many human service programs; for example, SNAP, child welfare, LIHEAP, etc.

Response: We recognize the importance of integrated eligibility systems and we are actively working with our federal partners to facilitate this effort, including federal financial support. We believe that we will be able to address states' concerns to encourage continued integration.

Comment: One commenter asked if the 75 percent FFP will also include support staff, appeals staff, etc. who are not eligibility workers, but are part of the Medicaid process.

Response: We issued clarification on this topic in the "Medicaid and CHIP FAQs: Enhanced Funding for Medicaid Eligibility Systems" originally released April 2013 and currently posted on Medicaid.gov. In applying the 75 percent match to E&E systems we sought to identify roles and functions analogous to those matched at 75 percent for MMIS systems.

Comment: Relative to the federal performance review one commenter expressed appreciation of the flexible approaches available for the federal performance review but urged CMS to consider alternative language that conveys the intent expressed in the preamble of the proposed rule for HHS to perform regular automated validation of accurate processing and systems operations and performance.

Response: We acknowledge this recommendation and agree as to the importance of regular automated validation of accurate processing and systems operations and performance.

Comment: Two commenters asked CMS to clarify how often CMS planned to conduct periodic reviews of systems.

Response: With the April 19, 2011 final rule on regulations at § 433.110, we intentionally removed the requirement for a once every 3-year review of such systems, but did not remove references at § 433.110(a)(2)(ii) and (iii). The failure to remove § 433.110(a)(2)(ii) and (iii) was a drafting error. With this final rule, we are only correcting that error in the 2011 final rule. At this time, we have not specified requirements for periodic reviews but retain the authority to conduct them as part of our oversight role.

Comment: One commenter agreed with the removal of language that requires CMS to review systems once every 3 years in order for states to continue to be eligible for the enhanced 75 percent federal match for ongoing maintenance of their systems. However, the commenter suggested a provision carrying over language from the preamble stating that “the Secretary retains authority to perform periodic reviews of systems receiving enhanced FFP to ensure that these systems continue to meet the requirements of section 1903(a)(3) of the Act and that they continue to provide efficient, economical, and effective administration of the plan.”

Response: We appreciate the commenter’s support for review to ensure on-going quality of systems performance, but we do not believe it is necessary to include the wording from the preamble in the regulatory text. We believe the statute provides sufficient support for this activity.

Comment: One commenter requested clarification regarding whether or not CMS will continue conducting annual IT reviews with states.

Response: We appreciate the request to clarify the role of annual reviews and have provided this clarification in the document entitled “Guidance for Exchange and Medicaid Information Technology Systems 2.0 (May 2011),” which can be accessed at https://www.cms.gov/CCIIO/Resources/Files/Downloads/exchange_medicaid_it_guidance_05312011.pdf.

In addition, we proposed to amend § 95.611(a)(2) by removing the reference to 45 CFR 1355.52. This paragraph provides prior approval requirements when states plan to acquire ADP equipment or services with FFP at an enhanced matching rate for the Title IV–

D, IV–E, and XIX programs, regardless of acquisition costs. We proposed to delete the reference to the Title IV–E regulation, 45 CFR 1355.52 because enhanced funding for information systems supporting the Title IV–E program expired in 1997.

We received no comments in response to our technical amendment to § 95.611 and will finalize as proposed.

We invited comment on our intention to move to a modular certification process for MMIS, based upon the MITA business processes (<http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Data-and-Systems/Medicaid-Information-Technology-Architecture-MITA.html>) to seek an optimal balance in the use of open source and proprietary COTS software solutions, to further promote reuse, to expand the availability of open source solutions, and to encourage the use of shared services. Modular MMIS certification would allow the states to access the 75 percent FFP for M&Os of the certified module(s) prior to having completed their total MMIS system replacement.

We also sought comment on the advantages and disadvantages of certifying MMIS modules, versus whole systems. We believe that certifying MMIS modules will remove the barrier to entry for many small IT solution vendors, increase the availability of certified modules in the market for the states to choose from, and create an incentive for the states to take a modular approach both in IT architecture and in procurement strategy. We solicited comments on the opportunities that a modular MMIS certification process may create as well as the challenges that might arise, including defining a finite list of MMIS modules to ensure the appropriate combinations of certification criteria are established. In response to the comments received we will issue subregulatory guidance which will specify various MMIS modules and how a modular certification process will be implemented.

We also sought comments on a model where vendors propose modules for CMS certification prior to the state installation, unrelated to the question of the state’s enhanced match rate for M&Os. Many commenters agreed that Modular MMIS certification process will result in better procurements, faster time to benefit, and a rapid adoption of industry standards in Medicaid.

We received the following comments on these topics:

Comment: A commenter recommended that we be more inclusive about sourcing options and eliminate the relation of “modular” to sourcing or

procurement and that CMS adopt the term “multi-sourcing” or “portfolio sourcing” so that sourcing should not be viewed as a one-size-fits-all scenario.

Response: This recommendation will be taken into consideration for future communications regarding MMIS acquisition and modularity.

Comment: A commenter expressed concern that modular solutions may function as standalone silos intended to be interfaced with other MMIS solutions and utilize a separate copy of the MMIS data. The same commenter also mentioned that the replication of MMIS data into multiple operational data stores potentially located in multiple data centers increases data storage costs, integration development and maintenance costs, potential failure points in the system, and security risks. The recommendation was made that CMS analyze the MMIS solutions available in the market for effective support of the modular approach and consider this when evaluating the states’ IT architecture and procurement strategies.

Response: We agree that this is a valid concern and one that should be taken into consideration in making design and procurement decisions.

Comment: Several commenters tied enhanced funding to improving state data quality and reporting and the associated adequate investment in staffing and human capital needed to accomplish this goal. One commenter expressed concern about the impact of a modular approach on human resource management, which will require increased planning activities. The commenter expressed that states and CMS will need to organize and staff accordingly; and that there is further dependence on system integrator capabilities. Additionally, the commenter stated there would be increased dependence on integration between state programs, technical management and contractors.

Response: We appreciate the commenter’s concern and concur that states and CMS must thoughtfully estimate project costs and human resource needs upfront to address the complexities of managing modular functionalities. We believe that the investment of enhanced FFP should result in a higher level of performance which should be evidenced in reported metrics. We believe that investments in software and hardware alone cannot achieve high quality results without an adequate staffing compliment. We encourage states to carefully evaluate their human resources that support systems builds and operations to ensure that there is adequate oversight of

projects and on-going supervision of operations.

Comment: One commenter expressed concern that a third party systems integrator having no direct contractual relationship with the modular solution providers would be ineffective and noted that the state would have the key role in managing the contracts. The commenter requested that we recognize the importance of the Fiscal Agent/Systems Integrator having the primary contract for the MMIS solution and that they should be managing the various modular solution providers as subcontractors. Another commenter suggested that a new APD requirement should be to require states to include its strategy, if using a modular development, and resources (staff verses contractual) in the APD. Federal regulations at 45 CFR part 95, subpart F, "Automatic Data Processing Equipment and Services," specifically mandate that states provide a plan of action in order to request federal funding approval for a project. In addition, the commenter also suggested clarifying the distinct roles and responsibilities of an Independent Verification & Validation (IV&V) vendor and Systems Integrator.

Response: We find this recommendation to be consistent with the role we see for the system integrator relative to other vendors employed in the cooperative modular process; however we do not believe that this should be incorporated into regulation. The APDs used to request FFP should describe states' plans for managing its systems DDI. Title 45 CFR part 95, subpart F also sets forth the roles and responsibilities of the IV&V, if required. We plan to provide subregulatory guidance on this issue and we will include a discussion of these roles in subregulatory guidance.

Comment: A commenter requested clarification on whether the modular approach applies to both MMIS and E&E systems, or to just MMIS. Additionally, the comment asked if the modular approach applied only to MMIS, why there was not an equivalent definition for E&E Module, and provided some suggested modules.

Response: While the modular approach to system architecture applies to both MMIS and E&E, we do not require certification of E&E systems. We have not specified any required MMIS modules in this final rule. We will consider identifying required MMIS modules in subregulatory guidance.

Comment: One commenter asked about how CMS will incentivize modular development when a state transitions from a monolithic MMIS to

a modular approach within current state contracts.

Response: Modular development helps with seeking an optimal balance in the use of open source and proprietary COTS software solutions, further promotes reuse, expands the availability of open source solutions, and encourages the use of shared services. Modular MMIS certification will allow the states to access the 75 percent FFP for M&Os of the certified module(s) prior to having completed their total MMIS system replacement. We will work with states individually that wish to transition to modular development to assess the most efficient path forward.

Comment: One commenter pointed out the challenges associated with integrating modules if done so on a piecemeal basis. This commenter mentioned that the procurement and implementation of a modular based approach requires a detailed design of the end-to-end data integration requirements at a data element level before those processes can be initiated. This commenter suggested that as more states achieve readiness to transition to a modular system, a more specific definition of an MMIS module should evolve. The commenter provided a list of modules that can be defined by CMS within the regulation. The commenter further stated the positive aspects of modular certification including reduced implementation risks and a reduction in costs.

Response: We have modified the definition of module at § 433.111(h) in this final rule. A list of modules and additional discussion will be included in subregulatory guidance.

Comment: Many commenters asked questions about the Modular MMIS certification process pertaining to pre-certification requirements, re-certification of modules, triggers for recertification, process alignment with MITA, length of the process, and availability of checklists.

Response: We will be issuing subregulatory guidance on how MMIS modules will be certified and how a modular certification process will be implemented. Additionally, it is also our intent to work with the states as systems are designed and developed on a continuous basis so that issues and solutions are identified and addressed prior to the certification stage.

Comment: A commenter agreed that modular certification will lower the barriers to entry for smaller IT solution vendors and increase the availability of modules in the marketplace. That commenter recommends that vendors be able to propose modules for pre-

certification by CMS. They point out that many state RFPs require that vendors demonstrate that they have "certified" their systems in other states, so the pre-certification process will be important in enabling new vendor participation in this market. They recommend that CMS work with industry and states to structure permissible penalties in state contracts when pre-certified modules are used, and especially when those solutions are customized at state direction.

Response: The provisions proposed here mark a significant departure from current CMS policy. We agree that modular certification will lower the barriers to entry for smaller IT solution vendors and increase the availability of modules in the marketplace. We appreciate the commenter's support of the proposal to strengthen accountability for successful system functionality, however states and vendors are responsible for negotiating their contracts and both parties should carefully ensure that accountability and penalties for failed implementations are clear.

Comment: A few commenters recommended staged, incremental approach to pre-certification starting with a common software product as well as a common service used in MMIS and E&E. One commenter suggested that the documentation for these pre-certified modules would need to be made available for review by states in their consideration of the appropriate project approaches for implementation.

Response: We believe recommendation for a staged, incremental approach to pre-certification process is a valuable concept and we will consider it carefully as we develop our implementation.

Comment: One commenter asked whether CMS intended to pre-certify certain vendor solutions; and, if so will CMS collaborate with industry before adopting a process or issuing subregulatory guidance.

Response: We will issue subregulatory guidance on how MMIS modules will be defined and how a modular certification process would be implemented.

Comment: A commenter requested clarification on when and how CMS will begin to pre-certify E&E solutions for pilot for states review.

Response: Note that E&E does not require certification.

Regarding our proposal to pre-certify MMIS modules and then complete the certification once installed and implemented, we received many comments expressing concerns for timelines so that innovation not be

stifled and that reuse not be hampered. Several commenters expressed support for initial certification and enhanced funding of modules prior to full integration but reminded us that we will need to validate that the functionality works as designed and documented. It was recommended that use cases be defined to demonstrate that each MMIS module's functionality is operating as intended, using performance metrics such as key performance indicators.

Comment: Several commenters expressed concerns about the encouragement of software reuse in a manner that could expose security vulnerabilities, or possibly affect areas such as program integrity or enforcement, and negatively impact State Medicaid Programs.

Response: We recognize these concerns but do not believe they are exclusive to open source software. We will provide guidance on avoiding such risks while promoting sharing and reuse in future subregulatory guidance.

Comment: A commenter stated that the best approach for producing a sufficient level of detail is through community engagement and the development of working Proof of Concept (PoC) demonstrations. The commenter stressed the importance of ongoing community involvement in order for modularity, reuse, and interoperability in complex systems become a reality.

Response: We concur with the supportive comments to have ongoing community engagement, and it supports the goal of states developing working PoC demonstrations for modularity, reuse, and interoperability in complex systems.

Comment: One commenter suggested focusing on how states share similarities in performing business functions related to Managed Care as a basis for CMS, states and vendors to share and reuse IT solutions.

Response: We appreciate the insight provided by the commenter and will consider the suggestion. We concur that there is value in states exchanging information and experience around business functions they have in common.

Comment: A commenter made recommendations regarding the states' ability to share and reuse IT solutions while at the same time ensuring that there are appropriate incentives in the marketplace to provide the best quality and value in IT solutions and services to enhance operation of Medicaid programs nationwide.

Response: We appreciate the commenter's support of reuse of existing and shared components. We intend to

address this in greater detail in subregulatory guidance. We will consider the commenters recommendations as we develop this guidance.

Comment: Several commenters recommended that the most effective way to encourage reuse is to certify modules prior to installation and to encourage states to utilize these modules and that it is important to clarify the vendors' business case for pre-installation certification.

Response: We concur and we intend to proceed with policy development around MMIS module precertification. There will be further discussion of the precertification requirements and process in subregulatory guidance.

Comment: One commenter recommends using a holistic view of the MMIS that requires a coordinated effort among CMS and the states to establish standards promoting reuse of open source code.

Response: We concur and will coordinate with states to establish standards and promote reuse.

Comment: One commenter recommends that an effective and efficient balance can be achieved when approving enhanced FFP for the acquisition of open source proprietary COTS software and information technology solutions, and they suggest a number of ways in which this could be done.

Response: We will consider these points in the formulation of subregulatory guidance and appreciate the input.

Comment: Several commenters had questions or sought clarity on setting dollar thresholds for incremental modernization and for COTS installation. A few commenters recommended that CMS consider providing clarity around what constitutes a noncompetitive install.

Response: We do not believe dollar thresholds are a workable solution because the size and scope of COTS applications will vary widely. We will provide guidance on what is a noncompetitive install in future subregulatory guidance.

Comment: A few commenters recommended that CMS consider selecting known vendors with proven Medicaid IT modules/components for a pilot with either CMS or a state and that this funding be made available through the MITA Roadmap and APD approval process. One commenter requested that CMS clarify its vision for the use of open source software and that open source code be piloted in order to demonstrate utility. The same

commenter recommended that CMS facilitate introducing states to vendors.

Response: The funding available to us for MMIS development at sections 1903(a)(3)(A)(i) and 1903(a)(3)(B) of the Act only authorizes us to use matching funds for state system implementation and does not include pilot projects. It is one of our goals to stimulate competition and to help facilitate the entry of new vendors into the Medicaid IT market; therefore we would not engage in any project that would give one vendor an advantage.

Comment: One commenter explained that transfer solutions lose connection with the originating software because of the need for specific customization and adaptation to state environments. Some commenters recommend that CMS work with states and vendors to develop subregulatory guidance on this matter, including helping to standardize business requirements and workflows. They provide examples of the kind of guidance they are requesting. The commenter recommends CMS work directly with COTS vendors to ensure appropriate coverage of new or changing federal requirements.

Response: We acknowledge these points and will address them in subregulatory guidance. As stated previously, we plan to engage all stakeholders, for example, states, vendors and advocacy organizations, in developing this guidance.

Comment: One commenter suggested that CMS should allow states access to enhanced 90 percent FFP for customization of COTS and open source software based on a CMS-approved cost-allocation. We should encourage the use of contract language that stores initial and ongoing documentation and source code in a form and format that is easily accessible by states so that they can share.

Response: We concur. Further guidance is necessary in the area of customization to COTS and open source software and accessibility of documentation. We will expand upon this in subregulatory guidance.

Comment: One commenter recommended 90 percent FFP for implementing on-going COTS releases and M&Os activities.

Response: We appreciate the commenter's recommendation for 90 percent FFP for implementing on-going COTS releases, such as training, regression testing, configuration, and process modifications. Subregulatory guidance will clarify what activities will be matched at 90/10 and which will be subject to 75/25.

Comment: A commenter recommended that activities related to

implementing COTS software as a module be included in the enhanced funding, since a significant portion of the cost to implement a COTS software as a module is related to configuration.

Response: We concur with the commenter's supportive comments on the use of configurable solutions with minimal customization and intend to address this in subregulatory guidance. To clarify, COTS software configuration costs are funded at 90 percent under this final regulation.

Comment: One commenter requested that we provide a framework against which to plan and subsequently validate COTS and open source code. Additionally the commenter expressed that as there is an increase in the variety of software being implemented there may be an increased complexity to the certification process.

Response: We agree with the comment and welcome a dialogue with state and vendors as an effective means to accomplish this goal.

Comment: One commenter expressed the concern that lack of an established governance and/or support model for any open source solutions not developed and/or maintained by a specific software manufacturer introduces significant risk of obsolescence from technology changes such as operating system upgrades and reduces the opportunity for shared development and upgrades in the long term. The commenter also mentions that the use of these open source solutions could present significant risk to the state because their use may not justify the cost savings over the use of equivalent COTS solutions. The same commenter requests that we recognize the long-term advantage of the COTS solutions.

Response: We agree that open source software or solutions are not impervious to the same challenges as other kinds of software, and we agree that there is a balance that must be achieved between cost and utility. While we do not agree that a COTS solution is necessarily less prone to these risks, we do highly support use of COTS solutions and, through this final rule provide equal financial support for proprietary COTS and open source COTS. We agree that we must provide guidance and on-going governance and support for both models and will explore this further as we develop subregulatory guidance.

Comment: One commenter recommended that business requirements be standardized nationally, and it supports CMS's efforts to facilitate collaboration among states with similar business requirements so that they may share and reuse IT solutions.

Response: We concur with the supportive comments on reuse of IT solutions.

Comment: One commenter recommended that, rather than compelling the states to maintain and make available the software documentation at § 433.112(b)(20), it makes more economic sense for CMS to be the custodian of this information. The commenter explained that states do not have the time, staff, or technical resources to undertake this critically important function. They assert that only CMS can enforce the regulations at § 95.617(b), not the states, and it can only do this effectively by creating a central repository under its immediate control.

Response: We agree that creating a repository for making software documentation available to other states is a project beyond the scope of state activities, however the requirement at § 433.112(b)(20) does not require creation and maintenance of the repository, but simply the maintenance of the documentation for the state's own software applications. We are considering the commenter's recommendation for a central repository and are exploring the concept. We will provide further subregulatory guidance on the states' maintenance of documentation and will engage stakeholders as we consider development of a centralized repository.

Comment: One commenter recommended CMS establish a control mechanism as the clearing house.

Response: We will take into consideration the recommendation to utilize a clearinghouse to aid in managing shareable components.

With regard to all Medicaid IT, we also sought comments on how to achieve an effective and efficient balance when approving enhanced FFP for the acquisition of open source and proprietary COTS software and information technology solutions provided in the Medicaid information technology marketplace. Section 1903(a)(3)(A) of the Act, which provides 90 percent FFP for the "design, development, or installation of such mechanized claims processing and information retrieval systems" could be interpreted to include use of COTS where that solution would be the more economical and efficient approach. We proposed this approach, acknowledging that it will necessitate a refinement of policy for proprietary COTS software for § 95.617(b) to protect intellectual property. We sought comment on the inclusion of some costs related to COTS software in DDI to further encourage the states to opt for the COTS and SaaS

option, currently matched at 75 percent, rather than ground-up development approaches, which are duplicative and have a potentially much larger total cost over the span of the project. We intend to address this further in future subregulatory guidance. In considering approvals for ground-up system builds we may require states to evaluate whether cost-effective and practical open source and/or proprietary COTS solutions exist and whether those solutions are feasible.

We received the following comments on this approach.

Comment: Some commenters asked if we intend to provide enhanced FFP for customization to COTS solutions where it is necessary to meet the business needs of a Medicaid Program.

Response: We will pay enhanced FFP for limited modifications required for compliance with federal and state regulations and integration and configuration and will require that the result be made available for reuse. Costs not eligible for enhanced funding would be eligible for 50/50 administrative funding if they are allowable Medicaid costs.

Comment: One commenter asked us to clarify the difference between proprietary software and COTS software and to address the issue of ownership when customization is paid for with federal funds; and another requested clarity on when the federal government owns a license to a system for perpetual use after implementation.

Response: Software that was developed without federal funding is generally considered proprietary. This usually applies to COTS software. However, as articulated in existing § 95.617(b) the federal government retains ownership and a perpetual license for software developed with federal funding, which may include software code written to customize proprietary COTS software solutions. We are seeking to discourage the extra costs of unnecessary customization of COTS software solutions, therefore this final rule explicitly provides in § 433.112(c)(2) that development costs at the enhanced match rate may only include the minimum necessary to install the COTS software and ensure that other state systems coordinate with the COTS software solution. We intend to develop further guidance, in consultation with the industry and other stakeholders, regarding the proportion of customization that would result in a product no longer being considered COTS, and thus being subject to the provisions of § 95.617, as is other software developed with federal funds.

Comment: A commenter supported the proposed exemption to the restriction of FFP funding when it is more efficient and economical to purchase COTS software. It suggests use of an analysis template to compare modules, state collaborations, CMS guidance, and CMS pre-approved modules for E&E. The commenter also recommends that subregulatory guidance be issued to include the requirement of a budget for risk assessment. The commenter also suggests several recommendations for these strategies.

Response: These suggestions will be considered during the formulation of sub regulatory guidance.

Comment: Many commenters recognized that the alignment of Medicaid E&E systems with MMIS requirements and MITA is unclear. One commenter also thought the inclusion of E&E systems in the definition of MMIS presents some confusion.

Response: This rule includes E&E systems in the definition of mechanized claims processing and information retrieval systems, not as part of an MMIS. We recognize the commenters' concerns regarding alignment of E&E systems, MMIS and MITA. Existing federal guidance is provided in "Enhanced Funding Requirements: Seven Conditions and Standards: Medicaid IT Supplement," (MITA-11-01-v1.0) dated April 2011, which is available at <http://www.medicaid.gov/medicaid-chip-program-information/by-topics/data-and-systems/downloads/efr-seven-conditions-and-standards.pdf>.

We will provide additional clarification regarding the standards and conditions applicable to E&E in the subregulatory guidance.

Comment: One commenter expressed concern that MITA remains a loose architectural framework that, in its current state, does not provide sufficient definitions, constraints, or measures to support consistent modular development. Specifically, standardized baseline procedures and Organizational Change Management maturity are not in place; the lack of common SOA and data governance practice maturity and a lack of technical expertise prevent "plug-in" modules from being established and matured by states. We also received many detailed recommendations on how a collaborative workgroup could update MITA to provide sufficient structure for a modular approach and it was recommended that subregulatory guidance be jointly developed between CMS, the states, and the vendors for best-practice process baselines that align with the MITA Business Areas.

Response: We recognize the concern regarding potential challenges using MITA, and will address this in subregulatory guidance. We welcome the collaboration.

Comment: Several commenters also recommended that the MITA be updated, completed, and standardized to provide sufficient structure for a modular approach and that this be accomplished through a collaborative workgroup of states and vendors.

Response: We agree and will issue further communications regarding this on-going effort.

Comment: Several commenters requested a modular certification process that closely aligns with the MITA Business Process Model (BPM) and that subregulatory guidance should be developed, with state and industry collaboration, to develop common framework and terminology for defining a module of an MMIS. One commenter recommended that CMS use "MITA Business Process Model" instead of "module" when referring to portions of an entire MMIS.

Response: While we appreciate the intent of the suggested changes, we do not believe that this would improve the clarity of our rule, so we are not adopting that suggestion. We appreciate the recommendation for a certification closely aligned to MITA and will take it into consideration as we finalize the MMIS certification criteria. We are currently piloting use of MITA aligned business processes in a Phased MMIS Gate Review process.

Comment: One commenter expressed concern that open source software may create a security risk for protected health information (PHI).

Response: We believe that the use of open source software is not necessarily a risk to PHI. All HIPAA regulations apply, and PHI must be protected in any implementation as specified in this rule at § 433.112(b)(12).

Comment: One commenter supports the flexibility to solicit, but not the mandated use of, open source products where appropriate. Several possible issues are mentioned, such as quality of proposals or workable solutions, evaluation of proposals, etc.

Response: We appreciate this supportive comment and we believe that open source software is one possible solution but not necessarily the only solution. The states still have great discretion in making procurement choices. Our intent is that sharing and reuse be encouraged to avoid redundant custom development and to facilitate collaboration not typically enabled by non-open source software solutions.

Comment: Another commenter suggested that we ensure flexible and proper fiscal allocation to address enrollment fluctuations.

Response: Cost allocation plans are flexible and states may propose a number of methodologies, including population based methodologies, for consideration and approval by CMS and other federal partners. Cost allocation plans may be updated as needed according to HHS cost allocation regulations at 45 CFR part 75, subpart E—Cost Principles.

Comment: One commenter expressed a concern that CMS allows only one point of connection to the FDSH per state and the importance of recognizing that there may be multiple connections along the path to the FDSH that establish such interoperability. The commenter suggested that a state may satisfy the interoperability with Marketplace requirement if either component—the eligibility or the enrollment system—coordinates with the Marketplace.

Response: We appreciate the comment; however we disagree with the recommendation to determine eligibility in separate components as it creates duplicative processes, and as such, the recommendation will not be incorporated into the final rule.

Comment: There were several comments related to the reusability of existing or shared components. These involved technical definitions, real-time interfaces, number of application program interfaces (APIs), amount of data, stability, security and authentication, specialty vendors, batch data exchanges, business rules, absence of single sign on, and absence of real-time interfaces to MMIS.

Response: We consider these technical recommendations to be outside the scope of this regulation since the technical specifications for shared modules are to be found in MITA 3.0 and IT Standards and Guidance 2.0.

Currently, regulations at § 95.617(b) provide that the federal government shall have a royalty-free, nonexclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use for federal government purposes, software, modifications and documentation that are developed with federal support. We also sought comments on requiring that states affirmatively document and make available such software to ensure that it may be used by others.

Consistent with these requirements, and to encourage broader use and reuse of federally funded software, we also proposed at § 433.112(b)(20) and (21) that software developed with the 90

percent federal match be adequately documented so that it can be operated by contractors and other users, and that states consider strategies to minimize the costs and difficulty of operating the software using alternate hardware or operating systems.

We received the following comments on proposed § 433.112(b)(20) and (21).

Comment: One commenter requested that open source software be documented according to the Open Source Institute standard.

Response: We appreciate and will consider this recommendation in the formulation of subregulatory guidance.

Comment: A commenter stated that that CMS should be the entity that takes recommendations from the industry in order to establish IT standards relevant to Medicaid systems, and that the standards should be housed and maintained in a publicly accessible repository.

Response: We appreciate the suggestion and will explore how we can engage with existing standards bodies and stakeholders to support the development and adoption of IT standards relevant to Medicaid business processes. We will also consider options for a publicly accessible repository.

Comment: One commenter commends CMS for the proposed requirement regarding documentation detail.

Response: We acknowledge this support.

Comment: A commenter recommended we explore innovative ways to create a multi-state “vendor and state” repository as well as a structured pilot process that formalizes and publicizes processes, lessons learned, and how those lessons change future processes.

Response: We concur with the commenter’s recommendation and have implemented many aspects in the roll-out of the Affordable Care Act to include establishing the Collaborative Application Lifecycle Tool (CALT) as a first step in creating a multi-state “vendor and state” repository. We will take into consideration the commenter’s recommendation on a structured pilot process, building learning communities, creating a technical assistance portal, and expanding the most effective approaches to reuse.

Comment: A commenter asked that CMS clarify what it means for software to be “documented.” They make the point that software that can be legitimately run by contractors and other users will have different documentation needs from software that is proprietary or is being maintained as a shared service and will not be transferred to another entity.

Response: The intent was for software that was custom developed to be sufficiently documented such that another vendor or state staff could operate it. It is not meant to refer to proprietary COTS software, which would necessarily already include through the licensing agreement provisions for support of operations. Nor is it meant to apply to SaaS or Business-Solutions-as-a-Service, which operate under totally different parameters from states’ custom-developed solutions.

Comment: A commenter anticipated an increase in costs for developed software to create the documentation supporting transfer to another state and to design the solution to operate on alternate hardware and operating systems. They asked whether we intend to designate the hardware and operating system manufacturers that must be supported. The commenter makes the point that the challenges for designing solutions to operate on alternate hardware and operating systems includes having the necessary knowledge of the alternate hardware, software components, and operating systems and having the alternate environments available for testing. The same commenter also asked if we intend to provide more specific guidance on how states are to gauge when the software and related technical architecture is adequately documented so that it can be operated by contractors and other users.

Response: We agree that these are good points and that they call for further discussion. We do not intend to designate specific hardware and operating systems that must be supported because we do not wish to limit the provision. We will provide more specifics in subregulatory guidance so that states can assess whether or not this requirement is met.

Comment: In reaction to the CMS proposal that software custom developed with the 90 percent federal match be adequately documented so that it can be operated by contractors and that states consider strategies to minimize the costs of operating the software using alternate hardware or operating systems, several commenters provided feedback. Concerns have been expressed that this appears to burden states with conducting a cost benefit analysis for software applicability across multiple hardware or operating systems. Another concern was that adequate documentation should not be subject to trademark, or patent to promote reuse.

Response: We agree that this software should be adequately documented and

that states should use strategies to minimize costs.

Comment: One commenter requested clarification on CMS documentation standards so MMIS modules can be used by other contractors and states.

Response: We appreciate this comment and will address in future subregulatory guidance.

Comment: One commenter recommended CMS should provide the opportunity to establish a repository of reusable business rules and regularly updated references to standards that are necessary to support interoperability as it could also store best-practice materials on performance measurement and management, such as service level agreements, dashboard formats, and other performance tracking and reporting capabilities.

Response: We concur with the commenter’s recommendation and have established the CALT, as a repository environment of reusable business rules and regularly updated references to standards that are necessary to support interoperability.

Comment: One commenter recommended that CMS clearly define and standardize its communication methodology and tools to ensure states and vendors work together, as historically CMS has had a practice of only communicating directly with states regarding system changes. Also, the commenter recommended that CMS develop a repository for states and vendors to share documents, to host learning communities, and to serve as a channel of regular communication about changes.

Response: We concur with the commenter’s recommendation and have established the CALT, a repository environment to create a multi-state “vendor and state” repository. We will take into consideration the recommendation to adopt a model similar to the Office of the National Coordinator for Health IT (ONC) collaborative leadership with agencies, providers, and vendors.

Comment: One commenter suggested that CMS allow free sharing of assets, such as documentation and code, without Memorandum of Understanding (MOUs).

Response: We encourage states to collaborate to the extent possible but as we do not require MOUs, it is outside of the scope of this final rule to address how states’ sharing should be governed.

Comment: With respect to sharing and reuse a commenter recommends that the market for sharing and reusing software will need to be established between CMS and states so that states are more likely to openly participate.

Response: These recommendations will be considered. We recognize the need for a repository to make software available to states for re-use. We are exploring the best means to achieve that end.

We conduct periodic reviews of the states' MMIS and E&E system functionality and operations. Current regulations at § 433.120 allow for reduction of FFP for system operations from 75 percent to 50 percent if the system fails to meet any or all of the standards and conditions. We proposed to allow for the FFP reduction to be tailored where appropriate to specific operational expenditures related to the subpar system component rather than only being able to apply it across all operational expenditures. We also proposed to revise current regulations that require the disallowance to be for a minimum of four quarters so that there is no defined timeframe. Furthermore, we proposed to remove the restriction on the FFP reduction occurring at least four quarters after the system was initially approved.

We received the following comments in reference to the proposals concerning FFP.

Comment: Several commenters expressed their support for changes at § 433.120 and expressed concerns about how this change to current regulation will be implemented. One commenter asked which expenditures for system operations could be reduced and whether CMS will be providing a list for the states. There were questions regarding application of the policy to legacy systems and the necessity for a grace period prior to applying the policy to legacy systems was mentioned. Two commenters asked about timeframes for determining non-compliance and how corrective action plans might be used as a mechanism to ensure compliance prior to reduction of FFP. One commenter asked whether we would be providing a predefined list of expenditures; or in the alternative, will a case by case analysis be applied to determine which expenditures could be exposed to a decrease in FFP due to noncompliance. A commenter expressed that E&E system builds have been a priority under the Affordable Care Act and have required a considerable amount of state resources. Due to a lack of resources some states have experienced a lag in their modernization efforts for MMIS systems which could lead to noncompliance, a reduction in FFP, and an increase in state's share of MMIS operational costs. One commenter asked for reassurances that we would not order a reduction in funds without first providing the state

with an opportunity to provide feedback on the disallowance.

Response: We conduct periodic reviews of the states' MMIS and E&E system functionality and operations. Current regulations at § 433.120 allow for reduction of FFP for systems that are found to be noncompliant; and, we will consider the suggestions, recommendations, and clarification requests as content for subregulatory guidance. We will provide a series of artifacts, supporting tools, documentation, and diagrams to the states as part of our on-going technical assistance, monitoring, and governance of MMIS systems design and development. The goal is to assist states in being successful and would only deploy this approach after a meaningful escalation process after which it was determined that there was persistent non-compliance that lacked an approvable workaround and/or plans for timely remediation.

Comment: Two commenters provided alternative language to modify the rule at § 433.120. Commenters asked that we state that only expenditures that relate to the failure to meet the conditions of re-approval for system operations could be reduced. Another commenter asked us to add language stating that system components receiving a reduction in FFP may include MMIS modules or other discrete components of the MMIS system.

Response: We agree that the reductions may be applicable only to certain modules or a single module. We believe that the reference to "non-compliant functionality or system components" adequately captures the meaning of the suggested language, therefore, we are finalizing the language as proposed. We will, however, discuss these issues in greater depth in subregulatory guidance.

Comment: Two commenters asked that we retain the language that restricts FFP reduction during the first four quarters following initial approval because states should not be subject to reductions in FFP for intermittent periods of subpar performance of system components during the initial periods of operation of newly installed system components; and, projects that require remediation should not be jeopardized.

Response: We agree with the commenter and it is not our intention to adopt this approach for circumstances as described above. We are committed to working with states and understand the realities of system launches. We are finalizing the language as proposed.

Comment: For §§ 433.112 and 433.120 regarding the proposal to reduce FFP for system non-compliance, many

commenters proposed changes to the wording, made recommendations to change the proposed penalties or process, or requested clarification of the proposed process.

Response: We considered the proposals, recommendations, and clarification requests. As described in the proposed rule, we will provide a series of artifacts, supporting tools, documentation, and diagrams to the states as part of our on-going technical assistance, monitoring, and governance of MMIS systems design and development. We will continue to work with states that show a good faith effort to comply with certification requirements, and as described in the proposed rule, we will continue to work with the states as systems are designed and developed so that issues and solutions are identified and addressed prior to the certification stage. We described in the proposed rule that there is an established notice and state appeals rights in existing regulations. Those rights regulations are not changing with these final regulations.

Comment: A state asks CMS to clarify whether the proposed increase in reduction includes only the number of quarters or also the increase in reduction of percentage of FFP. One commenter is concerned that this rule ultimately may increase states' share of MMIS operational costs, noting that the Affordable Care Act required states to implement a significant number of changes to E&E systems, resulting in state investment of vast resources on a short timeline to ensure compliance under the Affordable Care Act. For states, this may have resulted in a lag in MMIS modernization efforts. Therefore, applying the proposed rule equally to both E&E systems and MMIS systems may inherently increase states' share of MMIS operational costs.

Response: This rule provides that the reduction in FFP was for a certain number of quarters that could be fewer than 4, and that the operations costs could be reduced from 75 percent to 50 percent. We are aware of the multiple requirements that states must implement, and will engage in dialogue with states regarding resources and priorities before imposing a reduction in FFP.

Comment: A commenter requested clarity on the process to correct a reduction in FFP related to a non-compliant system component, and whether this provision applies to legacy systems, and if so, requests a grace period for implementing necessary changes.

Response: We will provide a description of how states can address

system non-compliance through subregulatory guidance. With this final rule, we are not proposing a new requirement for systems to be in compliance, therefore a grace period is not appropriate.

Comment: A state requests a specific timeframe for determining non-compliance and whether a state can submit a corrective action plan before having FFP reduced.

Response: We will provide clarification of the process to resolve system non-compliance in subregulatory guidance, and this will address corrective action plans.

Comment: A commenter recommended that CMS reconsider its proposal to remove the restriction on reducing FFP during the first four quarters of the maintenance and support period where a system does not meet requirements, and expressed concern that the rule could jeopardize projects that require remediation during this period. Another commenter expressed concern that this rule will allow CMS to order a reduction of funds without providing the affected state an opportunity to review and provide feedback on the disallowance. That state asks CMS to explicitly provide a federal mechanism for reviewing E&E systems for disallowance before reducing FFP.

Response: We proposed the revisions to the regulations to allow flexibility in deciding if, when, and to what extent amounts might be denied for system non-compliance. When significant non-compliance is identified, we will seek appropriate relative penalties and only after discussion, corrective action plans and good faith efforts have been unsuccessful. We have an established escalation process that allows for state notification and appeal rights during which the state can provide mitigating information prior to disallowance.

Comment: A commenter asked for clarification about what “operating continuously” means in the context of when CMS would conduct MMIS certifications.

Response: The full requirement is that the system be operated continuously “during the period for which FFP is requested.” Although this question does not relate to this rule, the requirement means that the state must operate its system without interruption in a manner that meets the system certification requirements. Temporary interruptions that are consistent with normal operations (such as when necessary for updates or maintenance) would not affect compliance with this requirement.

We also received the following general comments.

Comment: Many commenters expressed support for matching COTS products at the 90 percent FFP.

Response: We appreciate the support for this rule that allows COTS products to be matched at 90 percent FFP, and we believe this will encourage reuse and development of new products that can be shared.

Comment: Many commenters expressed support for modularity, as it will encourage states to pursue smaller and more modular procurements and reduce the risk of large IT implementation projects. They also support our direction to encourage modularity, reusability and the flexibility to try new approaches.

Response: We appreciate this positive feedback and will continue to support this approach in future subregulatory guidance and in our work with states and vendors engaged in modular builds.

Comment: Some commenters expressed concurrence with the need for meaningful interoperability standards and concern that seamless coordination will not be truly achieved until these standards are in place. One commenter expressed support of adopting standards for Medicaid Health Information Enterprises that are eligible for enhanced FFP. Another commenter recommended that CMS specify the review criteria for how the interoperability requirement is to be satisfied.

Response: We concur with the commenter in support of meaningful interoperability standards. We welcome a dialogue with vendors and states on this topic.

Comment: One comment expressed the need for states to use industry standards to help ensure success of modular solutions. A commenter recommends that modular development for MMIS facilitate a phased approach to procurement/implementation and that the risks can be mitigated by the use of a systems integrator to manage the timing and approach to integration and to facilitate interoperability.

Response: We concur.

Comment: A commenter expressed concern that some of the requirements included in § 433.112(b) may not be applicable in an Administrative Services Organization (ASO) model. The commenter offered several recommendations to address this. The commenter also offered recommendations for improved wording to accommodate the ASO model.

Response: We concur with the commenter's recommendation to include revisions in the final rule to include the ASO model, and have included this change at

§ 433.111(b)(2)(ii). The ASO model is already supported under current regulations, but this final rule is modified to specifically address ASOs.

Comment: One commenter expressed that funding for E&E systems should not be approved unless and until the states seeking such funding can demonstrate a clearly articulated roadmap for integrated eligibility and contract bidders should be required to describe how their solution is able to assist states and CMS in reaching the goal of integrated eligibility. The commenter also recommended that CMS work with states and the broader IT community to allow for more standardization across the program.

Response: We agree with the commenter's concern around integrated eligibility roadmap; however, it is better addressed via subregulatory guidance. We welcome a dialogue with vendors and states regarding an effective approach to standardization across the program as we develop that guidance.

Comment: A commenter noted that we should consider enhanced FFP for Organizational Change Management and related activities.

Response: We appreciate the comment; however Organizational Change Management is out of the scope of this final rule.

Comment: One commenter suggested those counties that provide direct services to Medicaid beneficiaries should be allowed to apply directly for FFP for enhancements to E&E systems.

Response: We acknowledge the suggestion; however FFP is only available to the single state agency that has oversight for implementation of the Medicaid program.

Comment: A commenter expressed concern that by requiring systems to use industry standards adopted by ONC, in addition to those standards already specified for Medicaid MMIS and E&E systems, this increases the standards applied to State systems and the States' responsibility in monitoring and adapting to these additional standards. The commenter requests that CMS take a leadership role to assure that states have appropriate notice and response time to give input on ONC proposed industry standards. One commenter asked whether CMS, as the certifying agency, will represent the State Medicaid Agencies on standards proposed by ONC.

Response: We acknowledge the state's concern with regard to industry standards. We will consider ways to improve communication of states' concerns for new standards from ONC. While we do not believe it is our role to represent states in national standards

development processes, we do believe it is our role to support all partners, including states, in considering appropriate standards for widespread adoption.

Comment: CMS was urged to develop and test innovative models that are modular and to prioritize critical requirements and functionality that will deliver features for customers.

Response: We agree with this suggestion and will discuss further with states and stakeholders, however it is not necessary to address it in the final regulation.

Comment: Some commenters expressed concurrence that state Medicaid systems must support seamless operational coordination and integration not only with the marketplaces, but also with community organizations providing outreach and enrollment assistance services. One commenter recommended a prioritized list of “modifications to further improve interaction and alignment between state Medicaid agencies and the Exchange program”. Additionally, this commenter placed importance on aligning and streamlining eligibility policies and encouraged CMS work with states and vendors to explore a variety of communications.

Response: We concur with the supportive comments and reviewed the prioritized list of “modifications to further improve interaction and alignment between state Medicaid agencies and the Exchange program”. We welcome a dialogue with vendors and states regarding aligning and streamlining eligibility policies.

Comment: A commenter recommended adding a definition for “seamless coordination and integration”. One commenter inquired if the definition in the context of proposed rule will include the coordination and integration with the Marketplace, the FDSH, as well as interoperability with health information exchanges, public health agencies, human services programs and community organizations providing outreach and enrollment assistance as applicable.

Response: We welcome a dialogue with vendors and states regarding the definition for “seamless coordination and integration” and will reflect outcomes in subregulatory guidance, as described above.

Comment: One commenter suggested CMS adopt similar strategy as the Innovation Center’s strategy to develop and test innovation models.

Response: We appreciate the comment to adopt a similar strategy as the Innovation Center’s strategy to develop and test innovation models.

Although, this comment is out of the scope of this final rule, we believe this idea is valuable and we will take this strategy under consideration.

Comment: Several commenters expressed concern that the growth in the number of beneficiaries, as well as the increased need to communicate personal information between parties, will inevitably lead to increased misuse of beneficiary identities, for health care purposes as well as non-healthcare purposes. Further, they expressed that the use of the Social Security number as the primary identifier among stakeholders such as hospitals, medical practices, and Managed Medicaid beneficiaries will continue to be used as identification.

Response: We have received several comments about improving privacy and security processes to reduce Medicaid fraud and prevent identity theft of Medicaid beneficiaries. We appreciate the commenter’s recommendation of implementing a HealthCare ID; however, this recommendation is outside of the scope of this final rule. If we decide to implement a HealthCare ID, we will address this in subregulatory guidance.

Comment: A few commenters suggested that states should consider modifying their single streamlined application to include questions to determine an individual’s MSP eligibility. One commenter recommended enhancements to state E&E systems regarding MSP determinations and renewals, including the ability to apply online, automatic eligibility determinations, enhancing notices, and minimizing human error to avoid incorrect determinations of eligibility at renewal. Another commenter urged CMS to identify more straight forward paths to using MAGI methodology to simplify the ABD application process.

Response: We consider these comments to be outside of the scope of this rule, however, we will take these comments into consideration.

Comment: One commenter requested CMS clarification regarding the waiver requirements for § 435.949 connecting to the FDSH for verification.

Response: Although this is outside of the scope of this rule, we will take this into consideration.

Comments: One comment requested that enhancements that are interfaces to existing state E&E systems and other data systems should be prioritized for FFP, as these enhancements have the flexibility to span multiple data sets to improve direct service delivery.

Response: We appreciate this suggestion; however, we consider this

comment to be outside the scope of the proposed rule, and therefore, will not address it in this final rule.

Comment: A commenter recommended that those states who are still using paper fax machines switch over to an electronic fax system.

Response: We appreciate the comment; however, it is outside the scope of the proposed rule, and therefore, is not addressed in this final rule.

B. Technical Changes to 42 CFR Part 433, Subpart C—Mechanized Claims Processing and Information Retrieval Systems

We solicited comments concerning the following proposed technical changes:

- § 433.110(a)(1) referred to “45 CFR part 74”. Our proposed rule replaced this citation with, “45 CFR part 92”. This final rule corrects § 433.110(a)(1) to refer to “45 CFR part 75”.

- Due to a drafting error in the April 19, 2011 rule, § 433.110(a)(2) is followed by paragraphs (ii) and (iii) which are unrelated to (a)(2). The intent of the 2011 rule was to remove these paragraphs along with the requirement for a triennial review of an MMIS. In this final rule paragraphs (ii) and (iii) are removed from § 433.110(a)(2).

- § 433.110 is amended to remove paragraph (b) because the statutory waiver authority upon which this provision was based was deleted in the Balanced Budget Act of 1997, Public Law 105–33, sec. 4753.

- § 433.116(c) referenced the conditions (1) through (16) under § 433.112(b). Since new conditions have been added to § 433.112(b) we updated § 433.116(c) to reference the conditions (1) through (22) under § 433.112(b).

- § 433.119 required compliance with § 433.112(b)(1), (3), (4), and (7) through (16). This final rule reflects the newly added conditions at § 433.112(b)(1) through (22).

We received no comments on these technical corrections to part 433 and are finalizing these as proposed.

C. Changes to 45 CFR Part 95—General Administration—Grant Programs, Subpart F

In the final rule titled “State Systems Advance Planning Document (APD) Process”, (75 FR 66319, October 28, 2010), § 95.611 was modified to include an acquisition threshold for prior approval of the state costs at the regular matching rate but noted that equipment or services at the enhanced matching rate necessitated prior approval regardless of the cost. We proposed to amend § 95.611 to align all Medicaid IT

requirements with existing policy for MMIS regarding prior approvals, such that what is currently acceptable for regular match would be acceptable for enhanced match as well. We proposed that if there is already an approved APD, prior approval will be required in order for the state to release acquisition solicitation documents or execute contracts when the contract is anticipated to or will exceed \$500,000. For all Medicaid IT acquisition documents, an exemption from prior federal approval shall be assumed in the approval of an APD provided that: The acquisition summary provides sufficient detail to base an exemption request; the acquisition does not deviate from the terms of the exemption; and, the acquisition is not the initial acquisition for a high risk activity, such as software application development. All acquisitions must comply with the federal provisions contained in § 95.610(c)(1)(viii) and (c)(2)(vi) or submit an Acquisition Checklist for prior approval.

For noncompetitive acquisitions, including contract amendments, when the resulting contract is anticipated to exceed \$1,000,000, the state will be required to submit a sole source justification in addition to the acquisition document. The sole source justification can be provided as part of the APD.

If the state does not opt for an exemption or submittal of an Acquisition Checklist for the contract, prior to the execution, the state will be required to submit the contract when it is anticipated to exceed the following thresholds, unless specifically exempted by CMS: Software application development—\$6,000,000 or more (competitive) and \$1,000,000 or more (noncompetitive); Hardware and COTS software—\$20,000,000 or more (competitive) and \$1,000,000 or more (noncompetitive); Operations and Software Maintenance acquisitions combined with hardware, COTS or software application development—the thresholds stated in § 95.611(b)(1)(v)(A) and (B) apply.

For contract amendments within the scope of the base contract, unless specifically exempted by the Department, prior to execution of the contract amendment involving contract cost increases which cumulatively exceed 20 percent of the base contract cost.

The following is a summary of the comments we received regarding the proposed changes to part 95.

Comment: We received several comments commending CMS for aligning the acquisition thresholds for

E&E systems to that of the MMIS. One commenter conveyed their commitment to work with our Federal partners in ACF and the USDA, Food and Nutrition Services who oversee the Supplemental Nutrition Assistance Program (SNAP) to clarify the acquisition costs and thresholds for all benefiting programs in support of an integrated E&E system.

Response: We concur with the supportive comments and we are pleased with the expressed commitment to work with our federal partners.

Comment: A commenter asked, regarding prior approval requirements, if the \$500,000 threshold is for a specific piece of work that is part of a larger project, or if the threshold applies when the \$500,000 is met in the aggregate.

Response: The \$500,000 threshold is for a specific procurement, or contract action and is not an aggregate.

Comment: A commenter asked CMS to confirm that the prior federal approval exemption can be applied to projects under enhanced funding and for clarity on the requirement to provide “sufficient detail to base an exemption request” in the APD acquisition summary. The commenter also requested clarification on whether or not contract amendments based on an approved initial acquisition contract can qualify for the prior federal approval exemption.

Response: We believe that existing regulation at § 95.610 already provides sufficient detail stating that for all Medicaid IT acquisition documents, an exemption from prior federal approval, including enhanced funding, shall be assumed in the approval of an APD provided that the acquisition summary provides sufficient detail to base an exemption request; the acquisition does not deviate from the terms of the exemption; and, the acquisition is not the initial acquisition for a high risk activity, such as software application development. All acquisitions must comply with the federal provisions contained in § 95.610(c)(1)(viii) and (c)(2)(vi) or submit an Acquisition Checklist for prior approval.

In addition, we proposed to amend § 95.611(a)(2) by removing the reference to 45 CFR 1355.52. This paragraph provides prior approval requirements when states plan to acquire ADP equipment or services with FFP at an enhanced matching rate for the Title IV–D, IV–E, and XIX programs, regardless of acquisition costs. We proposed to delete the reference to the Title IV–E regulation, 45 CFR 1355.52 because enhanced funding for information systems supporting the Title IV–E program expired in 1997.

We received no comments in response to our technical amendment to § 95.611 and will finalize as proposed.

IV. Provisions of the Final Regulations

For the most part, this final rule incorporates the provisions of the proposed rule. Those provisions of this final rule that differ from the proposed rule are as follows:

- In § 433.110 of the proposed rule, we inadvertently proposed to remove and reserve paragraph (b). Therefore, in this final rule, we are not finalizing this change.
- In § 433.111(b), we expanded the definition of mechanized claims processing and information retrieval system to include language consistent with the concept of modularity and to elaborate on the functionalities included in such systems. We included in the revised definition a concept of “System of systems”, to emphasize that such a system may consist of multiple, interoperable subsystems, or modules to support MMIS and E&E. Note that in this final rule the words “subsystem” and “module” have the same meaning.
- In § 433.111(b), we deleted “non-proprietary” to remove this limitation from the description of Mechanized Claims Processing and Information Retrieval System modules.
- In § 433.111(b)(1)(i) through (iii), we substituted the word “module(s)” for “subsystem(s)” to be consistent with our modular approach.
- In § 433.111(b)(2)(i), we added clarifying language to indicate that E&E systems are used to determine eligibility for enrollment.
- In § 433.111(b)(2)(ii), we added language to clarify that MMIS are used to perform other management and administrative functions, to reference the MMIS Certification Toolkit, and to clarify that this is applicable in fee for service, managed care and ASO environments.
- In § 433.111(f), we added a definition of “Service.”
- In § 433.111(g), we slightly altered the definition of “shared service” to clarify that such services are available to other entities, including states, for use, and may include SaaS.
- In § 433.111(h), we replaced “MMIS Module” with the term “module” to broaden the meaning to apply to either MMIS or E&E.
- In § 433.111(i), we deleted the sentence that excluded software developed for public assistance programs from the definition of COTS software, to permit their inclusion, if appropriate.
- In § 433.111(j), we have added a definition of SaaS.

- In § 433.112(b)(19), we added that key state personnel must be identified by name.

- In § 433.112(b)(20), we struck “MMIS” to make the condition more broadly applicable to both MMIS and E&E.

- In § 433.112(b)(21), we struck “MMIS” to make the condition more broadly applicable to both MMIS and E&E.

- In § 433.116(j), we modified this paragraph to remove the compliance date of December 31, 2015.

V. Collection of Information Requirements

While this rule sets out information collection requirements, the rule does not contain any new or revised reporting, recordkeeping, or third-party disclosure requirements. Consequently, the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) and its implementing regulations (5 CFR part 1320) do not apply.

VI. Regulatory Impact Analysis

A. Statement of Need

Experience with the Affordable Care Act implementation has shown that Medicaid eligibility policies and business processes benefit from continued updating and strengthening. System transformations are needed to apply new rules to adjudicate eligibility for the program; enroll millions of newly eligible individuals through multiple channels; renew eligibility for existing enrollees; operate seamlessly with the Health Insurance Marketplaces (“Marketplaces”); participate in a system to verify information from applicants electronically; incorporate a streamlined application used to apply for multiple sources of coverage and financial assistance; and produce notices and communications to applicants and beneficiaries concerning the process, outcomes, and their rights to dispute or appeal.

We wish to ensure that our technology investments result in a high degree of interaction and interoperability to maximize value and minimize burden and costs on providers and beneficiaries. Thus, we are committed to providing ongoing 90 percent FFP for DDI or 75 percent FFP for M&Os of such systems. We have provided that states must commit to a set of standards and conditions to receive the enhanced FFP. This enhanced FFP reduces the financial burden on states to 10 percent of the costs compared to the 50 percent financial burden currently in place and

ensures that states continue to utilize current technology development and deployment practices and produce reliable business outputs and outcomes.

B. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (January 18, 2011), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Section 3(f) of Executive Order 12866 defines a “significant regulatory action” as an action that is likely to result in a rule: (1) Having an annual effect on the economy of \$100 million or more in any 1 year, or adversely and materially affecting a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local or tribal governments or communities (also referred to as “economically significant”); (2) creating a serious inconsistency or otherwise interfering with an action taken or planned by another agency; (3) materially altering the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) raising novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in the Executive Order.

A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). We estimate that this rulemaking is “economically significant” as measured by the \$100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the rulemaking.

C. Anticipated Effects

1. While it is difficult to predict state behavior, we believe all states will comply with the standards and conditions in this regulation to receive the 90 percent FFP, and have assumed that for the purpose of these estimates.

To meet the requirements of the Affordable Care Act, states, the District of Columbia and the U.S. Territories must build new E&E systems or modernize existing E&E systems. Most states have added new functionalities to interface with the Marketplaces and implemented new adaptability standards and conditions (such as incorporation of mandated eligibility categories).

There are currently 9 states that have relatively new E&E systems and do not need replacement of whole systems, but are instead making modular improvements and upgrades. We assumed that the cost per state for the 9 states improving rather than replacing systems would be \$3.8 million on average, for a total of \$34 million FFP. For these 9 states, we believe upgrades would occur even in the absence of this rule, during the initial 5 years of enhanced funding. We believe that most states have not had sufficient time to complete the total system replacement for both MAGI and non-MAGI eligibility functionality, as we believe that new system builds will take 4–6 years. We assume that an additional 19 states will retire their legacy E&E systems with ongoing 90 percent FFP for design and development within 2–3 years. We estimated that the average cost savings for each state will be \$16.6 million per year. We expect all 19 states to eliminate their legacy E&E systems by 2019; therefore, the total cost savings by 2019 for those 19 states will be about \$368 million. Based on previous spending trends, we assumed that those 9 states with new systems account for 15 percent of E&E spending and the 28 states that we anticipate retiring their legacy E&E systems by 2025 account for 55 percent of E&E spending. We believe that by eliminating 28 legacy systems, we reduce M&O costs by maintaining only one E&E system per state. Eventually, we assume that all states will replace their current E&E legacy system(s) using ongoing 90 percent FFP. We expect almost all states to eliminate their legacy E&E systems by 2025, adding about \$3 billion in cost savings. To calculate the impact of the regulation, we assumed that new E&E systems on average would cost \$50 million over 3 years for each state (\$15 million federal costs at 90 percent FFP per year).

States will see a decrease in their net state share due to the enhanced federal match for eligibility systems and states will also realize benefits by putting in place the set of standards and

conditions articulated in this final regulation.

The state net costs from FY 2016 through 2025 for implementing the regulation on eligibility systems is approximately –\$1.1 billion. This

includes approximately \$572 million in state costs for system design and development, offset by lower anticipated M&Os costs. These costs represent only the state share.

TABLE 1—STATE NET COSTS BY FISCAL YEAR
[In millions]

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2025
E&E Systems—DDI	199	244	37	31	20	16	10	5	5	5	572
E&E Systems—M&O	(19)	(19)	(95)	(120)	(165)	(213)	(240)	(263)	(280)	(286)	(1,700)
Total	180	225	(58)	(89)	(145)	(197)	(230)	(258)	(275)	(281)	(1,128)

* Numbers in parentheses represent savings to State Governments.

Similar to the federal budget impact, we expect to see higher savings achieved by states over the 10-year budget window due to the increased savings by moving away from operating two or more systems, and replacing legacy systems.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities.

Since this rule would primarily affect states, which are not considered small entities, the Secretary has determined that this final rule will not be likely to have a significant economic impact on a substantial number of small entities. Therefore, we have not prepared a regulatory flexibility analysis.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to

the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This rule will not have a significant impact on hospitals. Therefore, the Secretary has determined that this final rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2015, that is approximately \$144 million. This rule does not mandate expenditures by the state governments, local governments, tribal governments, or the private sector. This rule provides that states can

receive enhanced FFP if states ensure that the mechanized claims processing and information retrieval systems, including those that perform eligibility determination and enrollment activities, as well as the Medicaid portion of integrated eligibility determination systems, meet with certain conditions including migrating to the MITA framework and meeting certain performance requirements. This is a voluntary activity and the rule imposes no substantial mandates on states.

2. The federal net costs from FY 2016 through 2025 of implementing the regulation on eligibility systems is approximately \$3 billion. This includes approximately \$5.1 billion in increased federal costs for system design and development, offset by lower anticipated M&Os costs. These costs represent only the federal share. Uncertainty exists because we are unsure of the rate of adoption for states to make the changes in this final rule.

TABLE 2—FEDERAL NET COSTS BY FISCAL YEAR
[In millions]

	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025	2016–2025
E&E Systems—DDI	1,788	2,192	333	277	184	143	89	47	44	44	5,141
E&E Systems—M&O	(19)	(19)	(95)	(120)	(165)	(298)	(325)	(344)	(360)	(367)	(2,112)
Total	1,769	2,173	238	157	19	(155)	(236)	(298)	(315)	(323)	3,029

* Numbers in parentheses represent savings to the Federal Government.

We considered a number of ways in which application of the standards and conditions, including increased use of MITA, could result in savings; however, as no states have yet reached MITA maturity, it is difficult to predict the savings that may accrue over any certain timeframe. These areas include the following:

- *Modular technology solutions:* As states, or groups of states, would begin to develop “modular” technology solutions, these solutions could be used by others through a “plug and play”

approach, in which pieces of a new MMIS would not need to be reinvented from scratch every time, but rather, could be incorporated into the MMIS framework.

We assume that savings associated with reusable technology could be achieved in both the development and operation of new systems.

- *Increased use of industry standards and open source technologies:* While HIPAA administrative transaction standards have existed for 8 to 10 years, use of more specific industry standards

to build new systems would allow such systems to exchange information seamlessly. We also believe that more open source technology would encourage the development of software solutions that address the needs of a variety of diverse activities—such as eligibility, member enrollment, and pharmacy analysis of drug claims. Software that is sufficiently flexible to meet different needs and perform different functions could result in cost savings, as states are able to use the

systems without making major adaptations to them.

- *Maintenance and operations:* As states continue to implement changes, the M&O costs of new systems should decrease. Less maintenance should be required than that necessary to reengineer special, highly customized systems every time there is a new regulatory or legal requirement.

- *Reengineering business processes, more web based solutions, service-oriented architecture (SOA):* Savings are likely to result from the modular design and operation of systems, combined with use of standardized business processes, as states are being compelled to rethink and streamline processes as a result of greater reliance on technology.

There are uncertainties regarding our assumptions, including state behavior, and the associated cost estimates for states implementing new systems. However, we have based our assumptions on data on states' previous behavior, spending and APDs over the last 4 years. It is important to point out that we believe that systems transformation is necessary to meet the vision of the Affordable Care Act and consequently, these costs provide for efficient systems that in the end would provide for more efficient and effective administration of the state plan.

D. Alternatives Considered

We considered as an alternative to our rule to not continue to provide

enhanced match for state eligibility systems builds after December 2015, and to not update federal standards and conditions for Medicaid IT development. We also considered an extension for a 2 or 3 year timeline but deduced that it was both insufficient for states to effectively transition out of their legacy systems and to complete human services integration in the new shared eligibility system. Furthermore, this assumes that all significant policy changes that trigger the need for IT updates were limited to those in the Affordable Care Act, however systems reforms are an on-going facet of eligibility policy with an accompanying ongoing financial burden. A limited extension would also ignore that states that already modernized and did not replace their systems starting in 2011 will eventually need to do so to maintain system integrity and modernity sometime after a 2 or 3-year extension. Absent an ongoing extension, states would receive the traditional 50 percent FFP for reasonable administrative expenditures for designing, developing, installing, or enhancing Medicaid eligibility determination systems. Similarly, states would receive 50 percent FFP for expenditures associated with the M&O of such systems. However, states would have to continue to meet the requirements of federal legislation. Since the Affordable Care Act

significantly alters Medicaid eligibility, we believe that treating E&E systems as an integral part of mechanized claims processing system and information retrieval systems is consistent with the federal statute. This would have the effect of continuing the higher federal matching rate, which would provide states additional resources to meet this challenge. In addition, the federal guidance in the form of clearer federal standards and conditions would facilitate the design, development, implementation, and operation of IT and systems projects that fully support the Medicaid program, including the new responsibilities under the Affordable Care Act. Supporting the transformation of Medicaid E&E systems through these enhanced funding and clearer federal guidelines will also reduce duplication of systems and overall system costs.

E. Accounting Statement and Table

Whenever a rule is considered a significant rule under Executive Order 12866, we are required to develop an Accounting Statement. We have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this rule. Tables 3 through 5 provide our best estimate of the net costs as a result of the changes presented in this rule.

TABLE 3—FEDERAL NET COSTS

Category	Estimates	Units		
		Year dollar	Discount rate %	Period covered
Annualized Monetized (\$million/year)	444.3	2016	7	2016–2025
	363.6	2016	3	2016–2025

TABLE 4—STATE NET COSTS

Category	Estimates	Units		
		Year dollar	Discount rate %	Period covered
Annualized Monetized (\$million/year)	– 81.2	2016	7	2016–2025
	– 99.1	2016	3	2016–2025

TABLE 5—ESTIMATED NET PRESENT VALUE OF FEDERAL COSTS, FY 2016–2025

[In millions of dollars]

	Discount rate	
	7%	3%
Federal Costs NPV	\$3,120.6	\$3,101.8

TABLE 5—ESTIMATED NET PRESENT VALUE OF FEDERAL COSTS, FY 2016–2025—Continued
[In millions of dollars]

	Discount rate	
	7%	3%
State Costs NPV	–\$570.7	–\$845.5

***Note:** The 10-year federal costs are less than the net present value of the federal costs and savings due to the pattern of projected costs and savings over the 10-year period. There are costs in the first several years of the period, followed by savings in the last several years. When the costs and savings are discounted, the savings are more heavily discounted when calculating the net present value because they occur later. Therefore, the net present values under the discount factors used here are actually greater than the 10-year net cost.

We received the following comment about this analysis:

Comment: One commenter requested CMS identify the nine states referred to as having relatively new E&E systems and the 28 states referred to as having legacy E&E systems.

Response: The nine states that have relatively new E&E systems that do not need system replacements are; Colorado, Florida, Idaho, Montana, New Mexico, North Carolina, Oklahoma, Texas, and Utah. The twenty-eight states/territories that are referred to as having a legacy E&E system that we believe will eventually retire their legacy system with ongoing 90 percent FFP are: Alabama, Alaska, American Samoa, California, Connecticut, Georgia, Guam, Illinois, Louisiana, Maine, Maryland, Massachusetts, Michigan, Nebraska, Nevada, New York, North Dakota, Ohio, Oregon, Pennsylvania, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virgin Islands, and Wyoming. We believe that the remaining states would have retired their legacy E&E systems with a 2-year 90 percent FFP extension.

F. Conclusion

We considered a number of ways in which application of the standards and conditions, including increased use of MITA, could result in savings. We see increased investments in DDI somewhat offset by lower costs over the 10-year budget window due to the increased savings to operating one E&E system and eliminating legacy systems. The costs shift from mostly 90 percent FFP for design, development, and installation to 75 percent FFP for M&Os over time.

The federal net costs from FY 2016 through 2025 of implementing the regulation on eligibility systems is approximately \$3 billion. This includes approximately \$5.1 billion in increased federal costs for system design and development, offset by lower anticipated M&Os costs. The state net costs from FY 2016 through 2025 for implementing the regulation on

eligibility systems is approximately –\$1.1 billion. This includes approximately \$572 million in state costs for system design and development, offset by lower anticipated M&Os costs.

There are uncertainties regarding our assumptions, including state behavior, and the associated cost estimates for states implementing new systems. However, we have based our assumptions on data on states' previous behavior, spending and APDs over the last 4 years. It is important to point out that we believe that systems transformation is necessary to meet the vision of the Affordable Care Act and consequently, these costs are necessary and would provide for efficient systems that in the end would provide for more efficient and effective administration of the state plan.

The analysis above, together with the remainder of this preamble, provides a Regulatory Impact Analysis. The reason to refer to other portions of the preamble is that they include sections, such as the statutory authority and purpose that are required but are not normally included in the impact analysis section.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects

42 CFR Part 433

Administrative practice and procedure, Child support, Claims, Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

45 CFR Part 95

Claims, Computer technology, Grant programs—health, Grant programs—social programs, Reporting and recordkeeping requirements, Social security.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 433—STATE FISCAL ADMINISTRATION

■ 6. The authority citation for part 433 continues to read as follows:

Authority: Section 1102 of the Social Security Act, (42 U.S.C. 1302).

§ 433.110 [Amended]

■ 2. In § 433.110, amend paragraph (a)(1) by removing the reference “45 CFR part 74” and adding in its place “45 CFR part 75”, removing paragraphs (a)(2)(ii) and (iii), and removing and reserving paragraph (b).

■ 3. Section 433.111 is amended by revising paragraph (b) and adding paragraphs (d) through (j) to read as follows:

§ 433.111 Definitions.

* * * * *

(b) “Mechanized claims processing and information retrieval system” means:

(1) “Mechanized claims processing and information retrieval system” means the system of software and/or hardware used to process claims for medical assistance and to retrieve and produce service utilization and management information required by the Medicaid single state agency and Federal government for program administration and audit purposes. It may include modules of hardware, software, and other technical capabilities that are used by the Medicaid Single State Agency to manage, monitor, and administer the Medicaid enterprise, including transaction processing, information management, and reporting and data analytics.

(2) “Mechanized claims processing and information retrieval system” includes a “System of Systems.” Under this definition all modules or systems developed to support a Medicaid Management Information System (MMIS) and Eligibility and Enrollment (E&E) may be implemented as discrete, independent, interoperable elements. Use of a System of Systems requires interoperability between the systems.

(i) The system consists of—

(A) Required modules specified by the Secretary.

(B) Required changes to the system or required module that are specified by the Secretary.

(C) Approved enhancements to the system or module.

(ii) A “Mechanized claims processing and information retrieval system” include—s—

(A) An Eligibility and Enrollment (E&E) System which is used to process applications from Medicaid or CHIP applicants and beneficiaries to determine eligibility for enrollment in the Medicaid or CHIP programs, as well as change in circumstance updates and renewals; and

(B) A Medicaid Management Information System (MMIS) which is used to process claims for Medicaid payment from providers of medical care and services furnished to beneficiaries under the medical assistance program and to perform other functions necessary for economic and efficient operations, management, monitoring, and administration of the Medicaid program. The pertinent business areas are those included in the MMIS Certification Toolkit, and they may be applicable to Fee-For-Service, Managed Care, or an Administrative Services Organization (ASO) model.

* * * * *

(d) “Open source” means software that can be used freely, changed, and shared (in modified or unmodified form) by anyone. Open source software is distributed under Open Source Initiative-approved licenses that comply with an open source framework that allows for free redistribution, provision of the source code, allowance for modifications and derived works, free and open distribution of licenses without restrictions and licenses that are technology-neutral.

(e) “Proprietary” means a closed source product licensed under exclusive legal right of the copyright holder with the intent that the licensee is given the right to use the software only under certain conditions, and restricted from other uses, such as modification, sharing, studying, redistribution, or reverse engineering.

(f) “Service” means a self-contained unit of functionality that is a discretely invokable operation. Services can be combined to provide the functionality of a large software application.

(g) “Shared Service” means the use of a service, including SaaS, by one part of an organization or group, including states, where that service is also made available to other entities of the

organization, group or states. Thus the funding and resourcing of the service is shared and the providing department effectively becomes an internal service provider.

(h) “Module” means a packaged, functional business process or set of processes implemented through software, data, and interoperable interfaces that are enabled through design principles in which functions of a complex system are partitioned into discrete, scalable, reusable components.

(i) “Commercial Off the Shelf” (COTS) software means specialized software (which could be a system, subsystem or module) designed for specific applications that is available for sale or lease to other users in the commercial marketplace, and that can be used with little or no modification.

(j) “Software-as-a-Service” (SaaS) means a software delivery model in which software is managed and licensed by its vendor-owner on a pay-for-use or subscription basis, centrally hosted, on-demand, and common to all users.

■ 4. Section 433.112 is amended by revising the section heading and paragraphs (b) introductory text, (b)(12) and (16), and (c) and adding paragraphs (b)(17) through (22) to read as follows:

§ 433.112 FFP for design, development, installation or enhancement of mechanized processing and information retrieval systems.

* * * * *

(b) CMS will approve the E&E or claims system described in an APD if certain conditions are met. The conditions that a system must meet are:

* * * * *

(12) The agency ensures alignment with, and incorporation of, industry standards adopted by the Office of the National Coordinator for Health IT in accordance with 45 CFR part 170, subpart B: The HIPAA privacy, security and transaction standards; accessibility standards established under section 508 of the Rehabilitation Act, or standards that provide greater accessibility for individuals with disabilities, and compliance with Federal civil rights laws; standards adopted by the Secretary under section 1104 of the Affordable Care Act; and standards and protocols adopted by the Secretary under section 1561 of the Affordable Care Act.

* * * * *

(16) The system supports seamless coordination and integration with the Marketplace, the Federal Data Services Hub, and allows interoperability with health information exchanges, public health agencies, human services programs, and community organizations

providing outreach and enrollment assistance services as applicable.

(17) For E&E systems, the State must have delivered acceptable MAGI-based system functionality, demonstrated by performance testing and results based on critical success factors, with limited mitigations and workarounds.

(18) The State must submit plans that contain strategies for reducing the operational consequences of failure to meet applicable requirements for all major milestones and functionality.

(19) The agency, in writing through the APD, must identify key state personnel by name, type and time commitment assigned to each project.

(20) Systems and modules developed, installed or improved with 90 percent match must include documentation of components and procedures such that the systems could be operated by a variety of contractors or other users.

(21) For software systems and modules developed, installed or improved with 90 percent match, the State must consider strategies to minimize the costs and difficulty of operating the software on alternate hardware or operating systems.

(22) Other conditions for compliance with existing statutory and regulatory requirements, issued through formal guidance procedures, determined by the Secretary to be necessary to update and ensure proper implementation of those existing requirements.

(c)(1) FFP is available at 90 percent of a State’s expenditures for the design, development, installation or enhancement of an E&E system that meets the requirements of this subpart and only for costs incurred for goods and services provided on or after April 19, 2011.

(2) Design, development, installation, or enhancement costs include costs for initial licensing of commercial off the shelf (COTS) software, and the minimum necessary costs to analyze the suitability of COTS software, install, configure and integrate the COTS software, and modify non-COTS software to ensure coordination of operations. The nature and extent of such costs must be expressly described in the approved APD.

■ 5. Section 433.116 is amended by revising paragraphs (b), (c), and (j) to read as follows:

§ 433.116 FFP for operation of mechanized claims processing and information retrieval systems.

* * * * *

(b) CMS will approve enhanced FFP for system operations if the conditions specified in paragraphs (c) through (i) of this section are met.

(c) The conditions of § 433.112(b)(1) through (22) must be met at the time of approval.

* * * * *

(j) Beginning, and no earlier than, April 19, 2011, FFP is available at 75 percent of a State's expenditures for the operation of an E&E system that meets the requirements of this subpart. FFP is not available for E&E systems that do not meet the standards and conditions.

■ 6. Section 433.119 is amended by revising paragraph (a)(1) to read as follows:

§ 433.119 Conditions for reapproval; notice of decision.

(a)* * *

(1) The system meets the requirements of § 433.112(b)(1), (3), (4), and (7) through (22).

* * * * *

■ 7. Section 433.120 is revised to read as follows:

§ 433.120 Procedures for reduction of FFP after reapproval review.

(a) If CMS determines after the reapproval review that the system no longer meets the conditions for reapproval in § 433.119, CMS may reduce FFP for certain expenditures for system operations.

(b) CMS may reduce FFP from 75 percent to 50 percent for expenditures related to the operations of non-compliant functionality or system components.

For the reasons set forth in the preamble, the Department of Health and Human Services amends 45 CFR part 95 as set forth below:

PART 95—GENERAL ADMINISTRATION—GRANT PROGRAMS (PUBLIC ASSISTANCE, MEDICAL ASSISTANCE AND STATE CHILDREN'S HEALTH INSURANCE PROGRAMS)

■ 8. The authority citation for part 95 continues to read as follows:

Authority: 5 U.S.C 301, 42 U.S.C. 622(b), 629b(a), 652(a), 652(d), 654A, 671(a), 1302, and 1396a(a).

■ 9. Section 95.611 is amended by revising paragraph (a)(2) to read as follows:

§ 95.611 Prior approval conditions.

(a)* * *

(2) A State must obtain prior approval from the Department which is reflected in a record, as specified in paragraph (b) of this section, when the State plans to acquire ADP equipment or services with proposed FFP at the enhanced matching rate subject to one of the following:

(i) If authorized by § 205.35 of this title and part 307 of this title, regardless of the acquisition cost.

(ii) If authorized by 42 CFR part 433, subpart C, if the contract is anticipated to or will exceed \$500,000.

* * * * *

Dated: November 16, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: November 18, 2015.

Sylvia M. Burwell,

Secretary, Department of Health and Human Services.

[FR Doc. 2015–30591 Filed 12–3–15; 8:45 am]

BILLING CODE 4120–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 1852

NASA Federal Acquisition Regulation Supplement

AGENCY: National Aeronautics and Space Administration.

ACTION: Technical amendments.

SUMMARY: NASA is making technical amendments to the NASA FAR Supplement (NFS) to provide needed editorial changes.

DATES: *Effective:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Manuel Quinones, NASA, Office of Procurement, Contract and Grant Policy Division, via email at manuel.quinones@nasa.gov, or telephone (202) 358–2143.

SUPPLEMENTARY INFORMATION:

I. Background

As part NASA's retrospective review of existing regulations pursuant to section 6 of Executive Order 13563, Improving Regulation and Regulatory Review, NASA conducted a review of its regulations and published a final rule in the **Federal Register** on March 12, 2015 (80 FR 12946). As published, this rule contains errors due to inadvertent omissions. A summary of changes follows:

- Section 1852.217–71 is revised to correct the clause date from “MAY 2000” to “APR 2015.”

- Section 1852.233–70 is revised to correct the zip code and the provision date.

List of Subject in 48 CFR Part 1852

Government procurement.

Manuel Quinones,

NASA FAR Supplement Manager.

Accordingly, 48 CFR part 1852 is amended as follows:

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 1. The authority citation for part 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

1852.217–71 [Amended]

■ 2. Amend section 1852.217–71 by removing “MAY 2000” and adding “APR 2015” in its place.

1852.233–70 [Amended]

■ 3. Amend section 1852.233–70 by—
 ■ a. Removing “JUL 2015” and adding “DEC 2015” in its place; and
 ■ b. In paragraph (c), removing “20456–001” and adding “20546–001” in its place.

[FR Doc. 2015–30689 Filed 12–3–15; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 141021887–5172–02]

RIN 0648–XE337

Fisheries of the Exclusive Economic Zone Off Alaska; Sculpins in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sculpins in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary because the 2015 initial total allowable catch of sculpins in the BSAI has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), December 1, 2015, through 2400 hrs, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone

according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands management area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2015 initial total allowable catch (TAC) for sculpins in the BSAI is 3,995 metric tons as established by the final 2015 and 2016 harvest specifications for groundfish of the BSAI (80 FR 11919, March 5, 2015).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2015 initial TAC of sculpins in the BSAI has been reached.

Therefore, NMFS is requiring that sculpins caught in the BSAI be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of sculpins in the BSAI. NMFS was unable

to publish a notice providing time for public comment because the most recent, relevant data only became available as of November 30, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: December 1, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015-30651 Filed 12-1-15; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 80, No. 233

Friday, December 4, 2015

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

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2008-0931; FRL-9939-29-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Attainment Demonstration for the Baltimore 8-Hour Ozone Moderate Nonattainment Area; Withdrawal of Proposed Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Withdrawal of proposed rule.

SUMMARY: The EPA is withdrawing its proposed rule to disapprove Maryland's June 4, 2007 ozone attainment demonstration for the Baltimore Area. This withdrawal action is being taken under section 110 of the CAA.

DATES: The proposed rule published on May 8, 2009 (74 FR 21594), regarding the ozone attainment demonstration portion of Maryland's June 4, 2007 comprehensive SIP revision request for the Baltimore Area, is withdrawn as of December 4, 2015.

ADDRESSES: EPA has established docket number EPA-R03-OAR-2008-0931 for this action. The index to the docket is available electronically at <http://www.regulations.gov> and in hard copy at Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

FOR FURTHER INFORMATION CONTACT: Maria A. Pino, 215-814-2181, or by email at pino.maria@epa.gov.

SUPPLEMENTARY INFORMATION: On May 8, 2009 (74 FR 21594), EPA published a proposed rule to disapprove the ozone attainment demonstration portion of a comprehensive State Implementation Plan (SIP) revision request submitted by the State of Maryland on June 4, 2007 to meet the Clean Air Act (CAA) requirements for attaining the 1997 8-hour ozone National Ambient Air Quality Standard (NAAQS) for the

Baltimore moderate nonattainment area (Baltimore Area). On May 26, 2015 (80 FR 29970), EPA determined that the Baltimore Area attained the 1997 8-hour ozone NAAQS, thereby suspending the area's obligations to submit an attainment demonstration and other planning requirements related to attainment of the 1997 8-hour ozone NAAQS for as long as the area continues to attain the standard. On October 20, 2015, the State of Maryland withdrew the attainment demonstration (including modeling and weight of evidence), 2009 attainment year inventory, contingency measures for attainment, and 2009 transportation conformity budgets contained in Maryland's June 4, 2007 SIP revision request.

List of Subjects in 40 CFR Part 52

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

Dated: November 10, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2015-30100 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R03-OAR-2015-0750; FRL- 9939-65-Region 3]

Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Interstate Pollution Transport Requirements for the 2010 Nitrogen Dioxide Standard

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a State Implementation Plan (SIP) revision submitted by the District of Columbia (the District). This revision pertains to the infrastructure requirement for interstate transport pollution with respect to the 2010 nitrogen dioxide (NO₂) National Ambient Air Quality Standards (NAAQS). This action is being taken under the Clean Air Act (CAA).

DATES: Written comments must be received on or before January 4, 2016.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA-R03-OAR-2015-0750 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-2015-0750
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-2015-0750. 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 in www.regulations.gov or may be viewed 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 District of Columbia Department of Energy and Environment, Air Quality Division, 1200 1st Street NE., 5th floor, Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT:

Emlyn Velez-Rosa, (215) 814-2038, or by email at velez-rosa.emlyn@epa.gov.

SUPPLEMENTARY INFORMATION: On June 6, 2014, the District Department of Energy and the Environment (DDOEE) submitted a SIP revision addressing the infrastructure requirements for the 2010 NO₂ NAAQS.

I. Background

A. General

Whenever new or revised NAAQS are promulgated, the CAA requires states to submit a plan for the implementation, maintenance, and enforcement of such NAAQS. The plan is required to address basic program elements, including, but not limited to, regulatory structure, monitoring, modeling, legal authority, and adequate resources necessary to assure attainment and maintenance of the standards. These elements are referred to as infrastructure requirements.

On February 9, 2010 (75 FR 6474), EPA established a new 1-hour primary NAAQS for NO₂ at a level of 100 parts per billion (ppb), based on a 3-year average of the 98th percentile of the yearly distribution of 1-hour daily maximum concentrations. See 40 CFR 50.11. NO₂ is a subset, and often considered an indicator, of the broader pollutant nitrogen oxides (NO_x). On February 17, 2012 (77 FR 9532), EPA published its final designations for the 2010 NO₂ NAAQS, based upon 2008–2010 design values. In this rulemaking, EPA determined that no area in the country was violating the standard, designating all the areas of the country as unclassifiable/attainment. The 2008–2010 design values reflect conditions at

the time throughout the country well below the 2010 NO₂ NAAQS, including the District and nearby states.

B. EPA's Infrastructure Requirements

Pursuant to section 110(a)(1), states must make infrastructure SIP submissions “within 3 years (or such shorter period as the Administrator may prescribe) after the promulgation of a national primary ambient air quality standard (or any revision thereof).” Infrastructure SIP submissions should provide for the “implementation, maintenance, and enforcement” of such NAAQS. The statute directly imposes on states the duty to make these SIP submissions, and the requirement to make the submissions is not conditioned upon EPA’s taking any action other than promulgating a new or revised NAAQS. Section 110(a)(2) includes a list of specific elements that “[e]ach such plan” submission must address.

Historically, EPA has elected to use guidance documents to make recommendations to states for infrastructure SIPs, in some cases conveying needed interpretations on newly arising issues and in some cases conveying interpretations that have already been developed and applied to individual SIP submissions for particular elements. EPA most recently issued guidance for infrastructure SIPs on September 13, 2013 (2013 Infrastructure Guidance).¹ EPA developed this document to provide states with up-to-date guidance for infrastructure SIPs for any new or revised NAAQS. Within this guidance, EPA describes the duty of states to make infrastructure SIP submissions to meet basic structural SIP requirements within three years of promulgation of a new or revised NAAQS. EPA also made recommendations about many specific subsections of section 110(a)(2) that are relevant in the context of infrastructure SIP submissions. The guidance also discusses the substantively important issues that are germane to certain subsections of section 110(a)(2).² EPA

¹ “Guidance on Infrastructure State Implementation Plan (SIP) Elements under Clean Air Act Sections 110(a)(1) and 110(a)(2),” Memorandum from Stephen D. Page, September 13, 2013. This guidance is available online at http://www.epa.gov/oar/urbanair/sipstatus/docs/Guidance_on_Infrastructure_SIP_Elements_Multipollutant_FINAL_Sept_2013.pdf.

² On September 25, 2009, EPA issued “Guidance on SIP Elements Required Under Sections 110(a)(1) and (2) for the 2006 24-Hour Fine Particle (PM_{2.5}) National Ambient Air Quality Standards (NAAQS),” Memorandum from William T. Hartnett, Director, Air Quality Policy Division. This guidance provided that each state’s SIP submission for the 2006 24-hour PM_{2.5} NAAQS must discuss whether emissions from the state significantly contribute to

interprets section 110(a)(1) and (2) such that infrastructure SIP submissions need to address certain issues and need not address others. Accordingly, EPA reviews each infrastructure SIP submission for compliance with the applicable statutory provisions of section 110(a)(2), as appropriate.

Additionally, EPA has provided in previous rulemaking actions a detailed discussion of the Agency’s approach in reviewing infrastructure SIPs, including the Agency’s longstanding interpretation of requirements for section 110(a)(1) and (2), the interpretation that the CAA allows states to make multiple SIP submissions separately addressing infrastructure SIP elements in section 110(a)(2) for a specific NAAQS, and the interpretation that EPA has the ability to act on separate elements of 110(a)(2) for a NAAQS in separate rulemaking actions.³

C. Interstate Pollution Transport Requirements

Section 110(a)(2)(D)(i)(I) of the CAA requires state SIPs to address any emissions activity in one state that contributes significantly to nonattainment, or interferes with maintenance, of the NAAQS in any downwind state. EPA sometimes refers to these requirements as prong 1 (significant contribution to nonattainment) and prong 2 (interference with maintenance), or conjointly as the “good neighbor” provision of the CAA. Specifically, section 110(a)(2)(D)(i)(I) requires the elimination of upwind state emissions that significantly contribute to nonattainment or interference with maintenance of the NAAQS in another state.

II. Summary of SIP Revisions

On June 6, 2014, the District through DDOEE submitted a revision to its SIP to satisfy the infrastructure requirements of section 110(a)(2) of the CAA for the 2010 NO₂ NAAQS, including section 110(a)(2)(D)(i)(I), pertaining to interstate transport requirements. On April 13, 2015 (80 FR 19538), EPA approved the District’s infrastructure SIP submittal for the 2010 NO₂ NAAQS for all applicable elements

nonattainment of the NAAQS or interference with maintenance of the NAAQS in any other state and must address any such impact. This guidance is available online at http://www.epa.gov/ttn/caaa/t1/memoranda/20090925_hartnett_pm25_sip_110a12.pdf.

³ See 80 FR 2865 (January 21, 2015) (EPA’s rulemaking action proposing approval of portions of the District’s infrastructure SIP submissions for the 2008 ozone NAAQS and the 2010 NO₂ and sulfur dioxide (SO₂) NAAQS).

of section 110(a)(2) with the exception of 110(a)(2)(D)(i)(I).⁴ This rulemaking action is addressing the portions of the District's infrastructure submittal for the 2010 NO₂ NAAQS that pertain to transport requirements.⁵

The District's June 6, 2014 transport submittal includes emissions inventory and air quality data that concludes that the District does not have sources that can contribute to nonattainment in, or interfere with maintenance by, any other state with respect to the 2010 NO₂ NAAQS. Currently available air quality monitoring data included in the submittal confirms that NO₂ levels continue to be well below the 2010 NO₂ NAAQS in the District and in any areas surrounding or bordering the District.⁶ Additionally, the District describes existing SIP-approved measures and other Federally-enforceable source-specific measures, pursuant to permitting requirements under the CAA, that apply to NO_x sources within the District. EPA finds that the District's existing SIP provisions, as identified in the submittal, are adequate to prevent its emission sources from significantly contributing to nonattainment or interfering with maintenance in another state with respect to the 2010 NO₂ NAAQS. In light of these measures, EPA does not expect NO_x emissions in the District to increase significantly, and therefore does not expect monitors in the District and nearby states, all currently measuring NO₂ concentrations well below the 2010 NO₂ NAAQS, to have difficulty continuing to attain or maintaining attainment of the NAAQS. A detailed summary of EPA's review and rationale for proposing approval of this SIP revision as meeting section 110(a)(2)(D)(i)(I) of the CAA for the 2010 NO₂ ozone NAAQS may be found in the Technical Support Document (TSD) for this rulemaking action, which is available online at www.regulations.gov, Docket number EPA-R03-OAR-2015-0750.

⁴ In this final rulemaking action, EPA also approved the District's infrastructure SIPs for the 2008 ozone and 2010 SO₂ NAAQS with the exception of the transport elements in 110(a)(2)(D)(i)(I).

⁵ For EPA's explanation of its ability to act on discrete elements of section 110(a)(2), see EPA's proposed rulemaking action regarding approval of portions of the District's infrastructure SIP submittals for the 2008 ozone NAAQS and the 2010 NO₂ and SO₂ NAAQS; 80 FR 2865 (January 21, 2015).

⁶ The District's June 6, 2014 submittal included recent air quality monitoring data for the states surrounding or bordering the District within a 50 kilometer radius, which are Maryland and Virginia. The 50 kilometers radius is the standard distance for modeling analysis in EPA's Guideline on Air Quality Models (Appendix W to 40 CFR part 51).

III. Proposed Action

EPA is proposing to approve the portions of the District's June 6, 2014 SIP revision addressing interstate transport for the 2010 NO₂ NAAQS for purposes of meeting section 110(a)(2)(D)(i)(I) requirements with respect to this NAAQS. EPA is soliciting public comments on the issues discussed in this document. These comments will be considered before taking final action.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the 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 proposed action:

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

health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule, addressing the District's interstate transport requirements under the CAA for the 2010 NO₂ NAAQS, does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the state, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide.

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

Dated: November 23, 2015.

Shawn M. Garvin,

Regional Administrator, Region III.

[FR Doc. 2015-30685 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

LEGAL SERVICES CORPORATION

45 CFR Parts 1604, 1609, 1611, 1614, 1626, and 1635

Outside Practice of Law; Fee-Generating Cases; Financial Eligibility; Private Attorney Involvement; Restrictions on Legal Assistance to Aliens; Timekeeping Requirement

AGENCY: Legal Services Corporation.

ACTION: Notice of proposed changes and request for comments.

SUMMARY: The Legal Services Corporation ("LSC") Office of Inspector General ("OIG") intends to revise the Compliance Supplement for Audits of LSC Recipients for the fiscal year ending December 31, 2015, and thereafter and is soliciting public comment on the proposed changes. The proposed revisions primarily affect certain regulatory requirements to be audited pursuant to LSC regulations. In addition, the LSC OIG is proposing to include for audit certain regulatory requirements which impact recipient staff's involvement in the outside practice of law. Finally, suggested audit procedures for several regulations have been updated and revised for clarification and simplification purposes.

DATES: All comments and recommendations must be received by January 4, 2016.

ADDRESSES: The proposed LSC OIG Compliance Supplement for Audits of LSC Recipients is available at https://www.oig.lsc.gov/images/pdfs/ipa_resources/DRAFT_2015_Compliance_Supplement_for_Audits_of_LSC_Recipients.pdf.

You may submit comments by any of the following methods:

- *Email:* aramirez@oig.lsc.gov.
 - *Fax:* (202) 337-6616.
 - *Mail:* Legal Services Corporation Office of Inspector General, 3333 K Street NW., Washington, DC 20007.
- Instructions:* All comments should be addressed to Anthony M. Ramirez, Office of the Inspector General, Legal Services Corporation. Include "2015 Compliance Supplement" as the heading or subject line for all comments submitted.

FOR FURTHER INFORMATION CONTACT: Anthony M. Ramirez, aramirez@oig.lsc.gov, (202) 295-1668.

SUPPLEMENTARY INFORMATION: The purpose of the Compliance Supplement for Audits of LSC Recipients is to set forth the LSC regulatory requirements to be audited by the Independent Public Accountants ("IPA") as part of the recipients' annual financial statement audit and to provide suggested guidance

to the IPAs in accomplishing this task. Pursuant to 45 CFR part 1641, IPAs are subject to suspension, removal, and/or debarment for not following OIG audit guidance as set out in the Compliance Supplement for Audits of LSC Recipients. Since the last revision of the LSC OIG's Compliance Supplement for Audits of LSC Recipients, LSC has significantly revised and updated several regulations. These revisions and updates, including the corresponding changes to suggested audit guidance provided to the IPAs, must be reflected accurately in the Compliance Supplement for Audits of LSC Recipients. A summary of the proposed changes follows.

The LSC OIG has included regulatory requirements under 45 CFR part 1604 in the Compliance Supplement for Audits of LSC Recipients. The proposed inclusion sets forth the requirements dealing with the permissibility of recipient staff engaged in the outside practice of law. We have proposed suggested audit guidance for use by the IPAs.

The LSC OIG made major revisions to several regulatory summaries to reflect LSC's revisions to its regulations. Revised summaries include those for 45

CFR parts 1609 (fee generating cases); 1611 (eligibility); 1614 (private attorney involvement); 1626 (restrictions on legal assistance to aliens); and to a lesser extent, 1635 (timekeeping requirement). Other summaries contain relatively minor revisions. The proposed summaries follow the existing law and LSC regulations. The proposed suggested audit procedures for each of these sections have been revised and updated to incorporate and take into consideration the regulatory changes.

The LSC OIG proposes to revise the case sampling methodology by reducing criteria utilized in the case selection process. The proposed changes are intended to clarify and simplify the process.

The LSC OIG proposes to update and revise suggested audit procedures for the regulations. The proposed updates and revisions are intended for clarification and simplification purposes and to provide added emphasis on internal controls.

Dated: December 1, 2015.

Stefanie K. Davis,
Assistant General Counsel.

[FR Doc. 2015-30643 Filed 12-3-15; 8:45 am]

BILLING CODE 7050-01-P

Notices

Federal Register

Vol. 80, No. 233

Friday, December 4, 2015

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. APHIS-2015-0055]

Concurrence With OIE Risk Designations for Bovine Spongiform Encephalopathy

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public of our preliminary concurrence with the World Organization for Animal Health's (OIE) bovine spongiform encephalopathy (BSE) risk designations for 16 regions. The OIE recognizes these regions as being of negligible risk for BSE. We are taking this action based on our review of information supporting the OIE's risk designations for these regions.

DATES: We will consider all comments that we receive on or before February 2, 2016.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0055>.

- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS-2015-0055, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0055> or in our reading room, which is located in Room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you,

please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Roberta Morales, Senior Staff Veterinarian, Regionalization Evaluation Services, National Import Export Services, VS, APHIS, 920 Main Campus Drive, Suite 200, Raleigh, NC 27606; (919) 855-7735.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR part 92 subpart B, "Importation of Animals and Animal Products; Procedures for Requesting BSE Risk Status Classification With Regard To Bovines" (referred to below as the regulations), set forth the process by which the Animal and Plant Health Inspection Service (APHIS) classifies regions for bovine spongiform encephalopathy (BSE) risk. Section 92.5 of the regulations provides that all countries of the world are considered by APHIS to be in one of three BSE risk categories: Negligible risk, controlled risk, or undetermined risk. These risk categories are defined in § 92.1. Any region that is not classified by APHIS as presenting either negligible risk or controlled risk for BSE is considered to present an undetermined risk. The list of those regions classified by APHIS as having either negligible risk or controlled risk can be accessed on the APHIS Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml. The list can also be obtained by writing to APHIS at National Import Export Services, 4700 River Road Unit 38, Riverdale, MD 20737.

Under the regulations, APHIS may classify a region for BSE in one of two ways. One way is for countries that have not received a risk classification from the World Organization for Animal Health (OIE) to request classification by APHIS. The other way is for APHIS to concur with the classification given to a country by the OIE.

If the OIE has classified a country as either BSE negligible risk or BSE controlled risk, APHIS will seek information to support concurrence with the OIE classification. This information may be publicly available information, or APHIS may request that countries supply the same information given to the OIE. APHIS will announce in the **Federal Register**, subject to public comment, its intent to concur with an OIE classification.

In accordance with this process, we are giving notice in this document that APHIS intends to concur with the OIE risk classifications of the following countries:

- *Regions of negligible risk for BSE:* Bulgaria, Cyprus, Czech Republic, Estonia, France, Hungary, India, Korea (Republic of), Latvia, Liechtenstein, Luxembourg, Malta, Portugal, Romania, Slovakia, and Switzerland.

The OIE recommendations regarding each of the above countries can be viewed at <http://www.oie.int/animal-health-in-the-world/official-disease-status/bse/list-of-bse-risk-status/>.

The conclusions of the OIE scientific commission for these countries can be viewed at:

Bulgaria: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 86).

Cyprus: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf (page 108).

Czech Republic: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf (page 109).

Estonia: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 89).

France: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf (page 110).

Hungary: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 90).

India: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_march2010_public.pdf (page 9).

Korea (Republic of): http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 91).

Latvia: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 92).

Liechtenstein: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf (page 112).

Luxembourg: http://www.oie.int/fileadmin/Home/eng/InternationalStandardSetting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf

Standard Setting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 94).

Malta: http://www.oie.int/fileadmin/Home/eng/Internationala_Standard_Setting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 95).

Portugal: http://www.oie.int/fileadmin/Home/eng/Internationala_Standard_Setting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 96).

Romania: http://www.oie.int/fileadmin/Home/eng/Internationala_Standard_Setting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 97).

Slovakia: http://www.oie.int/fileadmin/Home/eng/Internationala_Standard_Setting/docs/pdf/SCAD/A_SCAD_Feb2014.pdf (page 98).

Switzerland: http://www.oie.int/fileadmin/Home/eng/Internationala_Standard_Setting/docs/pdf/SCAD/A_SCAD_Feb2015.pdf (page 114).

After reviewing any comments we receive, we will announce our final determination regarding the BSE classification of these countries in the **Federal Register**, along with a discussion of and response to pertinent issues raised by commenters. If APHIS recognizes a country as negligible risk for BSE, the Agency will include that country in a list of regions of negligible risk for BSE that is available to the public on the Agency's Web site at http://www.aphis.usda.gov/import_export/animals/animal_disease_status.shtml.

Authority: 7 U.S.C. 1622 and 8301–8317; 21 U.S.C. 136 and 136a; 31 U.S.C. 9701; 7 CFR 2.22, 2.80, and 371.4.

Done in Washington, DC, this 30th day of November 2015.

Jere L. Dick,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2015–30667 Filed 12–3–15; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou County Resource Advisory Committee (RAC) will meet in Yreka, California. The committee is authorized under the

Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: http://cloudapps-usda-gov.force.com/FSSRS/RAC_Meeting_Page?id=a2zt00000004CyPAAU.

DATES: The meeting will be held December 14, 2015, at 4:30 p.m.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Klamath National Forest (NF) Supervisor's Office, Conference Room, 1711 South Main Street, Yreka, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Klamath NF Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Natalie Stovall, RAC Coordinator, by phone at 530–841–4411 or via email at nstovall@fs.fed.us.

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., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is:

1. Approve prior meeting notes;
2. Update on ongoing projects;
3. Public Comment Period;
4. Review meeting schedule;
5. Proposal Reviews;
6. And schedule meeting for January

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by December 7, 2015, to be scheduled on

the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Natalie Stovall RAC Coordinator, 1711 S. Main Street, Yreka, California 96097; by email to nstovall@fs.fed.us or via facsimile to 530–841–4571.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: November 23, 2015.

Christine Frisbee,

Acting Forest Supervisor.

[FR Doc. 2015–30640 Filed 12–3–15; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE
[11/24/2015 through 11/30/2015]

Firm name	Firm address	Date accepted for investigation	Product(s)
Ameriline Enterprise, Inc	9509 Winona Ave., Shiller Park, IL 60176.	11/25/2015	The firm manufactures wire harnesses for military and commercial markets.
Arc-Tronics, Inc	1150 Pagni Drive, Elk Grove Village, IL 60007.	11/25/2015	The firm manufactures printed circuit boards and related cable harnesses.
CFM Consolidated, Inc	7009 45th St Ct E., Fife, WA, 98424.	11/25/2015	The firm manufactures automotive parts, does custom injection molding and incubation systems for salmon and trout.
Lake Erie Biofuels, LLC d/b/a Hero BX.	1670 East Lake Road, Erie, PA, 16511.	11/25/2015	The firm produces biodiesel from vegetable oils, animal fats or a multi-feedstock blend.
Ozark Sheltered Industries, Inc	Highway 63N, Pomona, MO, 65789.	11/25/2015	The firm manufactures various plastics and metal parts assembly and packaging primarily for regional OEMS.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Dated: November 30, 2015.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2015-30650 Filed 12-3-15; 8:45 am]

BILLING CODE 3510-WH-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-54-2015]

Subzone 98A; Authorization of Limited Production Activity; Mercedes-Benz U.S. International, Inc. (Passenger Motor Vehicles); Vance, Alabama

On July 22, 2015, Mercedes-Benz U.S. International, Inc., operator of Subzone 98A, submitted a notification of proposed production activity to the Foreign Trade-Zones (FTZ) Board for its facility within Subzone 98A, in Vance, Alabama.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 50598-50599, August 20, 2015). The FTZ Board has determined that further review of part of

the proposed activity is warranted at this time. The production activity described in the notification is authorized on a limited basis, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14, and further subject to a restriction requiring that foreign status textile-based tufted floor coverings, adhesive cotton tape, and felt strips (classified within HTSUS Subheadings 5602.10, 5703.20 and 5906.10) be admitted to the subzone in privileged foreign status (19 CFR 146.41).

Dated: November 23, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015-30712 Filed 12-3-15; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B-47-2015]

Authorization of Production Activity; Foreign-Trade Zone 46; Festo Corporation (Pneumatic/Electric Cylinders and Drives, Valve Manifolds, Electronic Control Systems); Mason, Ohio

On July 22, 2015, Festo Corporation, an operator of FTZ 46, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility in Mason, Ohio.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (80 FR 47896, August 10, 2015). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the FTZ Board's

regulations, including Section 400.14, and further subject to a restriction requiring that foreign status textile-based felt (classified within HTSUS Subheading 5602.21) be admitted to the zone in privileged foreign status (19 CFR 146.41).

Dated: November 23, 2015.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2015-30711 Filed 12-3-15; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-890]

Wooden Bedroom Furniture From the People's Republic of China: Final Results of Changed Circumstances Review, and Revocation of Antidumping Duty Order, in Part

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On October 9, 2015, the Department of Commerce (the "Department") published its *Preliminary Results* of a changed circumstances review (CCR) and intent to revoke, in part, the antidumping duty ("AD") order on wooden bedroom furniture from the People's Republic of China ("PRC")¹ with respect to certain bed bases.² The Department preliminarily determined that the producers accounting for substantially all of the production of the domestic

¹ See *Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Wooden Bedroom Furniture From the People's Republic of China*, 70 FR 329 (January 4, 2005) ("Order").

² See *Wooden Bedroom Furniture From the People's Republic of China: Preliminary Results of Changed Circumstances Review, and Intent To Revoke Antidumping Duty Order in Part*, 80 FR 61170 (October 9, 2015) ("Preliminary Results").

like product to which the *Order* pertains lacked interest in the relief provided by the *Order* with respect to certain bed bases described below. We invited interested parties to comment on the *Preliminary Results*. No party submitted comments. For the final results, the Department is revoking, in part, the *Order* as to certain bed bases.

DATES: *Effective Date:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Cara Lofaro or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5720 or (202) 482–5193, respectively.

Background

On January 4, 2005, the Department published the *Order* in the **Federal Register**. On April 10, 2015, the Department received a request on behalf of Olollo, Inc. (“Olollo”) for a changed circumstances review to revoke, in part, the *Order* with respect to certain bed bases.³ On June 1, 2015, the Department published the *Initiation Notice* for the requested CCR in the **Federal Register**.⁴ On October 9, 2015, the Department published the *Preliminary Results* of this CCR in which it found that producers accounting for substantially all of the production of the domestic like product lack interest in the relief afforded by the *Order* with respect to certain bed bases as described in Olollo’s Request.⁵ The Department invited interested parties to submit comments on the *Preliminary Results* in accordance with 19 CFR 351.309(c)(1)(ii). We received no comments.

Final Results of Changed Circumstances Review, and Revocation of the Order, in Part

Because no party submitted comments opposing the Department’s *Preliminary Results*, and the record contains no other information or evidence that calls into question the *Preliminary Results*, the Department determines pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the “Act”), and 19 CFR 351.222(g), that

there are changed circumstances that warrant revocation of the *Order*, in part. Specifically, because the producers accounting for substantially all of the production of the domestic like product to which the *Order* pertains, lack interest in the relief provided by the *Order* with respect to the following type of bed bases, we are revoking the *Order*, as to certain bed bases by including the following language in the scope of the *Order*:

Also excluded from the scope are certain bed bases consisting of: (1) A wooden box frame, (2) three wooden cross beams and one perpendicular center wooden support beam, and (3) wooden slats over the beams. These bed bases are constructed without inner springs and/or coils and do not include a headboard, footboard, side rails, or mattress. The bed bases are imported unassembled.

The scope description below includes this language.

Scope of the Order

The product covered by the order is wooden bedroom furniture. Wooden bedroom furniture is generally, but not exclusively, designed, manufactured, and offered for sale in coordinated groups, or bedrooms, in which all of the individual pieces are of approximately the same style and approximately the same material and/or finish. The subject merchandise is made substantially of wood products, including both solid wood and also engineered wood products made from wood particles, fibers, or other wooden materials such as plywood, strand board, particle board, and fiberboard, with or without wood veneers, wood overlays, or laminates, with or without non-wood components or trim such as metal, marble, leather, glass, plastic, or other resins, and whether or not assembled, completed, or finished.

The subject merchandise includes the following items: (1) Wooden beds such as loft beds, bunk beds, and other beds; (2) wooden headboards for beds (whether stand-alone or attached to side rails), wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds; (3) night tables, night stands, dressers, commodes, bureaus, mule chests, gentlemen’s chests, bachelor’s chests, lingerie chests, wardrobes, vanities, chessers, chiffoniers, and wardrobe-type cabinets; (4) dressers with framed glass mirrors that are attached to, incorporated in, sit on, or hang over the dresser; (5) chests-

on-chests,⁶ highboys,⁷ lowboys,⁸ chests of drawers,⁹ chests,¹⁰ door chests,¹¹ chiffoniers,¹² hutches,¹³ and armoires;¹⁴ (6) desks, computer stands, filing cabinets, book cases, or writing tables that are attached to or incorporated in the subject merchandise; and (7) other bedroom furniture consistent with the above list.

The scope of the order excludes the following items: (1) Seats, chairs, benches, couches, sofas, sofa beds, stools, and other seating furniture; (2) mattresses, mattress supports (including box springs), infant cribs, water beds, and futon frames; (3) office furniture, such as desks, stand-up desks, computer cabinets, filing cabinets, credenzas, and bookcases; (4) dining room or kitchen furniture such as dining tables, chairs, servers, sideboards, buffets, corner cabinets, china cabinets, and china hutches; (5) other non-bedroom furniture, such as television cabinets, cocktail tables, end tables, occasional tables, wall systems, book cases, and entertainment systems; (6) bedroom furniture made primarily of wicker, cane, osier, bamboo or rattan; (7) side rails for beds made of metal if sold separately from the headboard and footboard; (8) bedroom furniture in which bentwood parts predominate;¹⁵

⁶ A chest-on-chest is typically a tall chest-of-drawers in two or more sections (or appearing to be in two or more sections), with one or two sections mounted (or appearing to be mounted) on a slightly larger chest; also known as a tallboy.

⁷ A highboy is typically a tall chest of drawers usually composed of a base and a top section with drawers, and supported on four legs or a small chest (often 15 inches or more in height).

⁸ A lowboy is typically a short chest of drawers, not more than four feet high, normally set on short legs.

⁹ A chest of drawers is typically a case containing drawers for storing clothing.

¹⁰ A chest is typically a case piece taller than it is wide featuring a series of drawers and with or without one or more doors for storing clothing. The piece can either include drawers or be designed as a large box incorporating a lid.

¹¹ A door chest is typically a chest with hinged doors to store clothing, whether or not containing drawers. The piece may also include shelves for televisions and other entertainment electronics.

¹² A chiffonier is typically a tall and narrow chest of drawers normally used for storing undergarments and lingerie, often with mirror(s) attached.

¹³ A hutch is typically an open case of furniture with shelves that typically sits on another piece of furniture and provides storage for clothes.

¹⁴ An armoire is typically a tall cabinet or wardrobe (typically 50 inches or taller), with doors, and with one or more drawers (either exterior below or above the doors or interior behind the doors), shelves, and/or garment rods or other apparatus for storing clothes. Bedroom armoires may also be used to hold television receivers and/or other audio-visual entertainment systems.

¹⁵ As used herein, bentwood means solid wood made pliable. Bentwood is wood that is brought to a curved shape by bending it while made pliable with moist heat or other agency and then set by cooling or drying. See CBP’s Headquarters Ruling Letter 043859, dated May 17, 1976.

³ See submission from Olollo, “Changed Circumstance Review Wooden Bedroom Furniture from the People’s Republic of China” dated April 10, 2015 (“Olollo’s Request”).

⁴ See *Wooden Bedroom Furniture from the People’s Republic of China: Notice of Initiation of Changed Circumstances Review, and Consideration of Revocation of the Antidumping Duty Order in Part*, 80 FR 31014 (June 1, 2015) (“*Initiation Notice*”).

⁵ See *Preliminary Results*.

(9) jewelry armories;¹⁶ (10) cheval mirrors;¹⁷ (11) certain metal parts;¹⁸ (12) mirrors that do not attach to, incorporate in, sit on, or hang over a dresser if they are not designed and marketed to be sold in conjunction with a dresser as part of a dresser-mirror set; (13) upholstered beds;¹⁹ and (14) toy boxes.²⁰ Also excluded from the scope

¹⁶ Any armoire, cabinet or other accent item for the purpose of storing jewelry, not to exceed 24 inches in width, 18 inches in depth, and 49 inches in height, including a minimum of 5 lined drawers lined with felt or felt-like material, at least one side door or one front door (whether or not the door is lined with felt or felt-like material), with necklace hangers, and a flip-top lid with inset mirror. See Issues and Decision Memorandum from Laurel LaCivita to Laurie Parkhill, Office Director, concerning "Jewelry Armoires and Cheval Mirrors in the Antidumping Duty Investigation of Wooden Bedroom Furniture from the People's Republic of China," dated August 31, 2004. See also *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review, and Determination To Revoke Order in Part*, 71 FR 38621 (July 7, 2006).

¹⁷ Cheval mirrors are any framed, tiltable mirror with a height in excess of 50 inches that is mounted on a floor-standing, hinged base. Additionally, the scope of the order excludes combination cheval mirror/jewelry cabinets. The excluded merchandise is an integrated piece consisting of a cheval mirror, i.e., a framed tiltable mirror with a height in excess of 50 inches, mounted on a floor-standing, hinged base, the cheval mirror serving as a door to a cabinet back that is integral to the structure of the mirror and which constitutes a jewelry cabinet line with fabric, having necklace and bracelet hooks, mountings for rings and shelves, with or without a working lock and key to secure the contents of the jewelry cabinet back to the cheval mirror, and no drawers anywhere on the integrated piece. The fully assembled piece must be at least 50 inches in height, 14.5 inches in width, and 3 inches in depth. See *Wooden Bedroom Furniture From the People's Republic of China: Final Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 948 (January 9, 2007).

¹⁸ Metal furniture parts and unfinished furniture parts made of wood products (as defined above) that are not otherwise specifically named in this scope (i.e., wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds) and that do not possess the essential character of wooden bedroom furniture in an unassembled, incomplete, or unfinished form. Such parts are usually classified under HTSUS subheadings 9403.90.7005, 9403.90.7010, or 9403.90.7080.

¹⁹ Upholstered beds that are completely upholstered, i.e., containing filling material and completely covered in sewn genuine leather, synthetic leather, or natural or synthetic decorative fabric. To be excluded, the entire bed (headboards, footboards, and side rails) must be upholstered except for bed feet, which may be of wood, metal, or any other material and which are no more than nine inches in height from the floor. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part*, 72 FR 7013 (February 14, 2007).

²⁰ To be excluded the toy box must: (1) Be wider than it is tall; (2) have dimensions within 16 inches to 27 inches in height, 15 inches to 18 inches in depth, and 21 inches to 30 inches in width; (3) have a hinged lid that encompasses the entire top of the box; (4) not incorporate any doors or drawers; (5) have slow-closing safety hinges; (6) have air vents; (7) have no locking mechanism; and (8) comply with American Society for Testing and Materials

are certain enclosable wall bed units, also referred to as murphy beds, which are composed of the following three major sections: (1) A metal wall frame, which attaches to the wall and uses coils or pistons to support the metal mattress frame; (2) a metal frame, which has euro slats for supporting a mattress and two legs that pivot; and (3) wood panels, which attach to the metal wall frame and/or the metal mattress frame to form a cabinet to enclose the wall bed when not in use. Excluded enclosable wall bed units are imported in ready-to-assemble format with all parts necessary for assembly. Enclosable wall bed units do not include a mattress. Wood panels of enclosable wall bed units, when imported separately, remain subject to the order.

Also excluded from the scope are certain shoe cabinets 31.5–33.5 inches wide by 15.5–17.5 inches deep by 34.5–36.5 inches high. They are designed strictly to store shoes, which are intended to be aligned in rows perpendicular to the wall along which the cabinet is positioned. Shoe cabinets do not have drawers, rods, or other indicia for the storage of clothing other than shoes. The cabinets are not designed, manufactured, or offered for sale in coordinated groups or sets and are made substantially of wood, have two to four shelves inside them, and are covered by doors. The doors often have blinds that are designed to allow air circulation and release of bad odors. The doors themselves may be made of wood or glass. The depth of the shelves does not exceed 14 inches. Each shoe cabinet has doors, adjustable shelving, and ventilation holes.

Also excluded from the scope are certain bed bases consisting of: (1) A wooden box frame, (2) three wooden cross beams and one perpendicular center wooden support beam, and (3) wooden slats over the beams. These bed bases are constructed without inner springs and/or coils and do not include a headboard, footboard, side rails, or mattress. The bed bases are imported unassembled.

Imports of subject merchandise are classified under subheadings

("ASTM") standard F963–03. Toy boxes are boxes generally designed for the purpose of storing children's items such as toys, books, and playthings. See *Wooden Bedroom Furniture from the People's Republic of China: Final Results of Changed Circumstances Review and Determination To Revoke Order in Part*, 74 FR 8506 (February 25, 2009). Further, as determined in the scope ruling memorandum "Wooden Bedroom Furniture from the People's Republic of China: Scope Ruling on a White Toy Box," dated July 6, 2009, the dimensional ranges used to identify the toy boxes that are excluded from the wooden bedroom furniture order apply to the box itself rather than the lid.

9403.50.9042 and 9403.50.9045 of the HTSUS as "wooden . . . beds" and under subheading 9403.50.9080 of the HTSUS as "other . . . wooden furniture of a kind used in the bedroom." In addition, wooden headboards for beds, wooden footboards for beds, wooden side rails for beds, and wooden canopies for beds may also be entered under subheading 9403.50.9042 or 9403.50.9045 of the HTSUS as "parts of wood." Subject merchandise may also be entered under subheadings 9403.50.9041, 9403.60.8081, 9403.20.0018, or 9403.90.8041. Further, framed glass mirrors may be entered under subheading 7009.92.1000 or 7009.92.5000 of the HTSUS as "glass mirrors . . . framed." The order covers all wooden bedroom furniture meeting the above description, regardless of tariff classification. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Instructions to U.S. Customs and Border Protection

Because we determine that there are changed circumstances that warrant the revocation of the *Order*, in part, we will instruct U.S. Customs and Border Protection ("CBP") to liquidate without regard to antidumping duties, and to refund any estimated antidumping duties on, all unliquidated entries of the merchandise covered by this revocation that are not covered by the final results of an administrative review or automatic liquidation.

Notification

This notice serves as a reminder to parties subject to an administrative protective order ("APO") of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.306. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and revocation, in part, and notice in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.216, 19 CFR 351.221(c)(3), and 19 CFR 351.222.

Dated: November 30, 2015.

Christian Marsh,
Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2015–30710 Filed 12–3–15; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2013–2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC). The period of review (POR) is November 1, 2013, through October 31, 2014. The Department has preliminarily determined that certain companies covered by this review made sales of subject merchandise at less than normal value. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT:

Yang Jin Chun or Bryan Hansen, 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) 482–5760 and (202) 482–3683, respectively.

Scope of the Order

The merchandise subject to the order is diamond sawblades and parts thereof. The diamond sawblades subject to the order are currently classifiable under subheadings 8202 to 8206 of the Harmonized Tariff Schedule of the United States (HTSUS), and may also enter under 6804.21.00. While the HTSUS subheadings are provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.¹

¹ See the Memorandum from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, entitled “Decision Memorandum for Preliminary Results of 2013–2014 Antidumping Duty Administrative Review: Diamond Sawblades and Parts Thereof from the People's Republic of China” dated concurrently with and hereby adopted by this notice (Preliminary Decision Memorandum).

Rescission of Review in Part

We are rescinding the review in part with respect to Husqvarna (Hebei) Co., Ltd.²

Preliminary Determination of No Shipments

Six companies that received a separate rate in previous segments of the proceeding and are subject to this review reported that they did not have any exports of subject merchandise during the POR.³ U.S. Customs and Border Protection (CBP) data for the POR corroborated the no-shipment claims of these companies.⁴ Additionally, we requested that CBP report any contrary information.⁵ To date, CBP has not responded to our inquiry with any contrary information and we have not received any evidence that these companies had any shipments of the subject merchandise sold to the United States during the POR.⁶ Consistent with the Department's assessment practice in non-market economy (NME) cases regarding no shipment claims, we are completing the review with respect to these companies and will issue appropriate instructions to CBP based on the final results of the review.⁷

Preliminary Affiliation and Single Entity Determination

Based on the record evidence for these preliminary results, we find that Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Tools Co., Ltd., and Jiangsu Sawing Co., Ltd., are affiliated, pursuant to sections 771(33)(A) and (F) of the Tariff Act of 1930, as amended (the Act). Additionally, under 19 CFR 351.401(f)(1)–(2), we preliminarily find that these companies should be

² *Id.* at 2–3 for more details on this rescission in part.

³ See the no-shipment letters dated February 23, 2015, from Danyang City Ou Di Ma Tools Co., Ltd., Danyang Tsunda Diamond Tools Co., Ltd., Hangzhou Kingburg Import & Export Co., Ltd., Qingdao Hyosung Diamond Tools Co., Ltd., Qingdao Shinhan Diamond Industrial Co., Ltd., and Shanghai Starcraft Tools Co., Ltd.

⁴ See the CBP data attached to the letter to all interested parties dated March 20, 2015.

⁵ See CBP message numbers 5261301, 5261302, 5261303, 5261304, 5261305, and 5261306 dated September 18, 2015, available at <http://adcvd.cbp.dhs.gov/adcvdweb/>.

⁶ CBP only responds to the Department's inquiry when there are records of shipments from the company in question. See, e.g., *Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Flat Products From Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 75 FR 65453, 65454 (October 25, 2010).

⁷ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011), and the “Assessment Rates” section below.

considered a single entity (collectively known as the Jiangsu Fengtai Single Entity).⁸

Separate Rates

The Department preliminarily determines that 24 respondents are eligible to receive separate rates in this review.⁹

Separate Rates for Eligible Non-Selected Respondents

Consistent with our practice, we assigned to eligible non-selected respondents the average of the weighted-average margins calculated for the two individually examined respondents as the separate rate for the preliminary results of this review.¹⁰

PRC-Wide Entity

The Department's change in policy regarding conditional review of the PRC-wide entity applies to this administrative review.¹¹ Under this policy, the PRC-wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the PRC-wide entity in this review, the entity is not under review and the entity's rate is not subject to change (*i.e.*, 82.05 percent).¹² Aside from the no-shipments and separate rate companies discussed above, and the company for which the review is being rescinded, the Department considers all other companies for which a review was requested (which did not file a separate rate application) to be part of the PRC-wide entity.¹³

⁸ See Preliminary Decision Memorandum at 4–6 for more details.

⁹ *Id.*, at 7–11, for more details.

¹⁰ *Id.*

¹¹ See *Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings*, 78 FR 65963 (November 4, 2013).

¹² See *Diamond Sawblades and Parts Thereof From the People's Republic of China; Final Results of Antidumping Duty Administrative Review; 2012–2013*, 80 FR 32344, 32345 (June 8, 2015).

¹³ See *Initiation Notice*, 79 FR at 76957 (“All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below.”). Companies that are subject to this administrative review that are considered to be part of the PRC-wide entity are Central Iron and Steel Research Institute Group, China Iron and Steel Research Institute Group, Danyang Aurui Hardware Products Co., Ltd., Danyang Dida Diamond Tools Manufacturing Co., Ltd., Electrolux Construction Products (Xiamen) Co., Ltd., Fujian Quanzhou Wanlong Stone Co., Ltd., Hebei Jikai Industrial Group Co., Ltd., Huachang Diamond Tools Manufacturing Co., Ltd., Hua Da Superabrasive Tools Technology Co., Ltd., Jiangsu Fengyu Tools Co., Ltd., Jiangyin Likn Industry Co., Ltd., Protech

Methodology

The Department conducted this review in accordance with section 751(a)(1)(B) of the Act. Export price and constructed export price were calculated in accordance with section 772 of the Act. Because the PRC is a NME within the meaning of section 771(18) of the Act, normal value was calculated in accordance with section 773(c) 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 (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and to all

parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>.

Preliminary Results of Review

The Department preliminarily determines that the following weighted-average dumping margins exist:

Exporter	Margin (percent)
Bosun Tools Co., Ltd	12.20
Chengdu Huifeng Diamond Tools Co., Ltd	12.20
Danyang Huachang Diamond Tools Manufacturing Co., Ltd	12.20
Danyang NYCL Tools Manufacturing Co., Ltd	12.20
Danyang Weiwang Tools Manufacturing Co., Ltd	12.20
Guilin Tebon Superhard Material Co., Ltd	12.20
Hangzhou Deer King Industrial and Trading Co., Ltd	12.20
Hong Kong Hao Xin International Group Limited	12.20
Huzhou Gu's Import & Export Co., Ltd	12.20
Jiangsu Fengtai Single Entity ¹⁴	57.10
Jiangsu Huachang Tools Manufacturing Co., Ltd	12.20
Jiangsu Inter-China Group Corporation ¹⁵	12.20
Jiangsu Youhe Tool Manufacturer Co., Ltd	12.20
Orient Gain International Limited	12.20
Pantos Logistics (HK) Company Limited	12.20
Qingyuan Shangtai Diamond Tools Co., Ltd	12.20
Quanzhou Zhongzhi Diamond Tool Co. Ltd	12.20
Rizhao Hein Saw Co., Ltd	12.20
Saint-Gobain Abrasives (Shanghai) Co., Ltd	12.20
Shanghai Jingquan Industrial Trade Co., Ltd	12.20
Weihai Xiangguang Mechanical Industrial Co., Ltd	0.75
Wuhan Wanbang Laser Diamond Tools Co	12.20
Xiamen ZL Diamond Technology Co., Ltd	12.20
Zhejiang Wanli Tools Group Co., Ltd	12.20

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). Pursuant to 19 CFR 351.309(c), interested parties may submit case briefs no later than 30 days after the date of publication of these preliminary results of review.¹⁶ 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.¹⁷ Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the case briefs are filed.¹⁸

Interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S.

Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's ACCESS by 5:00 p.m. Eastern Time within 30 days after the date of publication of this notice.¹⁹ Hearing 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

Diamond Tools, Pujiang Talent Diamond Tools Co., Ltd., Quanzhou Shuangyang Diamond Tools Co., Ltd., Shanghai Deda Industry & Trading Co., Ltd., Shanghai Robtol Tool Manufacturing Co., Ltd., Shijiazhuang Global New Century Tools Co., Ltd., Sichuan Huili Tools Co., Task Tools & Abrasives, Wanli Tools Group, Wuxi Lianhua Superhard Material Tools Co., Ltd., Zhejiang Tea Import & Export Co., Ltd., Zhejiang Wanda Import and Export Co., Zhejiang Wanda Tools Group Corp., and Zhejiang Wanli Super-hard Materials Co., Ltd. Additionally, to the extent certain merchandise from the ATM Single Entity (*i.e.*, Advanced Technology & Materials Co., Ltd., AT&M International Trading Co., Ltd., Beijing Gang Yan Diamond Products Co., Cliff International Ltd., and HXF Saw Co., Ltd.) remains subject to the order, the ATM Single Entity

is also considered to be part of the PRC-wide entity. *See* Preliminary Decision Memorandum at 3, 10, and 12, n. 58, for more details on our treatment of the ATM Single Entity; *Certain Frozen Warmwater Shrimp From the People's Republic of China and Diamond Sawblades and Parts Thereof From the People's Republic of China: Notice of Implementation of Determinations Under Section 129 of the Uruguay Round Agreements Act and Partial Revocation of the Antidumping Duty Orders*, 78 FR 18958 (March 28, 2013).

¹⁴ As noted above, we preliminarily treat Jiangsu Fengtai Diamond Tool Manufacture Co., Ltd., Jiangsu Fengtai Tools Co., Ltd., and Jiangsu Sawing Co., Ltd., as a single entity. *See* the Preliminary Affiliation and Single Entity Determination section above and Preliminary Decision Memorandum at 4–6 for details.

¹⁵ Jiangsu Inter-China Group Corporation was previously known as Zhenjiang Inter-China Import & Export Co., Ltd., a company for which we initiated this review in *Initiation Notice*, 79 FR at 76958. *See* *Diamond Sawblades and Parts Thereof From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011–2012*, 78 FR 77098, 77100, n. 15 (December 20, 2013), unchanged in *Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2011–2012*, 79 FR 35723, 35724 n.7 (June 24, 2014).

¹⁶ *See* 19 CFR 351.309(c).

¹⁷ *See* 19 CFR 351.309(c)(2).

¹⁸ *See* 19 CFR 351.309(d).

¹⁹ *See* 19 CFR 351.310(c).

limited to those raised in the respective case briefs. The Department intends to issue the final results of this review, including the results of its analysis of issues raised by parties in their comments, within 120 days after the publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(1).

Assessment Rates

Upon issuing the final results of review, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.²⁰ If a respondent's weighted-average dumping margin is above *de minimis* (i.e., 0.5 percent) in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of dumping calculated for the importer's examined sales and the total entered value of those sales in accordance with 19 CFR 351.212(b)(1). Specifically, the Department will apply the assessment rate calculation method adopted in *Final Modification for Reviews*.²¹ Where an importer- (or customer-) specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties.²²

For Husqvarna (Hebei) Co., Ltd., for which the review is rescinded, the antidumping duty shall be assessed at the rate equal to the cash deposit of the estimated antidumping duty required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2). We will instruct CBP accordingly.

Pursuant to the Department's assessment practice in NME cases,²³ for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this 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.²⁴ The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of review.

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 section 751(a)(2)(C) of the Act: (1) For subject merchandise exported by the companies listed above that have separate rates, the cash deposit rate will be that established in the final results of review (except, if the rate is zero or *de minimis*, then zero cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity; 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 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 POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled 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: November 30, 2015.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

Appendix—List of Topics Discussed in the Preliminary Decision Memorandum

Summary

Background
Scope of the Order
Rescission of Review in Part
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Affiliation and Single Entity
Discussion of the Methodology
Non-Market Economy Country Status
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[FR Doc. 2015–30715 Filed 12–3–15; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XE333

Notice of Availability of a Draft Programmatic Environmental Assessment for Fisheries and Ecosystem Research Conducted and Funded by the National Marine Fisheries Service, Pacific Islands Fisheries Science Center

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

ACTION: Notice of availability of a Draft Programmatic Environmental Assessment; request for comments.

SUMMARY: NMFS announces the availability of the "Draft Programmatic Environmental Assessment (DPEA) for Fisheries and Ecosystem Research Conducted and Funded by the Pacific Islands Fisheries Science Center (PIFSC)." Publication of this notice begins the official public comment period for this DPEA. The purpose of the DPEA is to evaluate, in compliance with the National Environmental Policy Act (NEPA), the potential direct, indirect, and cumulative impacts of conducting and funding fisheries and ecosystem research in NOAA's Pacific Islands Region.

DATES: Comments and information must be received no later than January 4, 2016.

ADDRESSES: Comments on the DPEA should be addressed to: NOAA IRC, NMFS/PIFSC/Director's Office, 1845 Wasp Blvd., Bldg. #176, Honolulu, HI 96818. The mailbox address for providing email comments is pifsc.nepa@noaa.gov. NMFS is not responsible for email comments sent to

²⁰ See 19 CFR 351.212(b)(1).

²¹ See *Antidumping Proceeding: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification*, 77 FR 8103 (February 14, 2012) (*Final Modification for Reviews*).

²² See 19 CFR 351.106(c)(2).

²³ For a full discussion of this practice, see *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

²⁴ *Id.*

addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size. A copy of the DPEA may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the internet at: <http://www.pifsc.noaa.gov/nepa> Documents cited in this notice may also be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT:

Matthew Vandersande, (808) 725-5333.

SUPPLEMENTARY INFORMATION: PIFSC is the research arm of NMFS in the Pacific Islands Region. PIFSC conducts research and provides scientific advice to manage fisheries and conserve protected species throughout the Western and Central Pacific Ocean, including the State of Hawaii, Territory of American Samoa, Territory of Guam, the Commonwealth of the Mariana Islands, and the Pacific Remote Island Areas. Research is aimed at monitoring fish stock recruitment, survival, and biological rates; abundance and geographic distribution of both pelagic and insular marine species; and providing other scientific information needed to improve our understanding of complex marine ecological processes. Primary research activities include: Mid-water trawl surveys to support assessments of pelagic stages of insular species and other mesopelagic organisms; dive surveys to conduct coral reef ecosystem assessment and monitoring; hook-and-line surveys to collect fishery life history samples and deploy telemetry tags; marine debris research and removal activities; advanced sampling technology surveys (e.g. stereo-video cameras, autonomous underwater vehicles) to assess and monitor marine organisms and habitats; longline surveys for life history studies and bycatch reduction research; ecosystem surveys using active acoustic systems, plankton nets, and other oceanographic equipment; and collaborative research in foreign territorial seas. NMFS has prepared the DPEA under NEPA to evaluate several alternatives for conducting and funding fisheries and ecosystem research activities as the primary federal action. Additionally in the DPEA, NMFS evaluates a related action—also called a “connected action” under 40 CFR 1508.25 of the Council on Environmental Quality’s regulations for implementing the procedural provisions of NEPA (42 U.S.C. 4321 *et seq.*)—which is the proposed promulgation of regulations and authorization of the take

of marine mammals incidental to the fisheries research under the Marine Mammal Protection Act (MMPA). Additionally, because the proposed research activities occur in areas inhabited by species of marine mammals, birds, sea turtles, and fish listed under the Endangered Species Act (ESA) as threatened or endangered, this DPEA evaluates activities that could result in unintentional takes of ESA-listed marine species. The following four alternatives are currently evaluated in the DPEA:

- No-Action/Status Quo Alternative—Conduct Federal Fisheries and Ecosystem Research with Scope and Protocols Similar to Past Effort.
- Preferred Alternative—Conduct Federal Fisheries and Ecosystem Research (New Suite of Research) with Mitigation for MMPA and ESA Compliance.
- Modified Research Alternative—Conduct Federal Fisheries and Ecosystem Research (New Suite of Research) with Additional Mitigation.
- No Research Alternative—No Fieldwork for Federal Fisheries and Ecosystem Research Conducted or Funded by PIFSC.

The first three alternatives include a program of fisheries and ecosystem research projects conducted or funded by the PIFSC as the primary federal action. Because this primary action is connected to a secondary federal action (also called a connected action under NEPA), to consider authorizing incidental take of marine mammals under the MMPA, NMFS must identify as part of this evaluation “(t)he means of effecting the least practicable adverse impact on the species or stock and its habitat.” (Section 101(a)(5)(A) of the MMPA [16 U.S.C. 1361 *et seq.*]). NMFS must therefore identify and evaluate a reasonable range of mitigation measures to minimize impacts to protected species that occur in PIFSC research areas. These mitigation measures are considered as part of the identified alternatives in order to evaluate their effectiveness to minimize potential adverse environmental impacts. The three action alternatives also include mitigation measures intended to minimize potentially adverse interactions with other protected species that occur within the action area. Protected species include all marine mammals, which are covered under the MMPA, all species listed under the ESA, and bird species protected under the Migratory Bird Treaty Act. NMFS is also evaluating a second type of no-action alternative that considers no federal funding for field fisheries and ecosystem research

activities. This is called the No Research Alternative to distinguish it from the No-Action/Status Quo Alternative. The No-Action/Status Quo Alternative will be used as the baseline to compare all of the other alternatives. Potential direct and indirect effects on the environment are evaluated under each alternative in the DPEA. The environmental effects on the following resources are considered: Physical environment, special resource areas, fish, marine mammals, birds, sea turtles, invertebrates, and the social and economic environment. Cumulative effects of external actions and the contribution of fisheries research activities to the overall cumulative impact on the aforementioned resources is also evaluated in the DPEA for the three main geographic regions in which PIFSC surveys are conducted. NMFS requests comments on the DPEA for Fisheries and Ecosystem Research Conducted and Funded by the National Marine Fisheries Service, Pacific Islands Fisheries Science Center. Please include, with your comments, any supporting data or literature citations that may be informative in substantiating your comment.

Dated: November 23, 2015.

Michael P. Seki,

Director, Pacific Islands Fisheries Science Center, National Marine Fisheries Service.

[FR Doc. 2015-30674 Filed 12-3-15; 8:45 am]

BILLING CODE 3510-22-P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Addition and Deletions

AGENCY: Committee for Purchase From People Who are Blind or Severely Disabled.

ACTION: Proposed Addition to and Deletions from the Procurement List.

SUMMARY: The Committee is proposing to add a service to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: *Comments Must Be Received On Or Before:* 1/3/2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202-4149.

FOR FURTHER INFORMATION CONTACT: *For Further Information or to Submit Comments Contact:* Barry S. Lineback, Telephone: (703) 603-7740, Fax: (703)

603-0655, or email
CMTEFedReg@AbilityOne.gov.

SUPPLEMENTARY INFORMATION:

This notice is published pursuant to 41 U.S.C. 8503(a)(2) and 41 CFR 51-2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Addition

If the Committee approves the proposed addition, the entities of the Federal Government identified in this notice will be required to procure the service listed below from a nonprofit agency employing persons who are blind or have other severe disabilities.

The following service is proposed for addition to the Procurement List for production by the nonprofit agency listed:

Service

Service Type: Custodial Service
Mandatory for: US Air Force, Wright
Patterson Air Force Base, Area C, 1940
Allbrook Drive, Wright Patterson AFB,
OH
Mandatory Source(s) of Supply: Goodwill
Easter Seals Miami Valley, Dayton, OH
Contracting Activity: DEPT OF THE AIR
FORCE, FA8601 AFLCMC PZIO, Wright
Patterson AFB, OH

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s)

5340-01-218-8346—Bracket, Angle,
Aviation

Mandatory Source(s) of Supply: Herkimer
County Chapter, NYSARC, Herkimer, NY
Contracting Activity: DLA TROOP SUPPORT
C&E HARDWARE, Philadelphia, PA

NSN(s)—Product Name(s)

4935-00-824-5469—Strap Set, Webbing
Mandatory Source(s) of Supply: Huntsville
Rehabilitation Foundation, Huntsville,
AL

Contracting Activity: DLA TROOP
SUPPORT, Philadelphia, PA

NSN(s)—Product Name(s)

6545-00-139-3671—Kit, Survival
6545-01-521-8530—Kit, Survival
Mandatory Source(s) of Supply: Opportunity
Resources, Inc., Missoula, MT
Contracting Activity: DLA TROOP
SUPPORT, Philadelphia, PA

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2015-30669 Filed 12-3-15; 8:45 am]

BILLING CODE 6353-01-P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (CNCS), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, CNCS is soliciting comments concerning its proposed renewal of the Alumni Outcomes Survey. The purpose of this survey is to better understand the long-term civic participation and career pathways of AmeriCorps Alumni, the acquisition of career skills obtained through national service and the utilization of the Education Awards and its effect on future post-secondary outcomes and career choices. The information collected is not required to be considered for or to obtain grant funding support for AmeriCorps.

Copies of the information collection request can be obtained by contacting the office listed in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by February 2, 2016.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) *By mail sent to:* Corporation for National and Community Service, Office of Research and Evaluation; Attention Diana Epstein, Senior Research Analyst, 10th floor; 1201 New York Avenue NW., Washington, DC 20525.

(2) *By hand delivery or by courier to:* The CNCS mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9:00 a.m. and 4:00 p.m. Eastern Time, Monday through Friday, except Federal holidays.

(3) *Electronically through* www.regulations.gov.

Individuals who use a telecommunications device for the deaf (TTY-TDD) may call 1-800-833-3722 between 8:00 a.m. and 8:00 p.m. Eastern Time, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Diana Epstein, 202-606-7564, or by email at depstein@cns.gov.

SUPPLEMENTARY INFORMATION: CNCS is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of CNCS, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are expected to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

Information will be collected from AmeriCorps Alumni through an online survey that will be administered by a contractor on behalf of CNCS. The purpose of the survey is to better understand the long-term civic participation and career pathways of AmeriCorps alumni, the acquisition of hard and soft career skills obtained through national service, and the utilization of the Education Award and its effect on future post-secondary outcomes and career choices. In addition, the agency is interested in exploring how member outcomes vary by life stage and by different types of service experiences. This survey is also an opportunity to determine the value of data collected from alumni who are at different stages following their service year for informing policy and program decisions.

Current Action

CNCS seeks to renew the current information request with revisions to the survey administered in 2015 (OMB #3045-0170). Information will be collected from a nationally representative sample of AmeriCorps

alumni who served in AmeriCorps NCCC, AmeriCorps VISTA, and AmeriCorps State and National programs and completed their most recent term of service 2, 5, or 10 years ago. The information collection will otherwise be used in the same manner as the existing clearance OMB #3045–0170. CNCS also seeks to continue using the current clearance until the revised survey is approved by OMB. The current clearance is due to expire on 4/30/18.

Type of Review: Renewal with revisions.

Agency: Corporation for National and Community Service.

Title: Alumni Outcomes Survey.

OMB Number: 3045–0170.

Agency Number: None.

Affected Public: AmeriCorps alumni.

Total Responses: 3,150.

Frequency: One time.

Average Time per Response: Averages 25 minutes.

Estimated Total Burden Hours: 1,312.

The desired number of completed surveys is 3,150.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: December 1, 2015.

Jenny Mauk,

Special Advisor to the Chief Executive Officer.

[FR Doc. 2015–30693 Filed 12–3–15; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2013–0043]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for Temporary

Food Establishment, DD Form 2970, OMB Control Number: 0702–XXXX.

Type of Request: Existing collection in use without an OMB Control Number.

Number of Respondents: 91.

Responses per Respondent: 1.

Annual Responses: 91.

Average Burden per Response: 15 minutes.

Annual Burden Hours: 23.

Needs and Uses: The information collection requirement is necessary for the installation of Preventive Medicine Activity to evaluate a food vendor's ability to prepare and dispense safe food on the installation. The form, submitted one time by a food vendor requesting to operate a food establishment on a military installation, characterizes the types of foods, daily volume of food, supporting food equipment, and sanitary controls. Approval to operate the food establishment is determined by the installations medical authority; the Preventive Medicine Activity conducts an operational assessment based on the food safety criteria prescribed in the Tri-Service Food Code (TB MED 530/NAVMED P–5010–1/AFMAN 48–147–IP). Food vendors who are deemed inadequately prepared to provide safe food service are disapproved for operating on the installation.

Affected Public: Business or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at Oira_submission@omb.eop.gov. Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 02G09, Alexandria, VA 22350–3100.

Dated: December 1, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2015–30679 Filed 12–3–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Extension

AGENCY: U.S. Energy Information Administration (EIA), U.S. Department of Energy (DOE).

ACTION: Notice and request for OMB review and comment.

SUMMARY: EIA has submitted an information collection request to OMB for extension under the provisions of the Paperwork Reduction Act of 1995. The information collection requests a three-year extension of its Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste, OMB Control Number 1901–0260. The proposed collection will extend Form NWP–830G, “Appendix G—Standard Remittance Advice for Payment of Fees (including Annex A to Appendix G), which is part of the Standard Contract. Although DOE has ceased collection of the Spent Nuclear Fuel Disposal Fee, it has (through its Office of the General Counsel) directed EIA to continue activities associated with the collection and verification of net electricity generation data and estimation of the spent nuclear fuel disposal fees that would otherwise accrue from this generation.

DATES: Comments regarding this proposed information collection must be received on or before January 4, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments may be sent to the DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC

20503 and to Marta Gospodarczyk, Office of Electricity, Coal, Nuclear, and Renewables Analysis, EI-34, Forrestal Building, U.S. Department of Energy, 1000 Independence Avenue, Washington, DC 20585. Alternatively, Ms. Gospodarczyk may be contacted by telephone at 202-586-0527 or email (marta.gospodarczyk@eia.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of any forms and instructions should be directed to Ms. Gospodarczyk at the address listed above. The Form NWP-830G, "Appendix G—Standard Remittance Advice for Payment of Fees," may also be viewed here: http://www.eia.gov/survey/form/nwpa_830g/proposed/appendix_g.pdf, and Annex A to Appendix G here: http://www.eia.gov/survey/form/nwpa_830g/proposed/annex_a_appendix_g.pdf.

SUPPLEMENTARY INFORMATION: This information collection request contains:

- (1) OMB No.: 1901-0260;
- (2) *Information Collection Request Title:* Standard Contract for Disposal of Spent Nuclear Fuel and/or High-Level Radioactive Waste;
- (3) *Type of Request:* Three-year extension;
- (4) *Purpose:* The Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) and the DOE Organization Act (42 U.S.C. 7101 *et seq.*) require EIA to carry out a centralized, comprehensive, and unified energy information program. This program collects, evaluates, assembles, analyzes, and disseminates information on energy resource reserves, production, demand, technology, and related economic and statistical information. This information is used to assess the adequacy of energy resources to meet near and longer term domestic demands.

EIA, as part of its effort to comply with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), provides the general public and other federal agencies with opportunities to comment on collections of energy information conducted by or in conjunction with EIA. Also, EIA will later seek approval for this collection by OMB under Section 3507(a) of the Paperwork Reduction Act of 1995.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*) required that DOE enter into Standard Contracts with all generators or owners of spent nuclear fuel and high-level radioactive waste of domestic origin. Form NWP-830G, "Appendix G—Standard Remittance Advice for Payment of Fees," including Annex A to Appendix G, is an Appendix to this Standard Contract. Appendix G and Annex A to Appendix

G are commonly referred to as Remittance Advice (RA) forms. RA forms must be submitted quarterly by generators and owners of spent nuclear fuel and high-level radioactive waste of domestic origin who signed the Standard Contract. Appendix G is designed to serve as the source document for entries into DOE accounting records to transmit data to DOE concerning payment of fees into the Nuclear Waste Fund for spent nuclear fuel and high-level waste disposal. Annex A to Appendix G is used to provide data on the amount of net electricity generated and sold, upon which these fees are based.

(5) *Annual Estimated Number of Respondents:* 100;

(6) *Annual Estimated Number of Total Responses:* 400;

(7) *Annual Estimated Number of Burden Hours:* 2,000;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no additional costs to respondents associated with the surveys other than the costs associated with the burden hours. The information is maintained in the normal course of business. The cost of burden hours to the respondents is estimated to be \$143,940 (\$71.97 per hour × 2,000 hours). Therefore, other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining and providing the information.

Statutory Authority: Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*); DOE Organization Act (42 U.S.C. 7101 *et seq.*); and Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 *et seq.*).

Issued in Washington, DC, on November 25, 2015.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2015-30658 Filed 12-3-15; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, EIA invites the general public to comment on the following proposed Generic Information Collection Request (Generic ICR): "Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery" for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). This notice announces EIA's intent to submit this proposed collection to the Office of Management and Budget (OMB) for approval.

DATES: Consideration will be given to all comments received by February 2, 2016. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Jacob Bournazian, Energy Information Administration, 1000 Independence Avenue SW., Washington, DC 20585 or by fax at 202-586-0552 or by email at jacob.bournazian@eia.gov.

Comments submitted in response to this notice may be made available to the public through relevant Web sites. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. Please note that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection supporting statement should be directed to Jacob Bournazian, Energy Information Administration, 1000 Independence Avenue SW., Washington, DC 20585, phone: 202-586-5562, email: jacob.bournazian@eia.gov.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity provides a means to collect qualitative customer and

stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery.

By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations. This feedback also provides an early warning of issues with service, or focuses attention on areas where communication, training or changes in operations might improve the accuracy of data reported on survey instruments or the delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, understanding of questions and terminology used in survey instruments, perceptions on data confidentiality and security, appropriateness and relevancy of information, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the agency's services will be unavailable.

The agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

The collections are voluntary;

The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;

The collections are non-controversial and do not raise issues of concern to other Federal agencies;

Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

Personally identifiable information (PII) is collected only to the extent necessary for initially contacting respondents and is not retained;

Information gathered is intended to be used only internally for general service

improvement, the design, modification, and evaluation of survey instruments, modes of data collection, and program management purposes. It is not intended for release outside of the agency (if released, the agency must indicate the qualitative nature of the information);

Information gathered will not be used for the purpose of substantially informing influential policy decisions; and the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study. The information gathered will only generate qualitative type of information.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population.

This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: Below is a preliminary estimate of the aggregate number of respondents and burden hours for this generic clearance.

Average Expected Annual Number of activities: 250.

Average number of Respondents per Activity: 100.

Annual responses: 25,000.

Frequency of Response: Once per request.

Average minutes per response: 60.

Burden hours: 25,000.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. 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. All written comments will be available for public inspection at www.Regulations.gov.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Statutory Authority: Executive Order (E.O.) 13571, Streamlining Service Delivery and Improving Customer Service.

Issued in Washington, DC, on November 25, 2015.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2015-30657 Filed 12-3-15; 8:45 am]

BILLING CODE 6450-01-P

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-9024-3]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564-7146 or <http://www2.epa.gov/nepa>.

Weekly receipt of Environmental Impact Statements (EISs)

Filed 11/23/2015 Through 11/27/2015

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: <http://cdxnodengn.epa.gov/cdx-nepa-public/action/eis/search>.

EIS No. 20150337, Final, BR, CA, Coordinated Long-Term Operation of the Central Valley Project and State Water Project, Review Period Ends: 01/04/2016, Contact: Ben Nelson 916-414-2424.

EIS No. 20150338, Draft, BLM, NM, Copper Flat Copper Mine, Comment Period Ends: 01/19/2016, Contact: Doug Haywood 575-525-4498.

EIS No. 20150339, Final, USN, NV, Military Readiness Activities at Fallon Range Training Complex, Review Period Ends: 01/04/2016, Contact: Amy Kelley 619-532-2799.

EIS No. 20150340, Third Draft Supplemental, USFS, MT, Beaverhead-Deerlodge National Forest Land and Resource Management Plan to comply with District of Mont Court Order, Comment Period Ends: 03/03/2016, Contact: Jan Bowey 406-842-5432.

EIS No. 20150341, Final, NPS, FL, East Everglades Expansion Area Land Acquisition, Review Period Ends: 01/04/2016, Contact: Brien Culhane 305-242-7717.

EIS No. 20150342, Draft, USFS, CO, Glade Rangeland Management, Comment Period Ends: 02/02/2016, Contact: Heather Musclow 970-882-6818.

Dated: December 1, 2015.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2015-30691 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPPT-2003-0004; FRL-9937-06]

Access to Confidential Business Information by Avanti Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized its contractor, Avanti Corporation of Alexandria, VA, to access information which has been submitted to EPA under all sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be Confidential Business Information (CBI).

DATES: Access to the confidential data occurred on or about November 6, 2015.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Scott Sherlock, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460-0001; telephone number: (202) 564-8257; fax number: (202) 564-8251; email address: sherlock.scott@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:**I. General Information****A. Does this action apply to me?**

This action is directed to the public in general. This action may, however, be of interest to all who manufacture, process, or distribute industrial chemicals. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action.

B. How can I get copies of this document and other related information?

The docket for this action, identified by docket identification (ID) number EPA-HQ-OPPT-2003-0004 is available at <http://www.regulations.gov> or at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal

holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPPT Docket is (202) 566-0280. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

II. What action is the agency taking?

Under EPA contract number GS-10F-0308P order number EP-G16H-00318, contractor Avanti of 5520 Cherokee Avenue, Suite 205, Alexandria, VA, will assist EPA's Office of Pollution Prevention and Toxics (OPPT) in providing technical and administrative support for meetings related to investigation of chemicals and biotechnology products for possible regulatory or other control actions. They will also provide computer database support related to providing information on chemical regulatory actions and related policy decisions.

In accordance with 40 CFR 2.306(j), EPA has determined that under EPA contract number GS-10F-0308P, order number EP-G16H-00318, Avanti will require access to CBI submitted to EPA under all sections of TSCA to perform successfully the duties specified under the contract. Avanti personnel will be given access to information submitted to EPA under all sections of TSCA. Some of the information may be claimed or determined to be CBI.

EPA is issuing this notice to inform all submitters of information under all sections of TSCA that EPA may provide Avanti access to these CBI materials on a need-to-know basis only. All access to TSCA CBI under this contract will take place at EPA Headquarters in accordance with EPA's *TSCA CBI Protection Manual*.

Access to TSCA data, including CBI, will continue until October 31, 2020. If the contract is extended, this access will also continue for the duration of the extended contract without further notice.

Avanti personnel will be required to sign nondisclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: November 20, 2015.

Pamela S. Myrick,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2015-30722 Filed 12-3-15; 8:45 am]

BILLING CODE 6560-50-P

FARM CREDIT SYSTEM INSURANCE CORPORATION**Regular Board Meeting**

AGENCY: Farm Credit System Insurance Corporation Board.

ACTION: Regular meeting.

SUMMARY: Notice is hereby given of the regular meeting of the Farm Credit System Insurance Corporation Board (Board).

DATES: *Date and Time:* The meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 10, 2015, from 10:45 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, (703) 883-4009, TTY (703) 883-4056.

ADDRESSES: Farm Credit System Insurance Corporation, 1501 Farm Credit Drive, McLean, Virginia 22102. Submit attendance requests via email to VisitorRequest@FCA.gov. See

SUPPLEMENTARY INFORMATION for further information about attendance requests.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. Please send an email to VisitorRequest@FCA.gov at least 24 hours before the meeting. In your email include: Name, postal address, entity you are representing (if applicable), and telephone number. You will receive an email confirmation from us. Please be prepared to show a photo identification when you arrive. If you need assistance for accessibility reasons, or if you have any questions, contact Dale L. Aultman, Secretary to the Farm Credit System Insurance Corporation Board, at (703) 883-4009. The matters to be considered at the meeting are:

Open Session*A. Approval of Minutes*

- October 1, 2015—Regular Board Minutes

B. Business Reports

- September 30, 2015 Financial Reports
- Report on Insured and Other Obligations
- Quarterly Report on Annual Performance Plan

Closed Session

- Confidential Report on System Performance
- Audit Plan for the Year Ended December 31, 2015

Executive Session

- January 8, 2015—Audit Committee Minutes

Dated: November 30, 2015.

Mary Alice Donner,
Acting Secretary, Farm Credit System Insurance Corporation Board.

[FR Doc. 2015-30654 Filed 12-3-15; 8:45 am]

BILLING CODE 6710-01-P

FEDERAL DEPOSIT INSURANCE CORPORATION**Notice of Termination; 10456 Waukegan Savings Bank, Waukegan, Illinois**

The Federal Deposit Insurance Corporation (FDIC), as Receiver for 10456 Waukegan Savings Bank, Waukegan, Illinois (Receiver) has been authorized to take all actions necessary to terminate the receivership estate of Waukegan Savings Bank (Receivership Estate); The Receiver has made all dividend distributions required by law.

The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds.

Effective December 1, 2015 the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: December 1, 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,
Executive Secretary.

[FR Doc. 2015-30645 Filed 12-3-15; 8:45 am]

BILLING CODE 6714-01-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 December 21, 2015.

A. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166-2034:

1. *John M. Huetsch, individually and as trustee of the John O. Huetsch Trust u/a dated 1/31/2012*, both of Waterloo, Illinois; to retain voting shares of SBW Bancshares, Inc., and thereby indirectly retain voting shares of State Bank of Waterloo, both in Waterloo, Illinois.

Board of Governors of the Federal Reserve System, December 1, 2015.

Michael J. Lewandowski,
Associate Secretary of the Board.

[FR Doc. 2015-30647 Filed 12-3-15; 8:45 am]

BILLING CODE 6210-01-P

FEDERAL RESERVE SYSTEM**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of

Governors not later than December 31, 2015.

A. Federal Reserve Bank of New York (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *The Adirondack Trust Company Employee Stock Ownership Trust*, Saratoga Springs, New York; to acquire additional voting shares of 473 Broadway Holding Corporation, and also acquire additional voting shares of The Adirondack Trust Company, both in Saratoga Springs, New York.

B. Federal Reserve Bank of Cleveland (Nadine Wallman, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101-2566:

1. *KeyCorp*, Cleveland, Ohio; to acquire First Niagara Financial Group, Inc., Buffalo, New York, and thereby indirectly acquire First Niagara Bank, NA, Buffalo, New York. Comments also may be sent to comments.applications@clev.frb.gov.

C. Federal Reserve Bank of St. Louis (Yvonne Sparks, Community Development Officer) P.O. Box 442, St. Louis, Missouri 63166-2034:

1. *Stone Bancshares, Inc.*, Mountain View, Arkansas, to become a bank holding company by acquiring 100 percent of the voting shares of Stone Bank, Mountain View, Arkansas.

Board of Governors of the Federal Reserve System, December 1, 2015.

Michael J. Lewandowski,
Associate Secretary of the Board.

[FR Doc. 2015-30648 Filed 12-3-15; 8:45 am]

BILLING CODE 6210-01-P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090-0283; Docket 2015-0001; Sequence 16]

Information Collection; Contractor Information Worksheet; GSA Form 850

AGENCY: Identity, Credential, and Access Management (ICAM) Division, Office of Security, Office of Mission Assurance (OMA), General Services Administration (GSA).

ACTION: Notice of request for comments regarding an extension to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve a previously approved information collection requirement, with changes, expanding the coverage of the information collection of the

Contractor Information Worksheet; GSA Form 850.

GSA requires OMB approval for this collection to make determinations on granting unescorted physical access to GSA-controlled facilities and/or logical access to GSA-controlled information systems. The approval is critical for GSA to continue following contractor onboarding processes required for working on GSA contracts. An updated System of Record Notice (SORN) was published in the **Federal Register** at 79 FR 47139, on August 12, 2014.

DATES: Submit comments on or before: February 2, 2016.

ADDRESSES: Submit comments identified by Information Collection 3090-0283, Contractor Information Worksheet; GSA Form 850, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>.

Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link "Submit a Comment" that corresponds with "Information Collection 3090-0283, Contractor Information Worksheet; GSA Form 850". Follow the instructions provided at the "Submit a Comment" screen. Please include your name, company name (if any), and "Information Collection 3090-0283, Contractor Information Worksheet; GSA Form 850" on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090-0283, Contractor Information Worksheet; GSA Form 850.

Instructions: Please submit comments only and cite Information Collection 3090-0283, Contractor Information Worksheet; GSA Form 850, in all correspondence related to this collection. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Phil Ahn, Deputy Director, OMA Identity Credential and Access Management Division, GSA, telephone 202-501-2447 or via email at phillip.ahn@gsa.gov.

SUPPLEMENTARY INFORMATION:

A. Purpose

The U.S. Government conducts criminal checks to establish that applicants or incumbents working for the Government under contract may have unescorted access to federally controlled facilities. GSA uses the Contractor Information Worksheet; GSA Form 850, and digitally captured fingerprints to conduct a FBI National Criminal Information Check (NCIC) for each contractor's physical access determination to GSA-controlled facilities and/or logical access to GSA-controlled information systems. Manual fingerprint card SF-87 is used for exception cases such as contractor's significant geographical distance from fingerprint enrollment sites.

The Office of Management and Budget (OMB) Guidance M-05-24 for Homeland Security Presidential Directive (HSPD) 12, authorizes Federal departments and agencies to ensure that contractors have limited/controlled access to facilities and information systems. GSA Directive CIO P 2181.1 Homeland Security Presidential Directive-12, Personal Identity Verification and Credentialing (available at <http://www.gsa.gov/hspd12>), states that GSA contractors must undergo a minimum of an FBI National Criminal Information Check (NCIC) to receive unescorted physical access to GSA-controlled facilities and/or logical access to GSA-controlled information systems.

Contractors' Social Security Number is needed to keep records accurate, because other people may have the same name and birth date. Executive Order 9397, Numbering System for Federal Accounts Relating to Individual Persons, also allows Federal agencies to use this number to help identify individuals in agency records.

B. Annual Reporting Burden

Respondents: 25,000.

Responses per Respondent: 1.

Total Annual Responses: 25,000.

Hours per Response: .25.

Total Burden Hours: 6,250.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the

information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202-501-4755. Please cite OMB Control No. 3090-0283, Contractor Information Worksheet; GSA Form 850 in all correspondence. The form can be downloaded from the GSA Forms Library at <http://www.gsa.gov/forms>. Type GSA 850 in the form search field.

Dated: November 25, 2015.

David A. Shive,
Chief Information Officer.

[FR Doc. 2015-30698 Filed 12-3-15; 8:45 am]

BILLING CODE 6820-34-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[30Day-16-0046]

Agency Forms Undergoing Paperwork Reduction Act Review

The Agency for Toxic Substances and Disease Registry (ATSDR) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of

responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570 or send an email to omb@cdc.gov. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395-5806. Written comments should be received within 30 days of this notice.

Proposed Project

Prospective Birth Cohort Study Involving Environmental Uranium Exposure in the Navajo Nation (OMB Control No. 0923-0046, Expiration, 2/29/2016)—Extension—Agency for Toxic Substances and Disease Registry (ATSDR).

Background and Brief Description

The Navajo Nation is the largest Alaska Native/American Indian Reservation in the United States. From 1948 to 1986, many uranium mining and milling operations took place in the Navajo Nation, leaving a large amount of uranium contamination on the reservation. The House Committee on Oversight and Government Reform requested that federal agencies develop a plan to address health and environmental impacts of uranium contamination in the Navajo Nation.

As a result in 2013, ATSDR and its research partners (University of New Mexico Community Environmental Health Program [UNM-CEHP], Navajo Area Indian Health Service [NAIHS], Navajo Nation Department of Health [NNDOH], Navajo Nation Environmental Protection Agency [NNEPA], and Navajo culture and language specialists) initiated a research study titled "Prospective Birth Cohort Study Involving Environmental Uranium Exposure in the Navajo Nation" (OMB Control No. 0923-0046; expiration date 02/29/2016). The goal of the research is to better understand and prevent unfavorable child and maternal health outcomes potentially related to prenatal exposures to uranium. As ATSDR has received supplemental funding to continue the study, a three year extension for PRA clearance is requested to allow further recruitment of mother-infant pairs.

Participants include Native American mothers from age 14 to 45 with verification of pregnancy who have

lived in the study area for at least 5 years. Also, participants must consent to receive prenatal care and deliver at one of the healthcare facilities that are taking part in the study.

Since 2013, over 525 mother-infant pairs and over 160 fathers have been enrolled. Biological sample analysis, surveys, and developmental screenings are performed for each participant. An estimated 675 biomonitoring samples have been analyzed for 36 metals/metalloids including uranium, arsenic, lead and mercury. Home environmental assessments (HEAs), conducted by field research staff, consist of gamma radiation surveys, indoor air radon tests, and dust sample analysis of the participants' primary residence during pregnancy, and over 400 HEAs have been completed to date. Mothers must be present at home when field research staff conduct the HEA. Study participants receive report back letters on their biomonitoring and HEA results to inform them of uranium and other heavy metals in their bodies and in and around their home environment.

The survey instruments for pregnant mothers include the following: Eligibility Form, Mother Enrollment Survey, Ages and Stages Questionnaire (ASQ), Mullen Scales for Early Learning (MSEL), Postpartum Survey (2 months), Postpartum Survey (6,9,12 months), Food Frequency Questionnaire/WIC Intake Form, and Home Environmental Assessments. An enrollment survey for fathers who agree to participate is also administered. Follow-up assessments including the Ages & Stages Questionnaire and biomonitoring at 2, 6, 9 and 12 months are currently being conducted for the 387 infants delivered to date.

Community Health and Environmental Research Specialists (CHERS) administer the surveys using a CDC-approved electronic data entry system. Survey instruments are used to collect demographic information and to assess potential environmental health risks and mother-child interactions. The final format of the survey instruments is based on review and input from the Navajo Nation community liaison group and associated Navajo staff to address issues such as cultural sensitivity, comprehension, and language translation.

There is no cost to the respondents other than their time to participate in the study. The total estimated annual burden hours equals 4,455.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden response (hours)
Mothers	Eligibility Form	750	1	5/60
	Mother Enrollment Survey	550	1	2
	Ages and Stages Questionnaire (2,6,9,12 months)	500	4	15/60
	Mullen Scales of Early Learning	500	1	20/60
	Postpartum Survey (2 months)	500	1	1
	Post-partum Survey (6, 9, 12 months)	500	3	15/60
	Food Frequency Questionnaire/WIC Intake Form	500	1	45/60
	Home Environmental Assessment	550	1	1
Fathers	Father Enrollment Survey	550	1	90/60

Leroy A. Richardson,

*Chief, Information Collection Review Office,
Office of Scientific Integrity, Office of the
Associate Director for Science, Office of the
Director, Centers for Disease Control and
Prevention.*

[FR Doc. 2015-30595 Filed 12-3-15; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-3329-PN]

Medicare and Medicaid Programs: Application From the Institute for Medical Quality for Initial CMS- Approval of Its Ambulatory Surgical Center Accreditation Program

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Notice with request for comment.

SUMMARY: This proposed notice acknowledges the receipt of an application from the Institute for Medical Quality (IMQ) for recognition as a national accrediting organization (NAO) for Ambulatory Surgical Centers (ASCs) that wish to participate in the Medicare or Medicaid programs.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 4, 2016.

ADDRESSES: In commenting, please refer to file code CMS-3329-PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3329-PN, P.O. Box 8010, Baltimore, MD 21244-8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-3329-PN, Mail Stop C4-26-05, 7500 Security Boulevard, Baltimore, MD 21244-1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written ONLY to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786-9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for

hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT:

Cindy Melanson, (410) 786-0310.
Patricia Chmielewski, (410) 786-6899.
Marie Vashbinder, (410) 786-8665.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1-800-743-3951.

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from an Ambulatory Surgical Center (ASC) provided certain requirements are met. Section 1832(a)(2)(F)(i) of the Social Security Act (the Act) establishes distinct criteria for facilities seeking designation as an ASC. Regulations concerning provider agreements are at 42 CFR part 489 and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. The regulations at 42 CFR part 416 specify the

conditions that an ASC must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for ASCs.

Generally, to enter into an agreement, an ASC must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 416 of our Medicare regulations. Thereafter, the ASC is subject to regular surveys by a State survey agency to determine whether it continues to meet these requirements.

Section 1865(a)(1) of the Act provides that, if a provider entity demonstrates through accreditation by a Centers for Medicare & Medicaid Services (CMS) approved national accrediting organization (NAO) that all applicable Medicare conditions are met or exceeded, we may deem those provider entities as having met the requirements. Accreditation by an NAO is voluntary and is not required for Medicare participation.

If an NAO is recognized by the Secretary of the Department of Health and Human Services as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program may be deemed to meet the Medicare conditions. A NAO applying for approval of its accreditation program under part 488, subpart A, must provide CMS with reasonable assurance that the NAO requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions. Our regulations concerning the approval of NAOs are set forth at § 488.5.

II. Approval of Deeming Organizations

Section 1865(a)(2) of the Act and our regulations at § 488.5 require that our findings concerning review and approval of a NAO's requirements consider, among other factors, the applying NAO's requirements for accreditation; survey procedures; resources for conducting required surveys; capacity to furnish information for use in enforcement activities; monitoring procedures for provider entities found not in compliance with the conditions or requirements; and ability to provide CMS with the necessary data for validation.

Section 1865(a)(3)(A) of the Act further requires that we publish, within 60 days of receipt of an organization's complete application, a notice identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period.

We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of the Institute for Medical Quality (IMQ's) request for initial CMS-approval of its ASC accreditation program. This notice also solicits public comment on whether IMQ's requirements meet or exceed the Medicare conditions for coverage (CfCs) for ASCs.

III. Evaluation of a NAO's Accreditation Program

IMQ submitted all the necessary materials to enable us to make a determination concerning its request for initial CMS-approval of its ASC accreditation program. This application was determined to be complete on October 8, 2015. Under Section 1865(a)(2) of the Act and our regulations at § 488.5, our review and evaluation of IMQ will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of IMQ's standards for ASCs as compared with Medicare's CfCs or ASCs.
- IMQ's survey process to determine the following:
 - ++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.
 - ++ The comparability of IMQ's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

++ IMQ's processes and procedures for monitoring an ASC found out of compliance with IMQ's program requirements. These monitoring procedures are used only when IMQ identifies noncompliance. If noncompliance is identified through validation reviews or complaint surveys, the State survey agency monitors corrections as specified at § 488.9(c)(1).

++ IMQ's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

++ IMQ's capacity to provide CMS with electronic data and reports necessary for effective validation and assessment of the organization's survey process.

++ The adequacy of IMQ's staff and other resources, and its financial viability.

++ IMQ's capacity to adequately fund required surveys.

++ IMQ's policies with respect to whether surveys are announced or

unannounced, to assure that surveys are unannounced.

++ IMQ's agreement to provide CMS with a copy of the most current accreditation survey together with any other information related to the survey as CMS may require (including corrective action plans).

IV. Collection of Information Requirements

This document does not impose information collection requirements, that is, reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Response to Public Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Upon completion of our evaluation, including evaluation of comments received as a result of this notice, we will publish a final notice in the **Federal Register** announcing the result of our evaluation.

Dated: November 18, 2015.

Andrew M. Slavitt,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2015–30316 Filed 12–3–15; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2015–N–4399]

Determination That OPTHAIN (proparacaine hydrochloride) Solution and Other Drug Products Were Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. This determination means

that FDA will not begin procedures to withdraw approval of abbreviated new drug applications (ANDAs) that refer to these drug products, and it will allow FDA to continue to approve ANDAs that refer to the products as long as they meet relevant legal and regulatory requirements.

FOR FURTHER INFORMATION CONTACT:

Stacy Kane, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6236, Silver Spring, MD 20993-0002, 301-796-8363, Stacy.Kane@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In 1984, Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) (the 1984 amendments), which authorized the approval of duplicate versions of drug products approved under an ANDA procedure. ANDA applicants must, with certain

exceptions, show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the "listed drug," which is a version of the drug that was previously approved. ANDA applicants do not have to repeat the extensive clinical testing otherwise necessary to gain approval of a new drug application (NDA).

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the "Approved Drug Products With Therapeutic Equivalence Evaluations," which is generally known as the "Orange Book." Under FDA regulations, a drug is removed from the list if the Agency withdraws or suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug

was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162).

Under § 314.161(a) (21 CFR 314.161(a)), the Agency must determine whether a listed drug was withdrawn from sale for reasons of safety or effectiveness: (1) Before an ANDA that refers to that listed drug may be approved, (2) whenever a listed drug is voluntarily withdrawn from sale and ANDAs that refer to the listed drug have been approved, and (3) when a person petitions for such a determination under 21 CFR 10.25(a) and 10.30. Section 314.161(d) provides that if FDA determines that a listed drug was withdrawn from sale for safety or effectiveness reasons, the Agency will initiate proceedings that could result in the withdrawal of approval of the ANDAs that refer to the listed drug.

FDA has become aware that the drug products listed in the table in this document are no longer being marketed.

Application No.	Drug	Applicant
NDA 008883	OPHTHAINE (proparacaine hydrochloride) Solution/Drops; Ophthalmic, 0.5%.	Apothecon, Inc.
NDA 009053	PURINETHOL (mercaptapurine) Tablet; Oral, 50 milligrams (mg).	Teva Pharmaceuticals USA.
NDA 012427	DIDREX (benzphetamine hydrochloride) Tablet; Oral, 50 mg	Pharmacia & Upjohn Co.
NDA 012583	OPHTHETIC (proparacaine hydrochloride) Solution/Drops; Ophthalmic, 0.5%.	Allergan Pharmaceutical.
NDA 017716	OVCON-35 (ethinyl estradiol; norethindrone) Tablet; Oral-28, 0.035 mg; 0.4 mg.	Warner Chilcott LLC.
NDA 018782	NORDETTE-28 (ethinyl estradiol; levonorgestrel) Tablet; Oral-28, 0.03 mg; 0.15 mg.	Teva Branded Pharmaceutical Products R and D, Inc.
NDA 021199	QUIXIN (levofloxacin) Solution/Drops; Ophthalmic, 0.5%	Santen, Inc.
NDA 021595	SANCTURA (trospium chloride) Tablet; Oral, 20 mg	Allergan, Inc.
NDA 021664	BROMDAY (bromfenac sodium) Solution/Drops; Ophthalmic, EQ 0.09% acid.	Bausch & Lomb, Inc.
NDA 022103	SANCTURA XR (trospium chloride) Extended-Release Capsule; Oral, 60 mg.	Allergan, Inc.
ANDA 060571	MYCOSTATIN (nystatin) Ointment; Topical, 100,000 units/gram (g).	Delcor Asset Corp.
ANDA 060575	MYCOSTATIN (nystatin) Cream; Topical, 100,000 units/g	Do.
ANDA 060578	MYCOSTATIN (nystatin) Powder; Topical 100,000 units/g	Do.
ANDA 063116	TOBRAMYCIN SULFATE (PHARMACY BULK) (tobramycin sulfate) Injectable; Injection, EQ 40 mg base/milliliter.	Hospira, Inc.

FDA has reviewed its records and, under § 314.161, has determined that the drug products listed in this document were not withdrawn from sale for reasons of safety or effectiveness. Accordingly, the Agency will continue to list the drug products listed in this document in the "Discontinued Drug Product List" section of the Orange Book. The "Discontinued Drug Product List" identifies, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness.

Approved ANDAs that refer to the NDAs and ANDAs listed in this

document are unaffected by the discontinued marketing of the products subject to those NDAs and ANDAs. Additional ANDAs that refer to these products may also be approved by the Agency if they comply with relevant legal and regulatory requirements. If FDA determines that labeling for these drug products should be revised to meet current standards, the Agency will advise ANDA applicants to submit such labeling.

Dated: November 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015-30628 Filed 12-3-15; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; R13 Conference Grant Review (PA 13–347).

Date: December 8, 2015.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Virtual Meeting).

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, 301–435–1426. m McGuire@mail.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: November 27, 2015.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–30603 Filed 12–3–15; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Therapeutic Cannabidiol Pulmonary Delivery Device (8929).

Date: December 14, 2015.

Time: 8:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, rogersn2@nida.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Pain Mobile Remote Pain Management System (4434).

Date: December 14, 2015.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Nadine Rogers, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4229, MSC 9550, Bethesda, MD 20892–9550, 301–402–2105, rogersn2@nida.nih.gov.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: November 27, 2015.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2015–30602 Filed 12–3–15; 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 project 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 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.

Proposed Project—Strategic Prevention Framework State Incentive Grant (SPF SIG) Program, Cohorts IV and V—NEW

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) requests OMB approval to collect community outcomes data for the cross-site evaluation of the Strategic Prevention Framework State Incentive Grant (SPF SIG) program, Cohorts IV and V. CSAP has previously funded two cross-site evaluations of the Strategic Prevention Framework State Incentive Grant (SPF SIG), one focused on Cohorts I and II and the other on Cohorts III, IV, and V. Collectively, these evaluations provide an important opportunity to inform the prevention field on current practices and their association with community- and state-level outcomes.

Data are collected at the grantee, community, and participant levels. The collection of community outcomes data is the focus of the current request. The primary cross-site evaluation objective is to determine the impact of SPF SIG on building prevention capacity and infrastructure, and preventing the onset and reducing the progression of substance abuse, as measured by the SAMHSA National Outcome Measures (NOMS).

The SPF SIG grant program is a major investment by the federal government to improve substance abuse prevention systems and enhance the quality of prevention programs, primarily through the implementation of the SPF process. The goal of this initiative is to provide states, jurisdictions, tribal entities, and the communities within them with the tools necessary to develop an effective prevention system with attention to the processes, directions, goals, expectations, and accountabilities necessary for functionality. SAMHSA/

CSAP needs to collect information over the course of the remaining grant period to monitor the progress of the SPF SIG

initiative. CSAP will use the findings from the analysis of the community outcomes data in the cross-site

evaluation to assess the impact of SPF activities on community-level outcomes.

ANNUALIZED DATA COLLECTION BURDEN

Instrument	Number of respondents	Responses per respondent	Total number of responses	Burden hours per response	Total burden hours
Community Outcomes Module	34	1	34	4	136

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 2, 2016.

Summer King,
Statistician.

[FR Doc. 2015-30596 Filed 12-3-15; 8:45 am]

BILLING CODE 4162-20-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2015-0021; OMB No. 1660-0009]

Agency Information Collection Activities: Proposed Collection; Comment Request; The Declaration Process: Requests for Preliminary Damage Assessment (PDA), Requests for Supplemental Federal Disaster Assistance, Appeals, and Requests for Cost Share Adjustments

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, 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 a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning The Declaration Process: Requests for Preliminary Damage Assessment (PDA), Requests for Supplemental Federal Disaster Assistance, Appeals, and Requests for Cost Share Adjustments collection. This collection allows States and Tribes to request a major disaster or emergency declaration.

DATES: Comments must be submitted on or before February 2, 2016.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at www.regulations.gov under Docket ID FEMA-2015-0021. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472-3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT:

Dean Webster, Declarations Unit, Federal Emergency Management Agency at (202) 646-2833 or Dean.Webster@fema.dhs.gov for additional information. You may contact the Records Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: Under Sections 401 and 501 of the Richard T. Stafford Disaster Relief and Emergency Assistance Act (Stafford Act) (42 U.S.C 5170 and 5190), if a State or Tribe is impacted by an event of the severity and magnitude that is beyond its response capabilities, the State Governor or Chief Executive may seek a declaration by the President that a major disaster or emergency exists. Any major disaster or emergency request must be submitted through FEMA, which evaluates the request and makes a recommendation to the President about what response action to take. If the major disaster or emergency declaration request is granted, the State or Tribe may be eligible to receive assistance under 42

U.S.C. 5170a-5170c; 5172-5186; 5189c-5189d; and 5192. A State or Tribe may appeal denials of a major disaster or emergency declaration request for determinations under section 44 CFR 206.46 and seek an adjustment to the cost share percentage under section 44 CFR 206.47. FEMA is revising the currently approved information collection to account for a new checkbox on FEMA Form 010-0-13 so that States or Tribes can indicate whether they will be seeking assistance from the Small Business Administration.

Collection of Information

Title: The Declaration Process: Requests for Preliminary Damage Assessment (PDA), Requests for Supplemental Federal Disaster Assistance, Appeals, and Requests for Cost Share Adjustments.

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660-0009.

FEMA Forms: FEMA Form 010-0-13, Request for Presidential Disaster Declaration Major Disaster or Emergency.

Abstract: When a disaster occurs, the Governor of the State or the Chief Executive of an affected Indian tribal government, may request a major disaster declaration or an emergency declaration. The Governor or Chief Executive should submit the request to the President through the appropriate Regional Administrator to ensure prompt acknowledgement and processing. The information obtained by joint Federal, State, and local preliminary damage assessments will be analyzed by FEMA regional senior level staff. The regional summary and the regional analysis and recommendation will include a discussion of State and local resources and capabilities, and other assistance available to meet the disaster related needs. The Administrator of FEMA provides a recommendation to the President and also provides a copy of the Governor's or Chief Executive's request. In the event the information required by law is

not contained in the request, the Governor's or Chief Executive's request cannot be processed and forwarded to the White House. In the event the Governor's request for a major disaster declaration or an emergency declaration is not granted, the Governor or Chief Executive may appeal the decision.

Affected Public: State, local or Tribal Government.

Number of Respondents: 623.

Number of Responses: 356.

Estimated Total Annual Burden Hours: 11,748.

Estimated Cost: The estimated annual cost to respondents for the hour burden is \$527,976.48. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is \$3,934,673.24.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: November 24, 2015.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015-30642 Filed 12-3-15; 8:45 am]

BILLING CODE 9111-23-P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA-2015-0027; OMB No. 1660-0125]

Agency Information Collection Activities: Proposed Collection; Comment Request; FEMA Preparedness Grants: Homeland Security Grant Program (HSGP)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, 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 a revision of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Homeland Security Grant Program (HSGP).

DATES: Comments must be submitted on or before February 2, 2016.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at www.regulations.gov under Docket ID FEMA-2015-0027. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472-3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at <http://www.regulations.gov>, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of www.regulations.gov.

FOR FURTHER INFORMATION CONTACT: Paul Belkin, Branch Chief, FEMA, Grant Programs Directorate, 202-786-9771. You may contact the Records Management Division for copies of the proposed collection of information at email address: FEMA-Information-Collections-Management@fema.dhs.gov.

SUPPLEMENTARY INFORMATION: FEMA's Homeland Security Grant Program

(HSGP) supports state and local efforts to prevent terrorism and other catastrophic events and to prepare the Nation for the threats and hazards that pose the greatest risk to the security of the United States. The HSGP provides funding to implement investments that build, sustain, and deliver the 31 core capabilities essential to achieving the National Preparedness Goal (the Goal) of a secure and resilient Nation. The building, sustainment, and delivery of these core capabilities are not exclusive to any single level of government, organization, or community, but rather, require the combined effort of the whole community. The HSGP supports core capabilities across the five mission areas of Prevention, Protection, Mitigation, Response, and Recovery based on allowable costs. HSGP is comprised of three grant programs: State Homeland Security Program (SHSP), Urban Area Security Initiative (UASI), and Operation Stonegarden (OPSG). Together, these grant programs fund a range of activities, including planning, organization, equipment purchase, training, exercises, and management and administration across all core capabilities and mission areas. The authorizing authority of the HSGP is Section 2002 of the *Homeland Security Act of 2002*, as amended (Pub. L. 107-296), (6 U.S.C. 603).

Collection of Information

Title: FEMA Preparedness Grants: Homeland Security Grant Program (HSGP).

Type of Information Collection: Revision of a currently approved information collection.

OMB Number: 1660-0125.

FEMA Forms: FEMA Form 089-1, HSGP Investment Justification (SHSP and UASI); FEMA Form 089-16, OPSG Operations Order Report; FEMA Form 089-20, OPSG Inventory of Operation Orders.

Abstract: The HSGP is an important tool among a comprehensive set of measures to help strengthen the Nation against risks associated with potential terrorist attacks. DHS/FEMA uses the information to evaluate applicants' familiarity with the national preparedness architecture and identify how elements of this architecture have been incorporated into regional/state/local planning, operations, and investments. The HSGP is a primary funding mechanism for building and sustaining national preparedness capabilities. The HSGP is comprised of three separate grant programs: the State Homeland Security Program (SHSP), the Urban Area Security Initiative (UASI), and Operation Stonegarden (OPSG).

Together, these grants fund a range of preparedness activities, including planning, organization, equipment purchase, training, exercises, and management and administration costs.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 462.

Number of Responses: 462.

Estimated Total Annual Burden

Hours: 310,357 hours.

Estimated Cost: The estimated annual cost to respondents for the hour burden is \$19,096,265. There are no annual costs to respondents' operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is \$2,022,270.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Dated: November 24, 2015.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2015-30641 Filed 12-3-15; 8:45 am]

BILLING CODE 9111-19-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-5828-N-49]

Federal Property Suitable as Facilities To Assist the Homeless

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

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by

HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT:

Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC 20410; telephone (202) 402-3970; TTY number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800-927-7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B-17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-2265 (This is not a toll-free number.) HHS will mail to the interested provider an application

packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1-800-927-7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (i.e., acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720-8873; COAST GUARD: Commandant, United States Coast Guard, Attn: Aretha Swann, 2703 Martin Luther King Jr. Avenue SE., Stop 7741, Washington, DC 20593-7714; (202) 475-5628; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040 Washington, DC 20405, (202) 501-0084; NASA: Mr. Frank T. Bellinger, Facilities Engineering Division, National Aeronautics & Space Administration, Code JX, Washington, DC 20546, (202) 358-1124; NAVY: Mr. Steve Matteo, Department of the Navy, Asset

Management; Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685-9426; (These are not toll-free numbers).

Dated: November 19, 2015.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 12/04/2015

Suitable/Available Properties

Building

North Carolina

Johnson J. Hayes Federal Build
207 West Main Street
Wilkesboro NC 28697
Landholding Agency: GSA
Property Number: 54201540015
Status: Excess
GSA Number: NC-0735-AB
Directions: Take US Highway 421 North toward Wilkesboro/Boone; Take exit 286A; Turn left onto NC-16/NC-18/S Cherry St.; Continue to follow NC-18/S Cherry St.; Turn right onto NC-18/NC-268/W Main St.
Basement—6,870 usable square feet (usf)
First Floor—15,755 usf
Second Floor—16,118 usf
Total—38,743 usf

Comments: 47+ yrs. old; 38,743 Gross Square Feet; office & courtroom; good condition; lease becomes month-to-month 02/2016; asbestos; contact GSA for more information.

Washington

2 Buildings
Liscumm Road
Quinault WA 98575
Landholding Agency: Agriculture
Property Number: 15201540002
Status: Excess
Directions: Residence—Norwood 1048 (1140.005071); Residence—Norwood 1047 (1139.005071) 07665 00 both bldgs. 1503 sq. ft.

Comments: off-site removal only; 46+ yrs. old; 4+ & 36+ mos. vacant; residential; asbestos; may be difficult to move because of type & size; contact Agriculture for more information.

Unsuitable Properties

Building

California

8 Buildings
Marine Corps Base Camp Pendleton
MCB Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77201540007
Status: Excess
Directions: Buildings 1503, 2514, 13145, 22168, 24172, 53424, 53425, 53426
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area
12 Buildings

Marine Corps Base Camp Pendleton
MCB Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77201540008
Status: Excess
Directions: Buildings 24121, 24122, 24123, 24124, 24125, 24126, 24131, 24132, 24133, 24134, 24135, 24136
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area
4 Buildings
MCB Camp Pendleton
MCB Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77201540010
Status: Excess
Directions: Building 31849; 31861; 31871; 31880
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area
Mississippi

Building: 9100 Warehouse
Stennis Space Center
Hancock County MS 39529
Landholding Agency: NASA
Property Number: 71201540003
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area
North Carolina
Metal Shop #57 (24046)
1664 Weeksville Road
Elizabeth City NC 27909
Landholding Agency: Coast Guard
Property Number: 88201540003
Status: Excess
Comments: property located within an airport runway clear zone or military airfield; Public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area; Within airport runway clear zone
[FR Doc. 2015-29952 Filed 12-3-15; 8:45 am]
BILLING CODE 4210-67-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-HQ-IA-2014-0018; 96300-1671-0000-R4]

Conference of the Parties to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES); Seventeenth Regular Meeting: Proposed Resolutions, Decisions, and Agenda Items Being Considered; Observer Information

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The United States, as a Party to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), may submit proposed resolutions, decisions, and agenda items for consideration at meetings of the Conference of the Parties to CITES. The United States may also propose amendments to the CITES Appendices for consideration at meetings of the Conference of the Parties. The seventeenth regular meeting of the Conference of the Parties to CITES (CoP17) is scheduled to be held in Johannesburg, South Africa, September 24 to October 5, 2016. With this notice, we describe proposed resolutions, decisions, and agenda items that the United States is considering submitting for consideration at CoP17; invite your comments and information on these proposals; and provide information on how non-governmental organizations based in the United States can attend CoP17 as observers.

DATES: We will consider all information and comments you submit concerning proposed resolutions, decisions, and agenda items that the United States is considering submitting for consideration at CoP17, if we receive them on or before February 2, 2016.

ADDRESSES: You may submit comments pertaining to proposed resolutions, decisions, and agenda items for discussion at CoP17 by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments on Docket No. FWS-HQ-IA-2014-0018 (the docket number for this notice).
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: FWS-HQ-IA-2014-0018; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service; 5275 Leesburg Pike, MS BPHC; Falls Church, VA 22041.

We will not consider comments sent by email or fax, or to an address not listed in the **ADDRESSES** section. Comments and materials we receive in response to this notice will be posted for public inspection on <http://www.regulations.gov>, or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, 2nd Floor, Falls Church, VA 22041; telephone 703-358-2095.

Requests for approval to attend CoP17 as an observer should be sent to the Division of Management Authority, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: IA, Falls Church, VA

22041; or via email at: managementauthority@fws.gov; or via fax at: 703-358-2298.

For the latest news and information regarding U.S. preparations for CoP17, please visit our Web site at <http://www.fws.gov/international/CITES/CoP17/index.html>.

FOR FURTHER INFORMATION CONTACT: For information pertaining to resolutions, decisions, and agenda items, contact: Craig Hoover, Chief, Division of Management Authority, at 703-358-2162 (phone); 703-358-2298 (fax); managementauthority@fws.gov (email). For information pertaining to species proposals contact: Rosemarie Gnam, Chief, Division of Scientific Authority, at 703-358-1708 (phone); 703-358-2276 (fax); or scientificauthority@fws.gov (email). If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800-877-8339.

SUPPLEMENTARY INFORMATION:

Background

The Convention on International Trade in Endangered Species of Wild Fauna and Flora, hereinafter referred to as CITES or the Convention, is an international treaty designed to regulate international trade in certain animal and plant species that are now, or potentially may become, threatened with extinction. These species are listed in Appendices to CITES, which are available on the CITES Secretariat's Web site at <http://www.cites.org/eng/app/appendices.php>. Currently, 180 countries, including the United States, and one regional economic integration organization, the European Union, are Parties to CITES. The Convention calls for regular biennial meetings of the Conference of the Parties, unless the Conference of the Parties decides otherwise. At these meetings, the Parties review the implementation of CITES, make provisions enabling the CITES Secretariat to carry out its functions, consider amendments to the lists of species in Appendices I and II, consider reports presented by the Secretariat, and make recommendations for the improved effectiveness of CITES. Any Party to CITES may propose amendments to Appendices I and II, resolutions, decisions, and agenda items for consideration by all the Parties at the meetings.

This is our fourth in a series of **Federal Register** notices that, together with an announced public meeting (time and place to be announced), provide you with an opportunity to participate in the development of the U.S. submissions to, and negotiating

positions for, the seventeenth regular meeting of the Conference of the Parties to CITES (CoP17). We published our first CoP17-related **Federal Register** notice on June 27, 2014 (79 FR 36550), in which we requested information and recommendations on species proposals for the United States to consider submitting for consideration at CoP17. In that notice, we also described the U.S. approach to preparations for CoP17. We published our second such **Federal Register** notice on May 11, 2015 (80 FR 26948), in which we requested information and recommendations on proposed resolutions, decisions, and agenda items for the United States to consider submitting for consideration at CoP17, and provided preliminary information on how to request approved observer status for non-governmental organizations that wish to attend the meeting. In our third CoP17-related **Federal Register** notice, published on August 26, 2015 (80 FR 51830), we requested public comments and information on species proposals that the United States is considering submitting for consideration at CoP17. You may obtain additional information on those **Federal Register** notices from the following sources: For information on proposed resolutions, decisions, and agenda items, contact the Division of Management Authority at the address provided above in the **ADDRESSES** section; and for information on species proposals, contact the Division of Scientific Authority, U.S. Fish and Wildlife Service, 5275 Leesburg Pike, MS: IA, Falls Church, VA 22041. Our regulations governing this public process are found in title 50 of the Code of Federal Regulations (CFR) at § 23.87.

Recommendations for Resolutions, Decisions, and Agenda Items for the United States To Consider Submitting for CoP17

In our **Federal Register** notice published on May 11, 2015 (80 FR 26948), we requested information and recommendations on potential resolutions, decisions, and agenda items for the United States to submit for consideration at CoP17. We received information and recommendations from the following organizations: American Federation of Violin and Bow Makers; American Society of Mammalogists; Animal Welfare Institute; Campaign Against Canned Hunting; Center for International Environmental Law; Chamber Music America; Environmental Investigation Agency; Free Morgan Foundation; Friends of Animals; Global March for Elephants and Rhinos; International Environmental Law Project; League of

American Orchestras; Maniago Safaris Ltd.; National Association of Music Merchants; Ornithological Council; Society for the Preservation of Natural History Collections; Species Survival Network; Sustainable Fisheries Association, Inc.; Wildlife Conservation Society; and World Wildlife Fund. We also received comments from one individual. In addition, we received comments from Global March for Elephants and Rhinos and Sustainable Fisheries Association, Inc. related to proposals to amend the CITES Appendices. Both of these comments were outside the scope of this **Federal Register** notice.

We considered all of the recommendations of the above individuals and organizations, as well as the factors described in the U.S. approach for CoP17 discussed in our June 27, 2014, **Federal Register** notice, when compiling a list of resolutions, decisions, and agenda items that the United States is likely to submit for consideration by the Parties at CoP17. We also compiled lists of resolutions, decisions, and agenda items for consideration at CoP17 that the United States either is currently undecided about submitting, is not considering submitting at this time, or plans to address in other ways. In compiling these lists, we also considered potential submissions that we identified internally. The United States may consider submitting documents for some of the issues for which it is currently undecided or not considering submitting at this time, depending on the outcome of discussions of these issues in the CITES Standing Committee, additional consultations with range country governments and subject matter experts, or comments we receive during the public comment period for this notice.

Please note that, under A, B, and C below, we have listed those resolutions, decisions, and agenda items that the United States is likely to submit, currently undecided about submitting, or currently planning not to submit. We have posted a supplementary document on our Web site at <http://www.fws.gov/international/CITES/CoP17/index.html> and at <http://www.regulations.gov>, with text describing in more detail each of these issues and explaining the rationale for the tentative U.S. position on each issue. Copies of the supplementary document are also available from the Division of Management Authority at the address in the **ADDRESSES** section.

We welcome your comments and information regarding the resolutions, decisions, and agenda items that the United States is likely to submit,

currently undecided about submitting, or currently planning not to submit.

A. What resolutions, decisions, and agenda items is the United States likely to submit for consideration at CoP17?

Wildlife trafficking: Proposal for a document highlighting U.S. progress and leadership on efforts to combat wildlife trafficking.

B. On what resolutions, decisions, and agenda items is the United States still undecided, pending additional information and consultations?

1. Trade in live elephants: Proposal for a decision at CoP17 to review trade in live elephants to ensure that such trade is legal and conducted in compliance with CITES.

2. Trade in elephant ivory: Domestic ivory markets: Recommendation for the United States to work with key elephant range States and like-minded CITES Party countries to advocate, support, and propose a resolution to ban domestic elephant ivory trade, and support other countries' independent efforts to ban domestic elephant ivory trade; recommendation for submission of a working document encouraging the closure of legal domestic elephant ivory markets; recommendation for an amendment to Resolution Conf. 10.10 (Rev. CoP16) or a new resolution recommending that Parties close their domestic elephant ivory markets; and three recommendations that the United States advocate for a complete ban on global elephant ivory trade.

3. Trade in live rhinoceroses: Recommendation that live rhinoceros not be shipped outside of range countries.

4. Trade in rhinoceros horn: Synthetic products: Recommendation to submit a discussion document outlining the potential problems raised by the introduction of synthetic wildlife products, such as synthetic rhino horn, and examining ways that CITES might address these problems.

5. Trade in pangolins: Proposal for a resolution urging Parties to adopt and implement legislation and enforcement controls, including increased cooperation with other Parties, to reduce illegal trade in pangolins and to encourage the Secretariat and other appropriate bodies to assist those Parties lacking legislation.

6. Trade in sport-hunted trophies: Proposal for: A draft decision directing Parties that undertake voluntary wildlife trade policy reviews examine the probable impacts of lawful sport hunting on the survivability of the hunted species in the wild and provide the Secretariat with the results so that

these may be shared with the Parties; a draft decision directing the Animals Committee to form a working group to examine the probable impacts of lawful sport hunting on the survivability of the hunted species in the wild and submit its findings to the Secretariat; and a draft decision directing the Secretariat to compile information received on this issue on its Web site, assist interested Parties in examining the probable impacts of lawful sport hunting on the survivability of the hunted species in the wild, organize a conference to examine the findings of the Animals Committee on the probable impacts of lawful sport hunting on the survivability of the hunted species in the wild, and report at SC69 and CoP18.

7. Marine species: Interpretation of CITES Article XIV, paragraphs 4 and 5: Proposal for a draft resolution to clarify the ambiguities that exist in Article XIV, paragraphs 4 and 5, with respect to implementation of the treaty for marine species.

8. Marine species: CITES National Legislation Project: Recommendation for a request to the Food and Agriculture Organization (FAO) to engage with the CITES National Legislation Project as it pertains to marine species.

9. Marine species: Sharks and rays: Proposal for submission of an agenda item to ensure that the outcomes of the working groups on sharks and rays and the deliberations of the Animals Committee and Standing Committee on sharks and rays are discussed and to ensure a discussion on capacity-building needs in the issuance of non-detriment findings for CITES-listed sharks and rays.

10. Marine species: Fish maw trade: Proposal for a decision at CoP17 to further explore the fish maw (swim bladder) trade to identify critical intervention points to ensure that this trade, which threatens two endangered species, can be stopped.

11. Wildlife trafficking: Proposal to submit an agenda item on the issue of wildlife trafficking and the transport industry to facilitate reporting to the CoP on U.S. and other initiatives.

12. Traveling with musical instruments: Recommendation that the United States: Support establishing more efficient and uniform procedures for issuing documents for international transport of musical instruments and inspecting and clearing such documents; and work with officials in other countries to ensure that concepts such as the musical instrument certificate and personal effects exemption for musical instruments containing CITES-listed species are adopted by all CITES Parties.

13. National CITES legislation: Proposal for an amendment to Resolution Conf. 8.4 (Rev. CoP15), on *National laws for implementation of the Convention*, to provide clear guidelines as to the criteria for inclusion in Categories 1, 2, and 3 under the CITES National Legislation Project; proposal to ensure that Decisions 16.33–16.38, on *National laws for implementation of the Convention*, are updated to account for changing dates and reference to CoP17; proposal for an overhaul of the CITES National Legislation Project to ensure that Parties have adequate CITES legislation and regulatory systems in place; and proposal for a decision to encourage the flow of dedicated funds to the Secretariat to carry out its work relative to the Project.

14. CoP Rules of Procedure: Secret ballots: Proposal to amend Rule 25 (Methods of Voting) of the Rules of Procedure of the Conference of the Parties (CoP) to eliminate voting by secret ballots except with respect to the election of officers.

15. CoP Rules of Procedure: Credentials and voting procedures for regional economic integration organizations: Proposal to amend the Rules of Procedure of the CoP so that they address two issues with respect to the participation of regional economic integration organizations at CoPs: Credentials and voting.

16. Annual reporting on seized specimens: Recommendation that the United States support mandatory annual reporting on illegal CITES trade, with the penalty for failure to report such trade similar to the penalty for failure to submit annual report.

17. Validated reference material: The United States is considering preparing discussion documents on the importance of providing validated reference material of newly listed species, especially timber species, so that appropriate labs and inspections authorities can develop forensic identification techniques.

18. Trade in timber species utilized for hongmu: Recommendation that the United States prepare a discussion document on the legal and illegal trade in timber for the production of traditional Chinese furniture and the potential to address this issue in CITES.

19. Nationally established Appendix-II export quotas: Recommendation that the United States consider submitting a document to CoP17 to examine the current implementation, enforcement, and benefits of the implementation of Resolution Conf. 14.7 (Rev. CoP15), management of nationally established export quotas.

20. CITES specimens accompanied by court-ordered CITES documents: Proposing a revision to CITES Resolution Conf. 12.3 (Rev. CoP16) recommending that: Exporting Parties not export specimens of CITES-listed species without evidence of legal origin of specimens of the species and without evidence of a non-detriment finding; and importing Parties reject shipments of specimens of CITES species accompanied by export permits issued under court order without the required CITES findings.

21. Administrative hosting arrangements: The United States is currently chairing a working group of the Standing Committee that is reviewing the administrative hosting arrangements between the United Nations Environment Programme and the CITES Secretariat and is considering submitting a document to CoP17 on this subject.

22. Youth participation: The United States is considering submitting a draft resolution exploring the opportunities and emphasizing the importance of youth participation in CITES fora.

C. What resolutions, decisions, and agenda items is the United States not likely to submit for consideration at CoP17, unless we receive significant additional information?

1. Trade in elephant specimens: Resolution Conf. 10.10 (Rev. CoP16): Proposal for: A comprehensive review of Resolution Conf. 10.10 (Rev. CoP16), on *Trade in elephant specimens*; a resolution or decision requiring Parties to report on their progress in implementing Resolution Conf. 10.10 (Rev. CoP16); and an amendment to Resolution Conf. 10.10 (Rev. CoP16) or a new resolution recommending that Parties close their domestic elephant ivory markets.

2. Trade in elephant ivory: Decision-making mechanism: Recommendation that: The United States call for greater transparency and wider consultation on development of a decision-making mechanism (DMM) for authorizing ivory trade and request that the background study, the terms of reference for the study, and related documents be made available on the CITES Web site for public comment before being finalized at SC66; the United States, as a member of the DMM Working Group, call for a suspension of the discussion on the DMM and oppose any proposals for international trade in elephant ivory or downlisting of elephant populations; and the United States advocate that Decision 16.55, concerning a decision-making mechanism for a process of

trade in elephant ivory, not be renewed at CoP17.

3. Trade in elephant ivory: National Ivory Action Plans: Recommendation that the United States call for the publication on the CITES Web site of the National Ivory Action Plans of the primary concern countries, and the implementation reports by the primary concern countries, secondary concern countries, and the importance to watch countries, along with the feedback by the Secretariat on the content and implementation of the Plans; recommendation that the United States call for revision of the National Ivory Action Plans where appropriate to include meaningful milestones with timeframes for implementation, and evidence to measure the impact through specific indicators; recommendation that the United States call for trade suspensions for Tanzania until they can demonstrate progress in effectively addressing illegal trade in ivory; recommendation that the United States call for adoption of a moratorium on domestic ivory trade in China, Hong Kong, Thailand, and Japan, where domestic ivory markets are perpetuating illegal trade in ivory or licensed trade in ivory has facilitated illegal trade and has been used as a laundering mechanism for the trade in illegal ivory; recommendation that the United States call for destruction of ivory stockpiles following independent inventory and audit and DNA analysis for investigations; recommendation that the United States urge China, Thailand, and Viet Nam to detect, investigate, and apprehend the criminal networks using Laos as a hub for trafficking ivory and other wildlife; and recommendation that the United States call for Japan to be moved higher up on the National Ivory Action Plans list to “primary concern” and for Japan to adopt a National Ivory Action Plan, including a commitment to implement a domestic ivory trade ban.

4. Trade in elephant ivory: Stockpiles: Proposal for the United States to submit a document outlining the rationale for destruction of elephant ivory stockpiles, summarizing progress on the issue since CoP16, and encouraging all Parties to destroy their stockpiles.

5. Trade in rhinoceros horn: Recommendation urging the United States to oppose any proposals to legalize trade in rhinoceros horn, both domestically and internationally; and a recommendation to ensure that Parties are held accountable to the reporting requirements adopted at CoP17 with regard to actions to combat the illegal killing of and trade in rhinoceros horn.

6. Trade in cheetahs: Proposal for a document ensuring that the issue of

illegal trade in cheetahs is on the agenda for CoP17.

7. Trade in African lions: Lion farming and trade in lion trophies: Recommendation that the United States submit a document proposing to end the practice of lion farming in South Africa and a document on the issue of lion farming for trade in their body parts; and a document proposing an end to the export and import of lion trophies.

8. Trade in African lions: Protections: Recommendation that the United States support any proposals for improving protection of African lions, including their up-listing.

9. Trade in Asian big cats: Recommendation that the United States: Ensure that the issue of Asia big cats is on the agenda for CoP17, primarily to call for a number of actions in advance of the CoP related to the illegal killing and trade in tigers and other Asian big cats; and consider calling for compliance measures to be enacted against Parties that fail to fulfill the called-for measures.

10. Trade in bears: Recommendation that the United States support proposals for improving protection for bears, including adopting measures to tackle the escalating trade in bear specimens.

11. Great apes: Recommendation that the United States ensure that the issue of great apes is on the agenda for CoP17.

12. Saiga antelope: Recommendation the United States ensure the issue of saiga antelope is on the agenda.

13. Trade in sport-hunted trophies: Proposal for the United States to ban the import of trophies of CITES-listed species.

14. Trade in hornbills and sandalwood: Recommendation that the United States urge source, transit, and consumer countries to demonstrate greater investment in proactive intelligence-led initiatives to target criminal networks and implement demand reduction strategies for red sandalwood (*Pterocarpus santalinus*) and helmeted hornbill (*Rhinoplax vigil*).

15. Trade in freshwater turtles and tortoises: Recommendation that the United States ensure that the issue of trade in tortoises and freshwater turtles is on the agenda of CoP17.

16. Marine species: Harmonized Tariff System (HTS) codes: Proposal for a draft resolution recommending that the Parties adopt a list of new 6-digit, 8-digit, and 10-digit HTS codes related to shark and cetacean species and commodities; and that the Parties adopt a CITES description code for “blubber” to use on CITES permits and in annual reports.

17. Marine species: Breeding cetaceans: Recommendation that the

United States support establishing a clear policy regarding the breeding of rescued, wild cetaceans with their captive-bred counterparts.

18. Trade in rosewood and ebony: Recommendation that the United States support: Madagascar in its efforts to combat illegal harvest of and trade in rosewood (*Dalbergia* spp.) and ebony (*Diospyros* spp.); any proposal to improve the protection of *Dalbergia cochinchinensis*, *Dalbergia oliveri*, and *Pterocarpus macrocarpus* through proposals that may arise from regional discussions; and any proposal to strengthen existing CITES controls for *Dalbergia cochinchinensis*.

19. Wildlife trafficking: Proposal that the United States encourage a report from the United Kingdom on the London Conference on the Illegal Wildlife Trade, and from Botswana on the Kasane Conference on the Illegal Trade.

20. Traveling with musical instruments: Personal effects exemption: Recommendation that the United States support a personal effects exemption for musical instruments containing CITES-listed species and the implementation of an exemption for musical instruments containing CITES-listed species transported by cargo under a carnet.

21. Traveling with musical instruments: Commercial travel and *de minimis* exemption: Recommendation that the United States support extending the use of the musical instrument certificate to commercial travel and advocate for the adoption of a general *de minimis* exemption from CITES requirements for instruments containing small amounts of CITES-listed species.

22. CITES and livelihoods: Recommendation that the United States ensure that the issue of CITES and livelihoods is on the agenda for CoP17.

23. Enforcement matters: Establishment of a CITES Enforcement Working Group: Recommendation that the United States call for a CITES Enforcement Expert Working Group to be convened on a regular basis.

24. Enforcement matters: Adoption of indicators: Recommendation that the United States support the adoption of indicators of effective enforcement and call for Parties to fully implement such indicators.

25. Enforcement matters: tackling illegal trade through social media channels: Recommendation that the United States call for measures to be adopted for Parties to tackle illegal trade in CITES species through social media channels.

26. Enforcement matters: Amendment to Resolution Conf. 11.3 (Rev. CoP16), on *Compliance and enforcement*:

Recommendation that the United States: Propose amendments to Resolution Conf. 11.3 (Rev. CoP16) to establish an enforcement working group to explore greater CITES emphasis on enforcement efforts; and recommend that Parties prohibit trade in animals and plants illegally taken, possessed, transported, or sold, similar to the U.S. Lacey Act.

27. CITES trade data reporting: Proposal for a resolution that describes in detail the need to accurately describe in CITES annual reports both the type of specimen being traded and the quantity of specimens, and that recommends that Parties issue permits and report trade using two units of measurement.

28. Purpose of Transaction codes on CITES permits: Proposal that the United States call for the consistent use of CITES Purpose of Transaction codes so that the same code is used on both import and export CITES documents.

29. Legal owner information on CITES permits: Proposal that the United States call for the disclosure of the legal owner of a specimen on the face of a CITES document.

30. Guidelines for making legal acquisition findings: Recommendation that the United States submit a document regarding the establishment of clear guidelines for Parties to use in making their CITES legal acquisition findings.

31. CITES document validation for scientific research: Recommendation that the United States propose to revise, suspend, or revoke the CITES document validation requirement for the movement of CITES-listed species for scientific research.

32. Primarily commercial purposes: Recommendation that the United States call for establishing clear criteria and guidelines to differentiate between “primarily commercial” purposes and “bona fide scientific research” purposes when making permit decisions.

33. Bred in captivity: Recommendation that the United States propose revisions to Resolutions Conf. 5.10 (Rev. CoP15), Conf. 10.16 (Rev.), and Conf. 12.10 (Rev. CoP15) to clarify the provisions of paragraphs 4 and 5 of CITES Article VII for specimens bred in captivity.

34. Laundering of wild-caught specimens: Recommendation that the United States submit the issue of laundering of wild-caught animals as captive-bred as a separate agenda item at CoP17.

35. Interval between CoPs: Proposal for an agenda item clarifying that CoPs should be 2 years apart, and that CoP18 should be held no later than October 2018.

36. Unlisted species: Recommendation that the United States propose a process to facilitate the identification of unlisted species that may benefit from listing in the CITES Appendices.

Request for Information and Comments

We invite information and comments concerning any of the proposed CoP17 resolutions, decisions, and agenda items discussed above. You must submit your information and comments to us no later than the date specified in **DATES**, above, to ensure that we consider them. Comments and materials received will be posted for public inspection on <http://www.regulations.gov>, and will be available by appointment, from 8 a.m. to 4 p.m., Monday through Friday, at the Division of Management Authority. Our practice is to post all comments, including names and addresses of respondents, and to make comments, including names and home addresses of respondents, available for public review during regular business hours.

There may be circumstances in which we would withhold from public review a respondent's name and/or address, as allowable by law. If you wish for us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but we cannot guarantee that we will be able to do so. We will make all comments and materials submitted by organizations or businesses, and by individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Observers

Article XI, paragraph 7 of CITES states the following:

Any body or agency technically qualified in protection, conservation or management of wild fauna and flora, in the following categories, which has informed the Secretariat of its desire to be represented at meetings of the Conference by observers, shall be admitted unless at least one-third of the Parties present object:

(a) international agencies or bodies, either governmental or non-governmental, and national governmental agencies and bodies; and

(b) national non-governmental agencies or bodies which have been approved for this purpose by the State in which they are located.

Once admitted, these observers shall have the right to participate but not to vote.

Persons wishing to be observers representing international non-governmental organizations (which must have offices in more than one country) at CoP17 may request approval directly from the CITES Secretariat.

Persons wishing to be observers representing U.S. national non-governmental organizations at CoP17 must receive prior approval from our Division of Management Authority. Once we grant our approval, a U.S. national non-governmental organization is eligible to register with the Secretariat and must do so at least 6 weeks prior to the opening of CoP17 to participate in CoP17 as an observer. Individuals who are not affiliated with an organization may not register as observers. An international non-governmental organization with at least one office in the United States may register as a U.S. non-governmental organization if it prefers.

Any organization that submits a request to us for approval as an observer should include evidence of their technical qualifications in protection, conservation, or management of wild fauna or flora, for both the organization and the individual representative(s). The request should include copies of the organization's charter and any bylaws, and a list of representatives it intends to send to CoP17. Organizations seeking approval for the first time should detail their experience in the protection, conservation, or management of wild fauna or flora, as well as their purposes for wishing to participate in CoP17 as an observer. An organization that we have previously approved as an observer at a meeting of the Conference of the Parties within the past 5 years must submit a request, but does not need to provide as much detailed information concerning its qualifications as an organization seeking approval for the first time. These requests should be sent to the Division of Management Authority at the address provided in **ADDRESSES** above, or via email at: managementauthority@fws.gov; or via fax at: 703-358-2298.

Once we approve an organization as an observer, we will inform them of the appropriate page on the CITES Web site where they may obtain instructions for registration with the CITES Secretariat, including a meeting registration form and travel and hotel information. A list of organizations approved for observer status at CoP17 will be available upon request from the Division of Management Authority just prior to the start of CoP17.

Future Actions

We expect the CITES Secretariat to provide us with a provisional agenda for CoP17 within the next several months. Once we receive the provisional agenda, we will publish it in a **Federal Register** notice and provide the Secretariat's Web site address. We will also provide the

provisional agenda on our Web site at <http://www.fws.gov/international/CITES/CoP17/index.html>.

The United States will submit any proposed resolutions, decisions, and agenda items, as well as any species proposals, for consideration at CoP17 to the CITES Secretariat 150 days prior to the start of the meeting (*i.e.*, by April 27, 2016). We will consider all available information and comments we receive during the comment period for this notice as we decide which proposed resolutions, decisions, and agenda items warrant submission by the United States for consideration by the Parties. With respect to our notice published on August 26, 2015 (80 FR 51830), we are considering all available information and comments we received during the comment period for that notice as we decide which species proposals warrant submission by the United States for consideration by the Parties. Approximately 4 months prior to CoP17, we will post on our Web site an announcement of the species proposals and proposed resolutions, decisions, and agenda items submitted by the United States to the CITES Secretariat for consideration at CoP17.

Through an additional notice and Web site posting in advance of CoP17, we will inform you about preliminary negotiating positions on resolutions, decisions, agenda items, and amendments to the Appendices proposed by other Parties for consideration at CoP17. We will also publish an announcement of a public meeting tentatively to be held approximately 2 to 3 months prior to CoP17, to receive public input on our positions regarding issues on the agenda for CoP17. The procedures for developing U.S. documents and negotiating positions for a meeting of the Conference of the Parties to CITES are outlined at 50 CFR 23.87. As noted at 50 CFR 23.87(c), we may modify or suspend the procedures outlined there if they would interfere with the timely or appropriate development of documents for submission to the meeting of the Conference of the Parties and of U.S. negotiating positions.

Author: The primary author of this notice is Mark Bellis, Division of Management Authority.

Authority: The authority for this action is the U.S. Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: November 25, 2015.

Robert Dreher,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 2015-30593 Filed 12-3-15; 8:45 am]

BILLING CODE 4333-15-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(LLMT926000-L1440000.BJ0000);
16XL1109AF; MO#4500087899]

Notice of Filing of Plats of Survey; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on January 4, 2016.

DATES: Protests of the survey must be filed before January 4, 2016 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101-4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101-4669, telephone (406) 896-5124 or (406) 896-5003, HMontoya@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Regional Land Surveyor, Region 6, U.S. Fish and Wildlife Service, and were necessary to determine boundaries of Federal lands.

The lands we surveyed are:

Principal Meridian, Montana

T. 22 N., R. 43 E.

The plat, in 1 sheet, representing the dependent resurvey of a portion of the subdivisional lines, Township 22 North, Range 43 East, of the Principal Meridian, Montana, was accepted September 25, 2015.

Principal Meridian, Montana

T. 23 N., R. 43 E.

The plat, in 3 sheets, representing the dependent resurvey of a portion of the south and east boundaries and a portion of the subdivisional lines and the subdivision of certain sections and the

survey of portions of the easterly and westerly rights-of-way of present Montana State Highway 24 and certain parcels, in Township 23 North, Range 43 East, of the Principal Meridian, Montana, was accepted September 25, 2015.

We will place a copy of the plats, in four sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on the plats, in four sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file the plats, in four sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Joshua F. Alexander,
*Acting Chief, Branch of Cadastral Survey,
Division of Energy, Minerals and Realty.*
[FR Doc. 2015-30682 Filed 12-3-15; 8:45 am]
BILLING CODE 4310-DN-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[(LLMT926000/L19100000.BJ0000);
16XL1109AF; MO#4500087624]

Notice of Filing of Plats of Survey; South Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Montana State Office, Billings, Montana, on January 4, 2016.

DATES: Protests of the survey must be filed before January 4, 2016 to be considered.

ADDRESSES: Protests of the survey should be sent to the Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101-4669.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101-4669, telephone (406) 896-5124 or (406) 896-5003, HMontoya@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 to contact the above

individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the National Park Service, Midwest Regional Office, Omaha Nebraska, and was necessary to determine boundaries of Federal lands.

The lands we surveyed are:

Black Hills Meridian, South Dakota
T. 6 S., R. 6 E.

The plat, in two sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines and the subdivision of sections 4, 9, and 20, and the survey of a portion of the centerline of Custer County Road No. 101, in section 20, Township 6 South, Range 6 East, of the Black Hills Meridian, South Dakota, was accepted October 21, 2015.

We will place a copy of the plat, in two sheets, and related field notes we described in the open files. They will be available to the public as a matter of information. If the BLM receives a protest against this survey, as shown on this plat, in two sheets, prior to the date of the official filing, we will stay the filing pending our consideration of the protest. We will not officially file this plat, in two sheets, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Authority: 43 U.S.C. Chap. 3.

Joshua F. Alexander,
*Acting Chief, Branch of Cadastral Survey,
Division of Energy, Minerals and Realty.*
[FR Doc. 2015-30683 Filed 12-3-15; 8:45 am]
BILLING CODE 4310-DN-P

DEPARTMENT OF JUSTICE

[OMB Number 1110-0054]

Agency Information Collection Activities: Proposed eCollection, eComments Requested; Extension of a Currently Approved Collection; Monthly Return of Human Trafficking Offenses Known to Law Enforcement

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division (CJIS) will be submitting the following Information Collection

Request to the Office of Management and Budget (OMB) for review and clearance in accordance with the established review procedures of the Paperwork Reduction Act of 1995.

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until February 2, 2016.

FOR FURTHER INFORMATION CONTACT: All comments, suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Mr. Samuel Berhanu, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625-3566.

SUPPLEMENTARY INFORMATION:

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Monthly Return of Human Trafficking Offenses Known to Law Enforcement.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: 1110-0054 Sponsor: Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal, and tribal law enforcement

agencies. Abstract: This collection is needed to collect information on human trafficking incidents committed throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,498 law enforcement agency respondents that submit monthly for a total of 221,976 responses with an estimated response time of 14 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 51,794 hours, annual burden associated with this information collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Two Constitution Square, 145 N Street, Room 3E-405, Washington, DC 20530.

Dated: December 1, 2015.

Jerri Murray,

*Department Clearance Officer for PRA,
United States Department of Justice.*

[FR Doc. 2015-30652 Filed 12-3-15; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Second Amendment to Consent Decree Under the Clean Water Act

On November 30, 2015, the Department of Justice lodged a proposed Second Amendment to Consent Decree in *United States and the State of Maryland, et al. v. Washington Suburban Sanitary Commission*, Civil Action No. PJM-04-3679 in the United States District Court for the District of Maryland, Greenbelt Division. Notice is hereby given that, for a period of 30 days, the United States will receive public comments on the proposed Second Amendment to Consent Decree.

On December 7, 2005, the United States District Court for the District of Maryland entered a Consent Decree in the above-referenced case to resolve claims that WSSC had violated the Clean Water Act and Maryland water pollution control, health and nuisance laws. Four citizens groups- the Anacostia Watershed Society, the Audubon Naturalist Society of the Central Atlantic States, Inc., Friends of Sligo Creek, and Natural Resources Defense Council also intervened as plaintiffs in the underlying civil action, and signed the Consent Decree. In a First Amendment to the Consent Decree another citizens group- the Patuxent

Riverkeeper- also intervened as a plaintiff.

The overarching purpose of the 2005 Consent Decree is to eliminate the sanitary sewer overflows ("SSOs") occurring in WSSC's collection system by, among other things, requiring WSSC to inspect the condition of its sewer basins, identify structural and capacity problems contributing to SSOs, and to propose plans to remediate such problems. The 2005 Consent Decree, as entered, requires WSSC to complete collection system repair work by December 7, 2015. Although WSSC has completed the majority of this work, it has been unable to complete a sizable portion of the work due to delays in obtaining necessary permits from governmental agencies, and the need to institute condemnation proceedings to obtain access to private property to perform sewer work.

Thus in the proposed Second Amendment the United States, Maryland and WSSC have agreed that WSSC shall have six additional years to complete most of the "delayed work." The Second Amendment makes an exception to the overall six year extension for delayed work affecting lands owned and managed by the National Park System ("NPS") of the United States Department of Interior. For sewer projects affecting NPS lands, the timing of NPS's issuance of a permit to proceed will determine how much additional time WSSC has to complete such work.

Pursuant to Paragraph 60 (the "Modification Section") of the 2005 Consent Decree, material modifications to the Decree may be made by written agreement of the United States, Maryland and WSSC, and approval of the Court, after notice and motion to all parties. The citizens groups have a right to support or oppose a motion for material modification by filing with the Court and serving on all parties a statement of position.

The publication of this notice also opens a period for public comment on the proposed Second Amendment to Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the State of Maryland, et al. v. Washington Suburban Sanitary Commission*, (Civil Action No. PJM-04-3679, D.J. Ref. No. 90-5-1-1-07360. 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:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	<i>pubcomment-ees.enrd@usdoj.gov.</i>
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: <http://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044-7611.

Please enclose a check or money order for \$2.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert D. Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2015-30611 Filed 12-3-15; 8:45 am]

BILLING CODE 4410-15-P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Availability of Funds and Funding Opportunity Announcement for H-1B TechHire Partnership Grants

AGENCY: Employment and Training Administration, Labor.

ACTION: Funding Opportunity Announcement (FOA).

Funding Opportunity Number: FOA-ETA-16-01.

SUMMARY: The Employment and Training Administration (ETA), U.S. Department of Labor, announces the availability of approximately \$100,000,000 in grant funds for the TechHire partnership grant program. ETA expects to fund approximately 30-40 grants, with individual grant amounts ranging from \$2 million to \$5 million. This grant program is designed to equip individuals with the skills they need through innovative approaches that can rapidly train workers for and connect them to well-paying, middle- and high-skilled, and high-growth jobs across a diversity of H-1B industries such as IT, healthcare, advanced manufacturing, financial services, and broadband. At least \$50 million will be

awarded for projects serving youth or young adults with barriers to training and employment opportunities and no more than \$50 million will be awarded to projects serving special populations.

The complete FOA and any subsequent FOA amendments in connection with this solicitation are described in further detail on ETA's Web site at <http://www.doleta.gov/grants/> or on <http://www.grants.gov>. The Web sites provide application information, eligibility requirements, review and selection procedures, and other program requirements governing this solicitation.

DATES: The closing date for receipt of applications under this announcement is March 11, 2016. Applications must be received no later than 4:00:00 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT:

Aiyana Pucci, Grants Management Specialist, Office of Grants Management, at (202) 693-3403. Applicants should email all technical questions to Pucci.Aiyana@dol.gov and reference the Funding Opportunity Number listed in this notice.

The Grant Officer for this FOA is Melissa Abdullah.

Signed November 30, 2015 in Washington, DC.

Eric D. Luetkenhaus,

Grant Officer/Division Chief, Employment and Training Administration.

[FR Doc. 2015-30594 Filed 12-3-15; 8:45 am]

BILLING CODE 4510-FN-P

NATIONAL SCIENCE FOUNDATION

Alan T. Waterman Award Committee; 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: Alan T. Waterman Award Committee (#1172).

DATE AND TIME: January 19, 2016, 9:00 a.m.–2:30 p.m.

PLACE: National Science Foundation, 4201 Wilson Boulevard, Room 1235, Arlington, Virginia 22230.

TYPE OF MEETING: Closed.

CONTACT PERSON: Sherrie B. Green, Program Manager, Room 933, (703) 292-5053.

PURPOSE OF MEETING: To provide advice and recommendations in the selection of the Alan T. Waterman Award recipient.

AGENDA: To review and evaluate nominations as part of the selection process for awards.

REASON FOR CLOSING: The nominations being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the nominations. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: December 1, 2015.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2015-30635 Filed 12-3-15; 8:45 am]

BILLING CODE 7555-01-P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities; Comment Request; Evaluation of the National Science Foundation (NSF) Innovation Corps (I-Corps) Team Program, Survey of Comparable Projects' Principal Investigators; Proposed Information Collection Request

AGENCY: National Science Foundation.

ACTION: Notice.

SUMMARY: The National Science Foundation (NSF) is announcing plans to request establishment and clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than three years.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSES** section of this notice.

DATES: Submit comments before February 2, 2016.

ADDRESSES: Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Copies of the submission may be obtained by calling (703) 292-7556.

Comments: 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 on respondents, including through the use of automated collection techniques or other forms of information technology; 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.

Please submit one copy of your comments by only one method. All submissions received must include the agency name and collection name identified above for this information collection. Commenters are strongly encouraged to transmit their comments electronically via email. Comments, including any personal information provided become a matter of public record. They will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request.

FOR FURTHER INFORMATION CONTACT:

Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to splimpto@nsf.gov. Copies of the submission may be obtained by calling (703) 292-7556. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

SUPPLEMENTARY INFORMATION:

Title of Collection: Innovation Corps (I-Corps) Team Program Survey of PIs in Comparable non-I-Corps Projects.

OMB Number: 3145-NEW.

Type of request: Intent to establish an information collection.

Abstract

The Innovation Corps (I-Corps) program was established in 2011 as part of NSF's efforts to encourage a culture of innovation among recipients of research grants. The program provides support and guidance to selected grantees on how to pursue commercial applications of their research. The I-Corps Teams program uses a lean startup approach to encourage scientists to think like entrepreneurs through intensive workshop training and ongoing support. The program focuses on teams comprised of a principal investigator, entrepreneurial lead, and mentor that work together to explore commercialization for their research-derived products.

NSF is supporting the evaluation of the program that includes a rigorous

longitudinal outcome/impact evaluation of the I-Corps Team Program using a quasi-experimental design to understand I-Corps impact on teams that go through the program and its impact on team members and academic culture.

The Office of Management and Budget has previously provided clearance for 3 data collection efforts associated with the I-Corps workshops targeting I-Corps grantees. These refer to: (1) A pre-course survey (2) a post-course survey and (3) a longitudinal survey of principal investigators in the program. This request builds on this previously approved information collection for NSF's Engineering IIP Program Monitoring Clearance (OMB Control No. 3145-0238).

This information collection request relates to (1) a proposed survey of principal investigators (PIs) in comparable Non-I-Corps NSF projects and (2) In-depth interviews with 10 I-Corps and 10 comparable non-I-Corps teams.

The survey will begin with an initial screening module to identify PIs who have received support for projects with commercial potential and who have desire to act on that potential but have not received an I-Corps grant. PIs with non-Corps NSF-funded projects awarded between 2009 and 2013 will be surveyed. PIs who reported active interest in commercial potential for their research projects will be asked to complete an additional module adapted from the I-Corps Longitudinal Data Collection already approved by OMB for I-Corps team members. The longitudinal survey collects information on project outputs and outcomes related to commercialization of research-based products. PIs not interested in the commercial potential of their research will stop the survey after completing the screening module.

In addition to the comparison between the I-Corps teams and a comparable group based on survey results, the study also includes in-depth interviews to gain an understanding of the influence of participation in the I-Corps program on PIs and other team members as well as to compare the impact of the I-Corps program on industry collaborations and other networking activities. Half of all in-depth interviews will be conducted over the phone while the other half will take place during site visits to the home institutions of the teams selected for the study.

Affected Public: Non-I-Corps Grant recipients of NSF Programs common in the background of I-Corps Teams Program PIs for the survey and 10 I-

Corps and 10 non-I-Corps research teams and networks.

Total Respondents: 9,000 (survey) 160 (in-depth interviews). Frequency: One-time collection.

Total responses: 7,200 (screener module), 720 (modified longitudinal survey module) and 160 (in-depth interviews). Average Time per response: 5 minutes (screener module), 15 minutes (modified longitudinal survey module) and 60 minutes (in-depth interview).

Estimated Total Burden Hours: 940 hours.

Dated: December 1, 2015.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. 2015-30653 Filed 12-3-15; 8:45 am]

BILLING CODE 7555-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2015-0001]

Sunshine Act Meeting

DATE: December 7, 14, 21, 28, 2015, January 4, 11, 2016.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of December 7, 2015

There are no meetings scheduled for the week of December 7, 2015.

Week of December 14, 2015—Tentative

Tuesday, December 15, 2015

9:00 a.m. Hearing on Construction Permit for SHINE Medical Isotope Production Facility: Section 189a. of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Steven Lynch: 301-415-1524)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

Thursday, December 17, 2015

9:30 a.m. Briefing on Project AIM 2020 (Public Meeting) (Contact: John Jolicœur: 301-415-1642)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

Thursday, December 17, 2015

1:00 p.m. Briefing on Digital Instrumentation and Control (Public Meeting) (Contact: Daniel Doyle: 301-415-3748)

This meeting will be webcast live at the Web address—<http://www.nrc.gov/>.

Week of December 21, 2015—Tentative

There are no meetings scheduled for the week of December 21, 2015.

Week of December 28, 2015—Tentative

There are no meetings scheduled for the week of December 28, 2015.

Week of January 4, 2016

There are no meetings scheduled for the week of January 4, 2016.

Week of January 11, 2016

There are no meetings scheduled for the week of January 11, 2016.

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301-415-0681 or via email at Denise.McGovern@nrc.gov.

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The NRC Commission Meeting Schedule can be found on the Internet at: <http://www.nrc.gov/public-involve/public-meetings/schedule.html>.

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301-287-0739, by videophone at 240-428-3217, or by email at Kimberly.Meyer-Chambers@nrc.gov. Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301-415-1969), or email Brenda.Akstulewicz@nrc.gov or Patricia.Jimenez@nrc.gov.

Dated: December 2, 2015.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2015-30755 Filed 12-2-15; 4:15 pm]

BILLING CODE 7590-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76530; File No. SR-NYSEArca-2015-114]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Relating To Listing and Trading of Shares of the Market Vectors Dynamic Put Write ETF Under NYSE Arca Equities Rule 8.600

November 30, 2015.

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 November 16, 2015, 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 the Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the following under NYSE Arca Equities Rule 8.600: Market Vectors Dynamic Put Write ETF. The text of the proposed rule change is available on the Exchange’s Web site at www.nyse.com, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the shares (“Shares”) of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares on the Exchange:⁴ Market Vectors Dynamic Put Write ETF (“Fund”). The Shares will be offered by Market Vectors ETF Trust (“Trust”). The Trust is registered with the Commission as an investment company and has filed a registration statement on Form N-1A with the Commission on behalf of the Fund.⁵

Van Eck Absolute Return Advisers Corporation will serve as the investment adviser (“Adviser”) to the Fund. Van Eck Absolute Return Advisers will also be the administrator for the Fund (the “Administrator”), and The Bank of New York Mellon will be the custodian (“Custodian” or “Transfer Agent”) of the Fund’s assets and provide transfer agency and fund accounting services to the Fund. Van Eck Securities Corporation will be the distributor of the Fund’s Shares (“Distributor”).

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a “fire wall” between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that

personnel who make decisions on the open-end fund’s portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund’s portfolio.⁶ Commentary .06 to Rule 8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a “fire wall” between the investment adviser and the broker-dealer reflects the applicable open-end fund’s portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer but is affiliated with a broker-dealer whose primary function is to serve as distributor and placement agent for its products. The Adviser has implemented controls with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund’s portfolio. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

⁶ An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the “Advisers Act”). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A-1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A-1 under the Advisers Act. In addition, Rule 206(4)-7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

⁴ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) (“1940 Act”) organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

⁵ The Trust is registered under the 1940 Act. On August 19, 2015, the Trust filed with the Commission a registration statement on Form N-1A under the Securities Act of 1933 (15 U.S.C. 77a) (“Securities Act”), and under the 1940 Act relating to the Fund (File Nos. 333-123257 and 811-10325) (“Registration Statement”). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 29496 (November 3, 2010) (File No. 812-13605) (“Exemptive Order”).

¹ 15 U.S.C. 78s(b)(1).

² 15 U.S.C. 78a.

³ 17 CFR 240.19b-4.

Principal Investments

According to the Registration Statement, the Fund's investment objective will be to seek a positive total return and income.

The Fund, under normal circumstances,⁷ will seek to achieve its investment objective by selling only exchange-listed, uncovered out-of-the-money put options, that typically expire between 30 and 60 days, on (i) the S&P 500 Index,⁸ (ii) futures on the S&P 500 Index and/or (iii) e-mini futures on the S&P 500 Index.⁹

The Fund will seek a positive total return with both income and capital appreciation by collecting premiums on options sold and investing cash in excess of the amount necessary to fulfill option margin requirements in cash and cash equivalents, including U.S. Treasury bills. The Fund will seek to generate a positive total return by selling options based on a predetermined strike price calculation and roll schedule. The strike price is the price at which the contract can be exercised. Rolling an option contract, in reference to this Fund, refers to the process of buying existing contracts to close them out and selling new put option contracts. The strike price calculation is designed to adjust the strike prices based on the risk of the equity market by taking into account the underlying asset's price, price volatility

and dividend yield and the yield of U.S. Treasury bills. The roll schedule is designed to stagger the put option contracts on a weekly basis to have varying option strike prices and option expiration dates at any given time. The value of put option contracts in the market are primarily determined by the options' distance in or out of the money, time to expiration, and the volatility of the underlying asset.

The aggregate notional value (*i.e.*, the underlying value) of the put option contracts will be approximately 200% of the Fund's net assets.

If the Fund receives additional inflows (and issues more Shares accordingly in large aggregations known as "Creation Units," as defined below) in between scheduled put option rolls, the Fund will sell additional listed put options, allocated on a pro rata basis based on the holdings of the Fund. However, if the trading costs exceed the potential premium received, the Fund will keep that portion of the Creation Unit in cash until the next scheduled option roll. Conversely, if the Fund redeems Shares in Creation Unit size in between scheduled put option rolls, the Fund will terminate the appropriate portion of the options it has sold on a pro rata basis.

Other Investments

While the Fund, under normal circumstances, will seek to achieve its investment objective by selling primarily exchange-listed, uncovered out-of-the-money put options, as described above, the Fund may invest its remaining assets in other securities and financial instruments, as described below.

The Fund may hold cash and cash equivalents, including the following: U.S. Treasury Bills, repurchase agreements, money market instruments, or investment companies and exchange-traded funds ("ETFs")¹⁰ that invest principally in money market instruments.

While the Fund will primarily sell put option contracts on (i) the S&P 500 Index, (ii) futures on the S&P 500 Index and/or (iii) e-mini futures on the S&P 500 Index with an aggregate notional value of approximately 200% of the Fund's net assets, the Fund also may invest in other U.S. exchange-traded

stock index options, options on stock index futures contracts, options on the Fund (if available) or exchange-traded pooled investment vehicles,¹¹ to the extent such investments are considered suitable for the Fund by the Adviser.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will issue and sell Shares only in "Creation Units" on a continuous basis through the Distributor at their NAV next determined after receipt, on any business day, of an order in proper form. The consideration for a purchase of Creation Units is cash. To the extent in-kind creations are effected for the Fund, Creation Units of the Fund will consist of cash and/or the in-kind deposit of a designated portfolio of securities (the "Deposit Securities") and an amount of cash computed as described below (the "Cash Component"). The Cash Component together with the Deposit Securities, as applicable, are referred to as the "Fund Deposit", which represents the minimum initial and subsequent investment amount for Shares. The Cash Component represents the difference between the NAV of a Creation Unit and the market value of Deposit Securities and may include a "Dividend Equivalent Payment". The Dividend Equivalent Payment will enable the Fund to make a complete distribution of dividends on the next dividend payment date, and is an amount equal, on a per Creation Unit basis, to the dividends on all the securities held by the Fund ("Fund Securities") with ex-dividend dates within the accumulation period for such distribution (the "Accumulation Period"), net of expenses and liabilities for such period, as if all of the Fund Securities had been held by the Trust for the entire Accumulation Period. The Accumulation Period begins on the ex-dividend date for the Fund and ends on the next ex-dividend date.

The Administrator, through the National Securities Clearing Corporation ("NSCC"), will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time), the list of the names and the required number of shares of each Deposit Security to be included in the current

⁷ The term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the domestic equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

⁸ Options on the S&P 500 Index are traded on the Chicago Board Options Exchange ("CBOE"). Options on futures on the S&P 500 Index and options on e-mini futures on the S&P 500 Index are traded on the Chicago Mercantile Exchange ("CME").

⁹ Put option contracts give the owners of the puts the right, but not the obligation, to sell the underlying asset, at a specified price, by a predetermined date. Put options on the S&P 500 Index, futures on the S&P 500 Index, and e-mini futures on the S&P 500 Index are similar in that they are linked to the S&P 500 Index, marked-to-market daily, settled in cash at expiration, and are liquid. Options on the S&P 500 Index are European-style and options on futures, and e-mini futures, on the S&P 500 Index are American-style. An "American style" put option gives the option holder the right to sell the underlying security to the option seller (*i.e.*, the Fund) at the option exercise price at any time prior to the expiration of the option. A "European style" put option gives the option holder the right to sell the underlying security to the option seller at the option exercise price only on the option expiration date. The decision whether to sell a put option on the S&P 500 Index or on futures, or e-mini futures, on the S&P 500 would be based on, among other things, liquidity and transaction costs.

¹⁰ The ETFs in which the Fund may invest will be registered under the 1940 Act and include Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); and Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600). Such ETFs all will be listed and traded in the U.S. on registered exchanges.

¹¹ Exchange-traded pooled investment vehicles include Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); and Trust Units (as described in NYSE Arca Equities Rule 8.500).

Fund Deposit (based on information at the end of the previous business day) as well as the Cash Component for the Fund. Such Fund Deposit is applicable, subject to any adjustments as described below, in order to effect creations of Creation Units of the Fund until such time as the next-announced Fund Deposit composition is made available.

The identity and number of shares of the Deposit Securities required for the Fund Deposit for the Fund will change as rebalancing adjustments and corporate action events are reflected from time to time by the Adviser with a view to the investment objective of the Fund. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the securities constituting the Index. In addition, the Trust reserves the right to accept a basket of securities or cash that differs from Deposit Securities or to permit or require the substitution of an amount of cash (*i.e.*, a “cash in lieu” amount) to be added to the Cash Component to replace any Deposit Security under specified circumstances.

In addition to the list of names and numbers of securities constituting the current Deposit Securities of the Fund Deposit, the Administrator, through the NSCC, also will make available on each business day, the Dividend Equivalent Payment, if any, and the estimated Cash Component effective through and including the previous business day, per outstanding Share of the Fund.

To be eligible to place orders with the Distributor to create Creation Units of the Fund, an entity or person either must be (1) a “Participating Party,” *i.e.*, a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the NSCC; or (2) a Depository Trust Company (“DTC”) Participant; and, in either case, must have executed an agreement with the Distributor and the Transfer Agent with respect to creations and redemptions of Creation Units (“Participant Agreement”) (discussed below). A Participating Party and DTC Participant are collectively referred to as an “Authorized Participant.”

All orders to create Creation Units must be placed in multiples of 50,000 Shares (*i.e.*, a Creation Unit). All orders to create Creation Units, must be received by the Distributor no later than the closing time of the regular trading session on NYSE Arca (“Closing Time”) (ordinarily 4:00 p.m. Eastern time) on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of the Fund as determined on such date.

Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor, only on a business day and only through a Participating Party or DTC Participant who has executed a Participant Agreement. The Trust will not redeem Shares in amounts less than Creation Units.

Redemptions generally will be effected for cash. To the extent redemptions are effected in-kind, the Administrator, through NSCC, will make available immediately prior to the opening of business on the Exchange (currently 9:30 a.m. Eastern time) on each day that the Exchange is open for business, the Fund Securities that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day.

To the extent redemptions are effected in-kind, the redemption proceeds for a Creation Unit generally will consist of Fund Securities as announced by the Administrator on the business day of the request for redemption, plus cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after a receipt of a request in proper form, and the value of the Fund Securities, less the redemption transaction fee and certain variable fees. Should the Fund Securities have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for by or on behalf of the redeeming shareholder. The Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Fund Securities.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund’s net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available

markets as determined in accordance with Commission staff guidance.¹²

For temporary defensive purposes, the Fund may hold cash and cash equivalents, including U.S. Treasury bills and/or invest without limit in money market instruments, repurchase agreements, or other funds which invest exclusively in money market instruments. The Fund may take temporary defensive positions in anticipation of or in an attempt to respond to adverse market, economic, political or other conditions.

The Fund intends to qualify for and to elect to be treated as a separate regulated investment company (a “RIC”) under Subchapter M of the Internal Revenue Code.¹³

The Fund’s investments, including the sale of options and options on futures, will be consistent with the Fund’s investment objective and may be used to enhance leverage.¹⁴ As described above, the Fund may sell S&P 500 Index put options, and put options on futures and e-mini futures on the S&P 500 Index, which will have an aggregate notional value of approximately 200% of the Fund’s net assets. While the Fund will be permitted to borrow as permitted under the 1940

¹² The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also*, Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding “Restricted Securities”); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N-1A). A fund’s portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a-7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act).

¹³ 26 U.S.C. 851 *et seq.*

¹⁴ Investments in derivative instruments by the Fund will be made in accordance with the 1940 Act and consistent with the Fund’s investment objective and policies. To limit the potential risk associated with transactions in derivatives, the Fund will segregate or “ earmark ” assets determined to be liquid by the Adviser in accordance with procedures that will be established by the Trust’s Board of Trustees and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures will be adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund’s use of derivatives, may give rise to leverage, causing the Fund’s Shares to be more volatile than if they had not been leveraged.

Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.*, 2Xs and 3Xs) of a broad-based equity market index.

Net Asset Value

The NAV per Share for the Fund will be computed by dividing the value of the net assets of the Fund (*i.e.*, the value of its total assets less total liabilities) by the total number of Shares outstanding. Expenses and fees, including the management fee, will be accrued daily and taken into account for purposes of determining NAV. The NAV of the Fund will be determined each business day as of the close of trading (ordinarily 4:00 p.m., Eastern Time) on the New York Stock Exchange. Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current market rates on the date of valuation as quoted by one or more sources.

The Fund currently expects that the values of the Fund's put options and cash and cash equivalents will be based on the securities' closing prices on local markets, when available. In the absence of a last reported sales price, or if no sales were reported, and for other assets for which market quotes are not readily available, values may be based on quotes obtained from a quotation reporting system, established market makers or by an outside independent pricing service.

ETFs and pooled investment vehicles will be valued at market value, which will generally be determined using the last reported official closing or last trading price on the exchange or market on which the security is primarily traded at the time of valuation or, if no sale has occurred, at the mean between the last quoted bid and asked price on the primary market or exchange on which they are traded. Investment company securities (other than ETFs) will be valued at NAV.

Money market instruments and repurchase agreements will be valued based on evaluations or price quotations obtained from a third-party pricing service or from a broker-dealer who makes markets in such securities, and such investments that are short-term investments (that is, having a maturity of 60 days or less) will be valued at amortized cost.

Prices obtained by an outside independent pricing service may use information provided by market makers or estimates of market values obtained from yield data related to investments or securities with similar characteristics and may use a computerized grid matrix of securities and its evaluations in

determining what it believes is the fair value of the portfolio securities. If a market quotation for a security is not readily available or the Adviser believes it does not otherwise accurately reflect the market value of the security at the time the Fund will calculate its NAV, the security will be fair valued by the Adviser in accordance with the Trust's valuation policies and procedures approved by the Board of Trustees. The Fund expects that it may also use fair value pricing in a variety of circumstances, including but not limited to, situations where the value of a security in the Fund's portfolio has been materially affected by events occurring after the close of the market on which the security is principally traded (such as a corporate action or other news that may materially affect the price of a security) or trading in a security has been suspended or halted. Accordingly, the Fund's NAV may reflect certain portfolio securities' fair values rather than their market prices at the time the exchanges on which they principally trade close.

Availability of Information

The Fund's Web site (www.vaneck.com), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund, (1) daily trading volume, the prior business day's reported closing price, NAV at the time of calculation of such NAV (the "Closing Price"), and a calculation of the premium and discount of the Closing Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Closing Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange (9:30 a.m. to 4:00 p.m., Eastern time), the Fund's Web site will disclose the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day.¹⁵

The Fund will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker

symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of option); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities, if applicable, required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket represents one Creation Unit of the Fund. The NAV of Shares of the Fund will normally be determined as of the close of the regular trading session on the Exchange (ordinarily 4:00 p.m. Eastern time) on each business day.

Authorized Participants may refer to the basket composition file for information regarding securities and financial instruments that may comprise the Fund's basket on a given day.

In order to provide investors with a basis to gauge whether the market price of the Shares on the Exchange is approximately consistent with the current value of the assets of the Fund on a per Share basis, an updated Indicative Per Share Portfolio Value will be disseminated every 15 seconds during the Exchange's Core Trading Session by major market data vendors.¹⁶ Indicative Per Share Portfolio Values will be based on the most recently reported prices of Fund Securities.

Investors can also obtain the Trust's Statement of Additional Information ("SAI"), the Fund's shareholder reports, and its Form N-CSR and Form N-SAR, filed twice a year. The Trust's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N-CSR and Form N-SAR may be viewed on-screen or downloaded from the Commission's Web site at www.sec.gov. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers'

¹⁵ Under accounting procedures followed by the Fund, trades made on the prior business day ("T") will be booked and reflected in NAV on the current business day ("T+1"). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

¹⁶ Currently, the Exchange understands that several major market data vendors display and/or make widely available Indicative Per Share Portfolio Values (or Portfolio Indicative Values) taken from the Consolidated Tape Association ("CTA") or other data feeds.

computer screens and other electronic services. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers.

Quotation and last sale information for the Shares, ETFs and pooled investment vehicles will be available via the Consolidated Tape Association ("CTA") high-speed line. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Intra-day and closing price information regarding exchange-traded options (including options on futures) will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding money market instruments, repurchase agreements, cash and cash equivalents, including U.S. Treasuries, will be available from major market data vendors. Price information for non-exchange-traded investment company securities will be available from major market data vendors and from the Web site of the applicable investment company.

In addition, the Indicative Per Share Portfolio Value, which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600(c)(3), will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors. The dissemination of the Indicative Per Share Portfolio Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.¹⁷ Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the

maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

If the Indicative Per Share Portfolio Value is not being disseminated as required, the Exchange may halt trading during the day in which the disruption occurs; if the interruption persists past the day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Under NYSE Arca Equities Rule 7.34(a)(5), if the Exchange becomes aware that the NAV for the Fund is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. Consistent with NYSE Arca Equities Rule 8.600(d)(2)(B)(ii), the Adviser, as the Reporting Authority, will implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the actual components of the Fund's portfolio. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A-3¹⁸ under the Act, as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) will be made available to all market participants at the same time.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. ET in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation ("MPV") for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is \$0.01,

with the exception of securities that are priced less than \$1.00 for which the MPV for order entry is \$0.0001.

Surveillance

The Exchange represents that the trading in the Shares will be subject to the existing trading surveillances, administered by regulatory staff of the Exchange or the Financial Industry Regulatory Authority ("FINRA") on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.¹⁹ The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, or the regulatory staff of the Exchange, will communicate as needed regarding trading in the Shares, options contracts and options on futures contracts with other markets and other entities that are members of the Intermarket Surveillance Group ("ISG"), and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, options contracts, and options on futures contracts from such markets and other entities. In addition, the regulatory staff of the Exchange may obtain information regarding trading in the Shares, options contracts, and options on futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.²⁰ All options on futures and options held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the

¹⁹ FINRA surveils certain trading activity on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

²⁰ For a list of the current members of ISG, see www.isgportal.org. The Exchange notes that not all of the components of the portfolio for the Fund may trade on exchanges that are members of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

¹⁷ See NYSE Arca Equities Rule 7.12, Commentary .04.

¹⁸ 17 CFR 240.10A-3.

Exchange has in place a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading of Shares in the Fund, the Exchange will inform its ETP Holders in an Information Bulletin ("Bulletin") of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated IIV or Index value will not be calculated or publicly disseminated; (4) how information regarding the IIV and the Disclosed Portfolio will be disseminated; (5) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m., Eastern time each trading day.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)²¹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The

Shares will be subject to the existing trading surveillances, administered by FINRA on behalf of the Exchange, or the regulatory staff of the Exchange, which are designed to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. FINRA and the regulatory staff of the Exchange, as applicable, may each obtain information via ISG from other exchanges that are members of ISG, and in the case of the Exchange, from other market or entities with which the Exchange has entered into a comprehensive surveillance sharing agreement. The Adviser is not a registered broker-dealer but is affiliated with a broker-dealer whose primary function is to serve as distributor and placement agent for Van Eck products. Van Eck has implemented controls with respect to such broker-dealer regarding access to information concerning the composition and/or changes to the Fund's portfolio. The Fund's investments will be consistent with its investment objective. While the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*i.e.*, 2Xs and 3Xs) of a broad-based equity market index.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day the NYSE is open, and that the NAV will be made available to all market participants at the same time. In addition, a large amount of publicly available information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in the Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotations and last sale information will be available via the CTA high-speed line. Quotation and last sale information for the Shares will be available via the CTA high-speed line,

and from the Exchange. Quotation and last sale information for exchange-listed options cleared via the Options Clearing Corporation will be available via the Options Price Reporting Authority. Intra-day and closing price information regarding exchange-traded options (including options on futures) will be available from the exchange on which such instruments are traded. Intra-day and closing price information regarding money market instruments; repurchase agreements; cash and cash equivalents also will be available from major market data vendors.

The Web site for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading the Shares inadvisable. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Fund's portfolio, and quotation and last sale information for the Shares.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Shares will be subject to the existing trading surveillances, administered by the regulatory staff of the Exchange or FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange. The regulatory staff of the Exchange, or FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, options contracts and options on futures contracts with other markets and other entities that are members of the ISG, and the regulatory staff of the Exchange, or FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares, options contracts, and options on futures contracts from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the

²¹ 15 U.S.C. 78f(b)(5).

Shares, options contracts, and options on futures contracts from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, and quotation and last sale information for the Shares.

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively managed ETF that holds options or options on futures and that will enhance competition among market participants, to the benefit of investors and the marketplace.

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 such longer time period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will: (a) By order approve or disapprove 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-

NYSEArca-2015-114 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-NYSEArca-2015-114. 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-2015-114 and should be submitted on or before December 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015-30609 Filed 12-3-15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-76527; File No. SR-BX-2015-075]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Establish Fees and Rebates Related to Order Exposure

November 30, 2015.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on November 20, 2015, NASDAQ OMX BX, Inc. ("BX" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Options Pricing at Chapter XV Section 2, entitled "BX Options Market—Fees and Rebates," which governs pricing for BX members using the BX Options Market ("BX Options"). The Exchange proposes to adopt fees and rebates related to order exposure.

The text of the proposed rule change is available on the Exchange's Web site at <http://nasdaqomxbx.cchwallstreet.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 aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

²² 17 CFR 200.30-3(a)(12).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Chapter XV, Section 2 to add new subsection (4) to adopt fees and rebates related to order exposure alerts on the BX Options market.

The Exchange has recently filed a proposal to implement an order exposure alert in BX Chapter VI, Section 11,³ in order to provide marketable orders an additional opportunity for execution on the Exchange when the Exchange is not part of the national best bid or offer ("NBBO") contra to the order and the order locks or crosses the away best bid or offer ("ABBO").⁴ The order exposure alert will apply to both

SEEK⁵ and SRCH⁶ orders⁷ and is similar to the order exposure alert process already in place on Phlx.⁸ The order exposure alert process permits the Exchange to apply the Route Timer⁹ prior to the initial and subsequent routing of the order, and allows routing of the order after exposure occurs (during open trading) every time an

⁵ SEEK is a routing option pursuant to which an order will first check the System for available contracts for execution, and then is sent to other available market centers for potential execution. A SEEK order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO will initiate a Route Timer not to exceed one second, and expose the SEEK order at the NBBO to allow market participants an opportunity to interact with the remainder of the SEEK order. During the Route Timer, the SEEK order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO. If, during the Route Timer, any new interest arrives opposite the SEEK order that is equal to or better than the ABBO price, the SEEK order will trade against such new interest at the ABBO price. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center. Eligible unexecuted orders will continue to be routed as described in paragraph (a)(1)(D). If contracts remain un-executed after routing, they are posted on the book. While on the book at the limit price, should the order subsequently be locked or crossed by another market center, the System will not re-expose or route the order to the locking or crossing market center. SEEK orders will not be eligible for routing until the next time the option series is subject to a new opening or reopening. An order exposure alert may be sent if the order size is modified. See Chapter VI, Section 11(a)(1)(A).

⁶ SRCH is a routing option pursuant to which an order will first check the System for available contracts for execution, and then is sent to other available market centers for potential execution. A SRCH order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO will initiate a Route Timer not to exceed one second, and expose the SRCH order at the NBBO to allow market participants an opportunity to interact with the remainder of the SRCH order. During the Route Timer, the SRCH order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO. If, during the Route Timer, any new interest arrives opposite the SRCH order that is equal to or better than the ABBO price, the SRCH order will trade against such new interest at the ABBO price. When checking the book, the System will seek to execute at the price at which it would send the order to a destination market center. Eligible unexecuted orders will continue to be routed as described in paragraph (a)(1)(D). If contracts remain un-executed after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, it will be re-exposed, provided it is not on the book at its limit price, and re-route. An order exposure alert may be sent if the order size is modified. See Chapter VI, Section 11(a)(1)(B).

⁷ The order exposure alert is also applicable to orders that are marked do not route ("DNR"). See Chapter VI, Section 11(a)(1)(C).

⁸ See Phlx Rule 1080(m), Away Markets and Order Routing, Section (iv).

⁹ See Chapter VI, Section 11(a)(1).

order becomes marketable against the ABBO.

Chapter VI, Section 11(1)(A) [sic] provides that a SEEK order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO will initiate a Route Timer not to exceed one second, and expose the SEEK order at the NBBO to allow market participants an opportunity to interact with the SEEK order. During the Route Timer, the SEEK order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO. If, during the Route Timer, any new interest arrives opposite the SEEK order that is equal to or better than the ABBO price, the SEEK order will trade against such new interest at the ABBO price. While on the book at the limit price, should a SEEK order subsequently be locked or crossed by another market center, the System will not re-expose the order. An order exposure alert may be sent if the order size is modified.

Chapter VI, Section 11(1)(B) [sic] provides that a SRCH order remaining on the book after the opening process or received during open trading that is marketable against the ABBO when the ABBO is better than the displayed Exchange BBO will initiate a Route Timer not to exceed one second, and expose the SRCH order at the NBBO to allow market participants an opportunity to interact with the remainder of the SRCH order. During the Route Timer, the SRCH order will be included in the displayed Exchange BBO at the better of a price one MPV away from the ABBO or the established Exchange BBO. If, during the Route Timer, any new interest arrives opposite the SRCH order that is equal to or better than the ABBO price, the SRCH order will trade against such new interest at the ABBO price. Once on the book, should a SRCH order subsequently be locked or crossed by another market center, it will be re-exposed, provided it is not on the book at its limit price, and re-route. An order exposure alert may be sent if the order size is modified.¹⁰

The Exchange proposes two new sets of fees and rebates in respect of the order exposure alert system, which would apply to Customers,¹¹ BX

³ See Securities Exchange Act Release No. 76199 (October 20, 2015), 80 FR 65271 (October 26, 2015) (SR-BX-2015-057) (notice of filing and immediate effectiveness).

⁴ Similar functionality currently exists on NASDAQ OMX PHLX. See Securities Exchange Act Release No. 68517 (December 21, 2012), 77 FR 77134 (December 31, 2012) (SR-Phlx-2012-136); and Phlx Rule 1080(m), Away Markets and Order Routing, Section (iv).

¹⁰ For additional discussion regarding the BX order exposure process, see Chapter VI, Section 11(a)(1). See also Chapter VII, Section 12 which discusses when orders routed to BX Options may be executed by Options Participants (BX Chapter 1, Section 1(a)(41)) as principal orders.

¹¹ The term "Customer" or ("C") applies to any transaction that is identified by a Participant for

Options Market Makers,¹² and non-Customers:

Change 1. For Penny Pilot Options,¹³ the Exchange proposes to establish rebates and fees for orders that trigger or respond to order exposure alerts.

Change 2. For non-Penny Pilot Options, the Exchange is proposing to establish rebates and fees for orders that trigger or respond to order exposure alerts.

Each specific change is described in detail below.

Change 1—Penny Pilot Options: Order Exposure Alert Rebates and Fees

For Penny Pilot Options, the Exchange is proposing to establish rebates for orders triggering an order exposure alert¹⁴ and fees for orders responding to order exposure alerts. Currently, the Exchange has no such rebates and fees.

For Penny Pilot Options, the rebates will range from \$0.00 to \$0.34 (per executed contract). Specifically,

proposed Chapter XV, Section 2 subsection (4) will state that the Customer rebate for orders triggering order exposure alert will be \$0.34. There will be no rebates for BX Options Market Makers and non-Customers. For Penny Pilot Options, the fees will range from \$0.39 to \$0.45. Specifically, proposed subsection (4) will state regarding Penny Pilot Options that the Customer fee for orders responding to order exposure alert will be \$0.39; and the BX Options Market Maker fee will similarly be \$0.39. The non-Customer fee for orders responding to order exposure alert will be \$0.45.

Change 2—Non-Penny Pilot Options: Order Exposure Alert Rebates and Fees

For non-Penny Pilot Options, the Exchange is proposing to establish rebates for orders triggering an order exposure alert¹⁵ and fees for orders responding to order exposure alerts. Currently, the Exchange has no such rebates or fees.

For non-Penny Pilot Options, the rebates will range from \$0.00 to \$0.70 (per executed contract). Specifically, proposed Chapter XV, Section 2 subsection (4) will state that the Customer rebate for orders triggering order exposure alert will be \$0.70. There will be no rebates for BX Options Market Makers and non-Customers. For non-Penny Pilot Options, the fees will range from \$0.85 to \$0.89. Specifically, proposed subsection (4) will state that for non-Penny Pilot Options the Customer fee for orders responding to order exposure alert will be \$0.85; and the BX Options Market Maker fee will similarly be \$0.85. The non-Customer fee for orders responding to order exposure alert will be \$0.89.

As proposed, Chapter XV, Section 2 subsection (4) will read as follows.

(4) Fees for execution of contracts on the BX Options Market that generate an order exposure alert per BX Chapter VI, Section 11(a):

FEES AND REBATES

[Per executed contract]

	Customer	BX Options Market Maker	Non-customer ¹
Penny Pilot Options:			
Rebate for Order triggering order exposure alert	\$0.34	\$0.00	\$0.00
Fee for Order responding to order exposure alert	0.39	0.39	0.45
Non-Penny Pilot Options:			
Rebate for Order triggering order exposure alert	0.70	0.00	0.00
Fee for Order responding to order exposure alert	0.85	0.85	0.89

The Exchange is adopting these fees and rebates at this time because it believes that they will provide incentives to use the Exchange's order exposure functionality. The Exchange believes that its proposal should provide increased opportunities for participation in executions on the Exchange, facilitating the ability of the Exchange to bring together participants and encourage more robust competition for orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,¹⁶ in general, and with Section 6(b)(4) and

6(b)(5) of the Act,¹⁷ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, for example, the Commission indicated that market forces should generally determine the price of non-core market

data because national market system regulation "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies."¹⁸ Likewise, in *NetCoalition v. NYSE Arca, Inc.*, 615 F.3d 525 (D.C. Cir. 2010), the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.¹⁹ As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made

clearing in the Customer range at The Options Clearing Corporation ("OCC") which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)). BX Chapter XV.

¹² BX Options Market Makers may also be referred to as "Market Makers". The term "BX Options Market Maker" or ("M") means a Participant that has registered as a Market Maker on BX Options pursuant to Chapter VII, Section 2, and must also

remain in good standing pursuant to Chapter VII, Section 4. In order to receive Market Maker pricing in all securities, the Participant must be registered as a BX Options Market Maker in at least one security.

¹³ The Penny Pilot was established in June 2012 and extended in 2015. See Securities Exchange Act Release Nos. 67256 (June 26, 2012), 77 FR 39277 (July 2, 2012) (SR-BX-2012-030) (order approving BX option rules and establishing Penny Pilot); and 75326 (June 29, 2015), 80 FR 38481 (July 6, 2015)

(SR-BX-2015-037) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016).

¹⁴ See Chapter VI, Section 11(a)(1).

¹⁵ See Chapter VI, Section 11(a)(1).

¹⁶ 15 U.S.C. 78f.

¹⁷ 15 U.S.C. 78f(b)(4) and (5).

¹⁸ Exchange Act Release No. 34-51808 (June 9, 2005) ("Regulation NMS Adopting Release").

¹⁹ See *NetCoalition*, 615 F.3d at 534.

available to investors and at what cost.”²⁰

Further, “[n]o one disputes that competition for order flow is ‘fierce.’ . . . As the SEC explained, ‘[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution’; [and] ‘no exchange can afford to take its market share percentages for granted’ because ‘no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers’”²¹ Although the Court and the SEC were discussing the cash equities markets, the Exchange believes that, as discussed above, these views apply with equal force to the options markets.

The Exchange’s proposal establishes fees and rebates regarding order exposure alert. Order exposure has the potential to result in more efficient executions for customers as responses to exposed orders could result in faster executions. Order exposure assures that such exposed orders will only receive executions at a price at least as good as the price disseminated by the best away market at the time the order was received. The Exchange believes that its proposal should provide increased opportunities for participation in executions on the Exchange, facilitating the ability of the Exchange to bring together participants and encourage more robust competition for orders.

Change 1—Penny Pilot Options: Order Exposure Alert Rebates and Fees

For Penny Pilot Options, establishing a Customer rebate for orders triggering order exposure alert at \$0.34 per executed contract, with no rebates for BX Options Market Makers and non-Customers, is reasonable because it encourages the desired Customer behavior by attracting Customer interest to the Exchange. Establishing a Customer, BX Options Market Maker, and non-Customer fee for orders responding to order exposure alert at \$0.39, \$0.39, and \$0.45 per executed contract, respectively, is reasonable because the associated revenue will allow the Exchange to maintain and enhance its services.

For Penny Pilot Options, establishing the rebate for Customers and fee for Customers, BX Market Makers, and non-Customers is equitable and not unfairly discriminatory. This is because the Exchange’s proposal to pay rebates for

orders that trigger order exposure alert or assess fees for orders that respond to order exposure alert will apply the same rebate and fee to all similarly situated participants.

For Penny Pilot Options, Customers are the only ones that would get a rebate per executed contract for triggering order exposure alert (\$0.34), and Customers would pay the lowest fee for responding to order exposure alert (\$0.39), for the lowest effective order exposure assessment. The Exchange believes that this is reasonable. Customer activity enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. BX Options Market Makers would get the second lowest effective fee for responding to order exposure alert (\$0.39)—and no rebate. The Exchange believes that the differentiation is reasonable and notes that unlike others (*e.g.* non-Customers) each BX Options Market Maker commits to various obligations. For example, transactions of a BX Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder.²²

Change 2—Non-Penny Pilot Options: Order Exposure Alert Rebates and Fees

For non-Penny Pilot Options, establishing a Customer rebate for orders triggering order exposure alert at \$0.70 per executed contract, with no rebates for BX Options Market Makers and non-Customers, is reasonable because it encourages the desired Customer behavior by attracting Customer interest to the Exchange. Establishing a Customer, BX Options Market Maker, and non-Customer fee for orders responding to order exposure alert at \$0.85, \$0.85, and \$0.89 per executed contract, respectively, is reasonable because the associated revenue will allow the Exchange to maintain and enhance its services.

For non-Penny Pilot Options, establishing the rebate for Customers

and fee for Customers, BX Market Makers, and non-Customers is equitable and not unfairly discriminatory. This is because the Exchange’s proposal to pay rebates for orders that trigger order exposure alert or assess fees for orders that respond to order exposure alert will apply the same rebate and fee to all similarly situated participants.

For non-Penny Pilot Options, similarly to Penny Pilot Options, Customers are the only ones that would get a rebate per executed contract for triggering order exposure alert (\$0.70), and Customers would pay the lowest fee for responding to order exposure alert (\$0.85), for the lowest effective order exposure assessment. The Exchange believes that this is reasonable. Customer activity enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. BX Options Market Makers would get the second lowest effective fee for responding to order exposure alert (\$0.85)—and no rebate. The Exchange believes that the differentiation is reasonable and notes that unlike others (*e.g.* non-Customers) each BX Options Market Maker commits to various obligations. As discussed, for example, transactions of a BX Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings.²³

The Exchange is adopting the proposed fees and rebates at this time because it believes that the associated revenue will allow it to continue and enhance order exposure services.

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. Specifically, the Exchange does not believe that its proposal to establish rebates for orders triggering an order exposure alert and fees for orders responding to order

²⁰ *Id.* at 537.

²¹ *NetCoalition I*, 615 F.3d at 539 (quoting *ArcaBook Order*, 73 FR at 74782–74783).

²² See Chapter VII, Section 5, entitled “Obligations of Market Makers”.

²³ See Chapter VII, Section 5, entitled “Obligations of Market Makers”. Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. See Chapter VII, Section 2.

exposure alerts will impose any burden on competition, as discussed below.

The Exchange operates in a highly competitive market in which many sophisticated and knowledgeable market participants can readily and do send order flow to competing exchanges if they deem fee levels or rebate incentives at a particular exchange to be excessive or inadequate. Additionally, new competitors have entered the market and still others are reportedly entering the market shortly. These market forces ensure that the Exchange's fees and rebates remain competitive with the fee structures at other trading platforms. In that sense, the Exchange's proposal is actually pro-competitive because the Exchange is simply establishing rebates and fees in order to remain competitive in the current environment.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In terms of intra-market competition, the Exchange notes that price differentiation among different market participants operating on the Exchange (e.g., Customer, BX Options Market Maker, non-Customer) is reasonable. Customer activity, for example, enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts market makers. An increase in the activity of these market participants (particularly in response to pricing) in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Moreover, unlike others (e.g. non-Customers) each BX Options

Market Maker commits to various obligations. These obligations include, for example, transactions of a BX Market Maker must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings.²⁴

In this instance, the proposed changes to the charges assessed and credits available to member firms in respect of order exposure alerts do not impose a burden on competition because the Exchange's execution and routing services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets. Additionally, the changes proposed herein are pro-competitive to the extent that they continue to allow the Exchange to promote and maintain an order exposure alert that has the potential to result in more efficient executions as responses to exposed orders could result in faster executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Pursuant to Section 19(b)(3)(A)(ii) of the Act,²⁵ the Exchange has designated this proposal as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization on any person, whether or not the person is a member of the self-regulatory organization, which renders the proposed rule change effective upon filing.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such

action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-BX-2015-075 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090.

All submissions should refer to File Number SR-BX-2015-075. 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-BX-

²⁴ See Chapter VII, Section 5, entitled "Obligations of Market Makers". Further, all Market Makers are designated as specialists on BX for all purposes under the Act or rules thereunder. See Chapter VII, Section 2.

²⁵ 15 U.S.C. 78s(b)(3)(A)(ii).

2015–075 and should be submitted on or before December 28, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Robert W. Errett,
Deputy Secretary.

[FR Doc. 2015–30607 Filed 12–3–15; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 9368]

Notice of Renewal of the Charter of the Department of State's Advisory Committee on Private International Law

The Department of State has renewed the Charter of the Advisory Committee on Private International Law. Through the Committee, the Department of State obtains the views of the public with respect to significant private international law issues that arise in international organizations of which the United States is a Member State, in international bodies in whose work the United States has an interest, or in the foreign relations of the United States.

The Committee is comprised of representatives from other government agencies, representatives of national organizations, and experts and professionals active in the field of international law.

Comments should be sent to the Office of the Assistant Legal Adviser for Private International Law at PIL@state.gov. Copies of the draft Charter may be obtained by contacting Tricia Smeltzer at smeltzertk@state.gov.

Dated: October 23, 2015.

Timothy R. Schnabel,
Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2015–30714 Filed 12–3–15; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. DOT–NHTSA–2015–0115]

Notice and Request for Comments

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. 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 reinstatement of previously approved collections.

DATES: Written comments should be submitted by February 2, 2016.

ADDRESSES: You may submit comments [identified by Docket No. DOT–OST–200X–XXXX] through one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Walter Culbreath 202–366–1566, Office of the Chief Information Officer, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

(1) OMB Control Number: 2127–0597

Title: 23 CFR Parts Uniform Safety Program Cost Summary Form for Highway Safety Plan.

Type of Review: Renewal of a previously approved information collection.

Abstract: Each State shall have a highway safety program approved by the Secretary, designed to reduce traffic accidents and deaths, injuries, and property damage resulting there from. Such program shall be in accordance with uniform guidelines promulgated by the Secretary to improve driver performance, and to improve pedestrian performance, motorcycle safety and bicycle safety. Under this program, States submit the Highway Safety Program and other documentation explaining how they intend to use the grant funds. In order to account for funds expended under these priority areas and other program areas, States are required to submit a Program Cost Summary. The Program Cost Summary

is completed to reflect the State's proposed Allocation of funds (including carry-forward funds) by program area, based on the projects and activities identified in the Highway Safety Plan

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Number of Respondents: 57.

Frequency: 20 per year.

Number of Responses: 1,140.

Estimated Total Annual Burden

Hours: 570 hours.

Estimated Total Annual Cost Burden: 0.

(2) OMB Control Number: 2127–0019

Title: CFR part 537, Automotive Fuel Economy Reports.

Type of Review: Renewal of a previously approved information collection.

Abstract: 49 United States Code (U.S.C.) 32907(a) requires a manufacturer to submit reports to the Secretary of Transportation on whether a manufacturer will comply with an applicable average fuel economy standard under 49 U.S.C. 32902 of this title for the model year for which the report is made; the actions a manufacturer has taken or intends to take to comply with the standard; and other information the Secretary requires by regulation. Under 49 CFR part 537, NHTSA also requires manufacturers to provide data on vehicle footprint so that the agency could determine a manufacturer's required fuel economy level and its compliance with that level. The information collected provides the National Highway Traffic Safety Administration (NHTSA) with advance indication whether automotive manufacturers are complying with the applicable average fuel economy standards; furnishes NHTSA with the necessary information to prepare its annual update on the Automotive Fuel Economy Program; aids NHTSA in responding to general requests concerning automotive fuel economy; and supplies NHTSA with detailed and current technical and economic information that will be used to evaluate possible future average fuel economy standards.

Respondents: Automobile manufacturers.

Estimated Number of Respondents: 30.

Estimated Number of Responses: 54; some manufacturers have multiple fleets and 49 CFR part 537 requires a separate report for each fleet.

Estimated Total Annual Burden: 3,189 hours.

²⁶ 17 CFR 200.30–3(a)(12).

Estimated Frequency: A pre-model report and a mid-model report are required to be submitted by manufacturers once per model year for each applicable fleet (domestic passenger car, imported passenger car, light trucks).

(3) OMB Control Number: 2127-0655

Title: 23 CFR Parts Uniform Safety Program Cost Summary Form for Highway Safety Plan.

Type of Request: Renewal of a previously approved information collection.

Abstract: In this collection of information, NHTSA is requesting updated future product plans from vehicle manufacturers, as well as production data through the recent past, including data about engines and transmissions for model year MY 2012 through MY 2025 passenger cars and light trucks and the assumptions underlying those plans.

NHTSA requests information for MYs 2012–2025 to aid NHTSA in developing a realistic forecast of the MY 2016–2025 vehicle market. Information regarding earlier model years may help the agency to better account for cumulative effects such as volume-and time-based reductions in costs, and also may help to reveal product mix and technology application trends during model years for which the agency is currently receiving actual corporate average fuel economy (CAFE) compliance data. Information regarding later model years helps the agency gain a better understanding of how manufacturers' plans through MY 2025 relate to their longer-term expectations regarding Energy Independence and Security Act requirements, market trends, and prospects for more advanced technologies.

NHTSA will also consider information from model years before and after MYs 2016–2025 when reviewing manufacturers' planned schedules for redesigning and freshening their products, in order to examine how manufacturers anticipate tying technology introduction to product design schedules. In addition, the agency is requesting information regarding manufacturers' estimates of the future vehicle population, and fuel economy improvements and incremental costs attributed to this notice.

Affected Public: Automobile manufacturers.

Number of Respondents: 30.

Number of Responses: 30.

Estimated Annual Burden Hours: 16,500 hours.

Frequency of Collection: Manufacturer product plans are requested each time that NHTSA initiates a rulemaking for light-duty fuel economy standards.

These standards may be issued for a one to five year time frame, thus manufacturers would be expected to provide these reports every one to five years. Recent NHTSA rulemakings have typically ranged between three and five years. NHTSA generally requests product plans prior to issuing a notice of proposed rulemaking and prior to the issuance of a final rule. Since the gap between the two rules generally is less than a year, manufacturers would be expected to provide two reports for each rulemaking cycle.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized 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.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Paul Mounkhaty,
Chief Architect, Office of IT Compliance.

[FR Doc. 2015–30610 Filed 12–3–15; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35975]

Central Maine & Quebec Railway US Inc.—Lease and Operate Exemption—State of Maine

Central Maine & Quebec Railway US Inc. (CMQ), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from the State of Maine Department of Transportation, and to operate approximately 59.42 miles of rail line owned by the State of Maine (the Line). The Line consists of (1) the Brunswick Yard between the east side of Church Road, milepost CPL 15, and Rock Jct., milepost CPL 17; (2) the Rockland Branch between milepost 29.40 at Brunswick Yard in Brunswick and milepost 85.85 in Rockland; and (3) the Atlantic Branch Line between milepost

85.36 and milepost 86.65 in Rockland. The Line runs through Knox, Lincoln, and Sagadahoc Counties, ME.

CMQ will replace Morristown & Erie Railway, Inc. d/b/a Maine Eastern Railroad (MER) as the operator on the Line. Pursuant to 49 CFR 1150.42(b), CMQ states in a filing on November 24, 2015, that it has notified the shippers on the Line of the proposed change in operator.

CMQ certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. Because its annual revenues exceed \$5 million, however, CMQ has certified, as required by 49 CFR 1150.42(e), that it posted notice of intent at the workplace of employees in Rockland, ME, and distributed to employees of the MER. CMQ further states that it will offer up to four positions to MER's employees prior to consummation. According to CMQ, the lease does not contain any provision or agreement that may limit future interchange of traffic with a third-party connecting carrier.

The transaction may be consummated on or after December 19, 2015, the effective date of the exemption (30 days after the verified notice of exemption was filed). CMQ states that the proposed schedule for consummation of the transaction is January 1, 2016.

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 for stay must be filed no later than December 11, 2015 (at least seven days before the exemption becomes effective).

An original and ten copies of all pleadings, referring to Docket No. FD 35975, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Louis E. Gitomer, Law Offices of Louis E. Gitomer, 600 Baltimore Ave., Suite 301, Towson, MD 21204.

Board decisions and notices are available on our Web site at www.stb.dot.gov.

Decided: November 27, 2015.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Kenyatta Clay,
Clearance Clerk.

[FR Doc. 2015–30531 Filed 12–3–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION**Office of the Secretary**

[Order 2015–11–24; Docket DOT–OST–2014–0114]

Application of Aerodynamics Incorporated for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2015–11–24); Docket DOT–OST–2014–0114.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Aerodynamics Incorporated fit, willing, and able, and awarding it a certificate of public convenience and necessity authorizing it to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than December 14, 2015.

ADDRESSES: Objections and answers to objections should be filed in Docket DOT–OST–2014–0114 and addressed to the Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT:

Catherine O'Toole, Air Carrier Fitness Division, (X–56, Office W86–469), U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, (202) 366–9721.

Dated: November 30, 2015.

Brandon M. Belford,

Deputy Assistant Secretary for Aviation and International Affairs.

[FR Doc. 2015–30649 Filed 12–3–15; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF THE TREASURY**Office of the Comptroller of the Currency****FEDERAL DEPOSIT INSURANCE CORPORATION****Agency Information Collection Activities: Information Collection Renewal; Request for Comment; Interagency Appraisal Complaint Form**

AGENCY: Office of the Comptroller of the Currency, Treasury (OCC) and Federal Deposit Insurance Corporation (FDIC).

ACTION: Joint notice and request for comment.

SUMMARY: The Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) (the Agencies) as part of their continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to take this opportunity to comment on an information collection renewal, as required by the Paperwork Reduction Act of 1995.

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid OMB control number. The Agencies are soliciting comment concerning the renewal of their information collection titled “Interagency Appraisal Complaint Form.”

DATES: Comments must be received by February 2, 2016.

ADDRESSES: *OCC:* Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0314, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to prainfo@occ.treas.gov. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FDIC: You may submit comments by any of the following methods:

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

- *Agency Web site:* <http://www.FDIC.gov/regulations/laws/federal/notices.html>.

- *Mail:* Robert E. Feldman, Executive Secretary, Attention: Comments/Legal

ESS, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

- *Hand Delivered/Courier:* The guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

- *Email:* comments@FDIC.gov.

Instructions: Comments submitted must include “FDIC” and “Interagency Appraisal Complaint Form.” Comments received will be posted without change to <http://www.FDIC.gov/regulations/laws/federal/notices.html>, including any personal information provided.

FOR FURTHER INFORMATION CONTACT:

OCC: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

FDIC: Beverlea S. Gardner, Senior Examination Specialist, Risk Management Section, at (202) 898–3640, Sumaya A. Muraywid, Examination Specialist, Risk Management Section, at (573) 875–6620, Richard Foley, Counsel, Legal Division, at (202) 898–3784, Mark Mellon, Counsel, Legal Division, at (202) 898–3884, or 550 17th St. NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: In compliance with the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, the Agencies are seeking comment on the renewal of the following collection of information:

Interagency Appraisal Complaint Form

Section 1473(p) of the Dodd-Frank Wall Street Reform and Consumer Protection Act¹ provides that if the Appraisal Subcommittee (ASC) of the Federal Financial Institutions Examination Council (FFIEC) determines, six months after enactment of that section (*i.e.*, January 21, 2011), that no national hotline exists to receive complaints of non-compliance with appraisal independence standards and Uniform Standards of Professional Appraisal Practice (USPAP), then the ASC shall establish and operate such a hotline (ASC Hotline). The ASC Hotline shall include a toll-free telephone number and an email address. Section 1473(p) further directs the ASC to refer complaints received through the ASC Hotline to the appropriate government bodies for further action, which may include referrals to the Agencies, the Federal Reserve Board (Board), the National Credit Union Administration (NCUA), the Consumer Financial

¹ Dodd-Frank Wall Street Reform and Consumer Protection Act section 1473, Public Law 111–203, 124 Stat. 1376, July 21, 2010; 12 U.S.C. 3351(i).

Protection Bureau (CFPB), and State agencies. The ASC determined that a national appraisal hotline did not exist at a meeting held on January 12, 2011, and a notice of that determination was published in the **Federal Register** on January 28, 2011 (76 FR 5161). As a result, the ASC established a hotline to refer complaints to appropriate state and federal regulators.

Representatives from the Agencies, the Board, the NCUA, and the CFPB met and established a process to facilitate the referral of complaints received through the ASC Hotline to the appropriate federal financial institution regulatory agency or agencies. The Agencies, the Board, and the NCUA developed the Interagency Appraisal Complaint Form to collect information necessary to take further action on the complaint. The CFPB incorporated the process into one of their existing systems.

Description of the Interagency Appraisal Complaint Form

The Interagency Appraisal Complaint Form was developed for use by those who wish to file a formal, written complaint that an entity subject to the jurisdiction of one or more Agencies, the Board, or the NCUA has failed to comply with the appraisal independence standards or USPAP. The Interagency Appraisal Complaint Form is designed to collect information necessary for one or both of the Agencies, the Board, or the NCUA to take further action on a complaint from an appraiser, other individual, financial institution, or other entities. The Agencies, the Board, and the NCUA use the information to take further action on the complaint to the extent the complaint relates to an issue within their jurisdiction. The Board and the NCUA are renewing their forms separately.

The OCC and FDIC estimate that the burden of this collection of information is as follows:

OCC:

OMB Control Number: 1557-0314.

Estimated Number of Respondents: 1,500.

Estimated Burden per Response: 0.5 hours.

Estimated Total Annual Burden: 750 hours.

FDIC:

OMB Control Number: 3064-0190.

Estimated Number of Respondents: 200.

Estimated Burden per Response: 0.5 hours.

Estimated Total Annual Burden: 100 hours.

Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the Agencies, including whether the information has practical utility;

(b) The accuracy of the Agencies' estimates 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 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.

Dated: November 24, 2015.

Mary H. Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Dated at Washington, DC, this 25th day of November 2015.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2015-30644 Filed 12-3-15; 8:45 am]

BILLING CODE 4810-33-P 6714-01-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Unblocking of Specially Designated Nationals and Blocked Persons Resulting From the Termination of the National Emergency Declared in Executive Order 13348

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is removing the names of sixteen individuals and thirty entities whose property and interests in property have been blocked pursuant to Executive Order 13348 (EO 13348) of July 22, 2004, "Blocking Property of Certain Persons and Prohibiting the Importation of Certain Goods from Liberia." Additionally, OFAC is amending the designation of two individuals who will no longer be blocked under EO 13348, but will remain on the Specially Designated Nationals and Blocked Persons List (SDN List) pursuant to Executive Order 13413, "Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo."

DATES: OFAC's actions described in this notice are effective as of November 12, 2015.

FOR FURTHER INFORMATION CONTACT:

Associate Director for Global Targeting, tel.: 202/622-2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (www.treasury.gov/ofac). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202/622-0077.

Notice of OFAC Actions

On November 12, 2015, the President signed Executive Order 13710, terminating the national emergency in Executive Order 13348 of July 22, 2004 with respect to the actions and policies of former Liberian President Charles Taylor and other persons. As such, the following individuals and entities are no longer subject to the blocking provisions of Section 1(a) of E.O. 13348 and are being removed from the Specially Designated Nationals List and Blocked Persons (SDN List) as of the effective date of Executive Order 13710:

1. BOUT, Sergei Anatolyevich (a.k.a. NIKOLAYEVICH BUT, Sergey; a.k.a. "BUT"; a.k.a. "BUTT"; a.k.a. "SERGEY"; a.k.a. "SERGI"; a.k.a. "SERGO"; a.k.a. "SERGUEI"), c/o AIR CESS, Islamabad, Pakistan; c/o AIR CESS, P.O. Box 7837, Sharjah, United Arab Emirates; c/o AIR ZORY, 54 G. M. Dimitrov Blvd., Sofia BG-1125, Bulgaria; Moscow, Russia; DOB 27 Aug 1961; POB Tajikistan; citizen Russia; alt. citizen Ukraine; National ID No. 76704 (Russia); alt. National ID No. CB039314 (Ukraine) (individual) [LIBERIA].
2. BRIGHT, Charles R.; DOB 29 Aug 1948; Former Minister of Finance of Liberia (individual) [LIBERIA].
3. CHICHAKLI, Richard Ammar (a.k.a. CHICHAKLI, Ammar M.), 225 Syracuse Place, Richardson, TX 75081, United States; 811 S. Central Expwy, Ste 210, Richardson, TX 75080, United States; DOB 29 Mar 1959; POB Syria; citizen United States; SSN 405-41-5342; alt. SSN 467-79-1065 (individual) [LIBERIA].
4. DARRAH, Kaddieyatu (a.k.a. DARA, Kaddieyatu; a.k.a. DARA, Kadiyatu; a.k.a. DARRAH, Kadiyatu); Special Assistant to former President of Liberia Charles Taylor (individual) [LIBERIA].
5. DENISSENKO, Serguei (a.k.a.

- DENISENKO, Sergei; a.k.a. DENISENKO, Sergei), c/o SAN AIR GENERAL TRADING FZE, P.O. Box 932–20C, Ajman, United Arab Emirates; c/o SAN AIR GENERAL TRADING LLC, 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States; c/o SAN AIR GENERAL TRADING FZE, P.O. Box 2190, Ajman, United Arab Emirates; DOB 1961; Passport 500144635 (Russia) (individual) [LIBERIA].
6. DUNBAR, Jenkins; DOB 10 Jan 1947; Former Minister of Lands, Mines, Energy of Liberia (individual) [LIBERIA].
7. JOBE, Baba; nationality The Gambia; Director, Gambia New Millenium Air Company; Member of Parliament of Gambia (individual) [LIBERIA].
8. KIIA TAI, Joseph Wong; Executive, Oriental Timber Company (individual) [LIBERIA].
9. KLELAT, Ali; DOB 10 Jul 1970; POB Beirut, Lebanon; nationality Lebanon; Businessman (individual) [LIBERIA].
10. KOUWENHOVEN, Gus (a.k.a. KOUENHAVEN, Gus; a.k.a. KOUENHOVEN, Gus; a.k.a. KOUVENHOVEN, Gus), Villa # 1, Hotel Africa Virginia, Monrovia, Liberia; P.O. Box 1522, Monrovia, Liberia; DOB 15 Sep 1942; nationality Netherlands; President, Oriental Timber Company; Owner, Hotel Africa (individual) [LIBERIA].
11. NEAL, Juanita; DOB 09 May 1947; Former Deputy Minister of Finance of Liberia (individual) [LIBERIA].
12. SANKOH, Foday; Deceased (individual) [LIBERIA].
13. TAYLOR, Charles Ghankay (a.k.a. SOME, Jean-Paul; a.k.a. SONE, Jean-Paul; a.k.a. TAYLOR, Charles MacArthur); DOB 01 Sep 1947; Former President of Liberia (individual) [LIBERIA].
14. TAYLOR, Charles (Junior) (a.k.a. “CHUCKIE”); DOB 12 Feb 1978; Advisor and son of former President of Liberia Charles Taylor (individual) [LIBERIA].
15. UREY, Benoni; DOB 22 Jun 1957; Passport D–00148399 (Liberia); Former Commissioner of Maritime Affairs of Liberia; Diplomatic (individual) [LIBERIA].
16. YEATON, Benjamin (a.k.a. YEATEN, Benjamin); Passport D–00123299 (Liberia); Former Director, Special Security Services of Liberia; Diplomatic (individual) [LIBERIA].
17. ABIDJAN FREIGHT, Abidjan, Côte d’Ivoire [LIBERIA].
18. AIR CESS (a.k.a. AIR CESS EQUATORIAL GUINEA; a.k.a. AIR CESS HOLDINGS LTD.; a.k.a. AIR CESS INC. 360–C; a.k.a. AIR CESS LIBERIA; a.k.a. AIR CESS RWANDA; a.k.a. AIR CESS SWAZILAND (PTY.) LTD.; a.k.a. AIR PAS; a.k.a. AIR PASS; a.k.a. CESSAVIA; a.k.a. CESS AIR GROUP; a.k.a. PIETERSBURG AVIATION SERVICES & SYSTEMS; a.k.a. PIETERSBURG AVIATION SERVICES AND SYSTEMS), Malabo, Equatorial Guinea; P.O. Box 7837, Sharjah, United Arab Emirates; P.O. Box 3962, Sharjah, United Arab Emirates; Islamabad, Pakistan; Entebbe, Uganda [LIBERIA].
19. AIR ZORY LTD. (a.k.a. AIR ZORI; a.k.a. AIR ZORI LTD.), 54 G.M. Dimitrov Blvd., Sofia BG-1125, Bulgaria; 6 Zenas Kanther Str, Nicosia 1065, Cyprus [LIBERIA].
20. AIRBAS TRANSPORTATION FZE (a.k.a. AIR BAS; a.k.a. AIR BASS; a.k.a. AIRBAS TRANSPORTATION INC.; a.k.a. AVIABAS), P.O. Box 8299, Sharjah, United Arab Emirates; 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
21. ATC LTD., Gibraltar, United Kingdom [LIBERIA].
22. BUKAVU AVIATION TRANSPORT, Congo, Democratic Republic of the [LIBERIA].
23. BUSINESS AIR SERVICES, Congo, Democratic Republic of the [LIBERIA].
24. CENTRAFRICAN AIRLINES (a.k.a. CENTRAFRICAIN AIRLINES; a.k.a. CENTRAL AFRICAN AIR; a.k.a. CENTRAL AFRICAN AIR LINES; a.k.a. CENTRAL AFRICAN AIRWAYS), P.O. Box 2760, Bangui, Central African Republic; c/o Transavia Travel Agency, P.O. Box 3962, Sharjah, United Arab Emirates; P.O. Box 2190, Ajman, United Arab Emirates; Kigali, Rwanda; Ras-al-Khaimah, United Arab Emirates [LIBERIA].
25. CENTRAL AFRICA DEVELOPMENT FUND, 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States; P.O. Box 850431, Richardson, TX 75085, United States; US FEIN 75–2884986 [LIBERIA].
26. CET AVIATION ENTERPRISE, FZE, P.O. Box 932–C20, Ajman, United Arab Emirates; Equatorial Guinea [LIBERIA].
27. CHICHAKLI & ASSOCIATES PLLC (a.k.a. CHICHAKLI AND ASSOCIATES PLLC; a.k.a. CHICHAKLI HICKMANRIGGS & RIGGS; a.k.a. CHICHAKLI HICKMANRIGGS & RIGGS PLLC; a.k.a. CHICHAKLI HICKMANRIGGS AND RIGGS; a.k.a. CHICHAKLI HICKMANRIGGS AND RIGGS PLLC), 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
28. CONTINUE PROFESSIONAL EDUCATION INC. (a.k.a. GULF MOTOR SALES INC.), 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States; US FEIN 08000068–09 [LIBERIA].
29. DAYTONA POOLS, INC., 225 Syracuse Place, Richardson, TX 75081, United States [LIBERIA].
30. DHH ENTERPRISES, INC., 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
31. GAMBIA NEW MILLENIUM AIR COMPANY (a.k.a. GAMBIA MILLENIUM AIRLINE; a.k.a. GAMBIA NEW MILLENIUM AIR), State House, Banjul, The Gambia [LIBERIA].
32. IB OF AMERICA HOLDINGS INC., 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
33. IRBIS AIR COMPANY, UL Furmanova 65, office 317, Almaty 48004, Kazakhstan [LIBERIA].
34. MOLDTRANSVIA SRL, Aeroport, Chisinau MD–2026, Moldova [LIBERIA].
35. NORDIK LTD. (a.k.a. NORDIK LIMITED EOOD), 9 Frederick J. Curie Street, Sofia 1113, Bulgaria [LIBERIA].
36. ODESSA AIR (f.k.a. OKAPI AIR), Entebbe, Uganda [LIBERIA].
37. ORIENT STAR CORPORATION (a.k.a. ORIENT STAR AVIATION), 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
38. RICHARD A. CHICHAKLI PC, P.O. Box 850432, Richardson, TX 75085, United States; 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
39. ROCKMAN LTD. (a.k.a. ROKMAN EOOD), 9 Frederick J. Curie Street, Sofia 1113, Bulgaria [LIBERIA].
40. SAN AIR GENERAL TRADING FZE (a.k.a. SAN AIR GENERAL TRADING LLC), P.O. Box 932–20C, Ajman, United Arab Emirates; P.O. Box 2190, Ajman, United Arab Emirates; 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
41. SANTA CRUZ IMPERIAL AIRLINES, P.O. Box 60315, Dubai, United Arab Emirates; Sharjah, United Arab Emirates [LIBERIA].
42. SOUTHBOUND LTD., P.O. Box 398, Suite 52 and 553 Monrovia House, 26 Main Street, Gibraltar, United Kingdom [LIBERIA].
43. TRANS AVIATION GLOBAL GROUP INC., 811 S. Central Expwy., Ste 210, Richardson, TX 75080, United States [LIBERIA].
44. TRANSVIA NETWORK (a.k.a. NV TRANS AVIATION NETWORK GROUP; a.k.a. TAN GROUP; a.k.a. TRANS AVIATION; a.k.a. TRANSVIA TRAVEL AGENCY; a.k.a. TRANSVIA TRAVEL CARGO), 1304 Boorj Building, Bank Street, Sharjah, United Arab Emirates; P.O. Box 3962, Sharjah, United Arab Emirates; P.O. Box 2190, Ajman, United Arab Emirates; Ostende Airport, Belgium [LIBERIA].
45. VIAL COMPANY, DE, United States [LIBERIA].
46. WESTBOUND LTD, P.O. Box 399, 26 Main Street, Gibraltar, United Kingdom [LIBERIA].

The following individuals will no longer be listed pursuant to EO 13348, but will remain listed on the SDN List pursuant to Executive Order 13413 of October 27, 2006, “Blocking Property of Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo,” as amended by Executive Order 13671 of July 8, 2014, “Taking Additional Steps to Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo.” These individuals continue to be subject to blocking and all other applicable provisions related to their continuing designations.

1. BOUT, Viktor Anatolijevitch (a.k.a. SERGITOV, Vitali; a.k.a. “BONT”; a.k.a. “BOUTOV”; a.k.a. “BUTT”; a.k.a. “BUTTE”); DOB 13 Jan 1967; alt. DOB 13 Jan 1970; POB Dushanbe, Tajikistan; Dealer and transporter of weapons and minerals; Owner, Great Lakes Business Company and Compagnie Aerienne des Grands (individual) [DRCONGO].

2. RUPRAH, Sanjivan Singh (a.k.a. "NASR, Samir M."); DOB 09 Aug 1966; POB Kisumu, Kenya; nationality Kenya; Passport D-001829-00 (Liberia); alt. Passport 790015037 (United Kingdom) issued 10 Jul 1998 expires 10 Jul 2008; Businessman; Former Deputy Commissioner, Bureau of Maritime Affairs of Liberia (individual) [DRCONGO].

Dated: December 1, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015-30687 Filed 12-3-15; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Orders 13224

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (OFAC) is publishing the names of two individuals whose property and interests in property are blocked pursuant to Executive Order 13224 of September 23, 2001, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism."

DATES: OFAC's actions described in this notice are effective on December 1, 2015.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622-2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622-2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (www.treasury.gov/ofac). Certain general information pertaining to OFAC's sanctions programs is also available via facsimile through a 24-hour fax-on-demand service, tel.: 202-622-0077.

Notice of OFAC Actions

On December 1, 2015, OFAC blocked the property and interests in property of the following individuals pursuant to

E.O. 13224, "Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism":

1. NUR, Mohammed (a.k.a. NUR, Mammam; a.k.a. NUR, Mohammad; a.k.a. NURA, Mohammed; a.k.a. NURU, Mallam Ahmed; a.k.a. "MUHAMMAD, Muhammad"); DOB 01 Jan 1972; POB Maiduguri, Nigeria; nationality Nigeria (individual) [SDGT] (Linked To: BOKO HARAM).
2. CHAD, Mustapha (a.k.a. TCHAD, Mustapha); DOB 01 Jan 1978; nationality Chad (individual) [SDGT] (Linked To: BOKO HARAM).

Dated: December 1, 2015.

John E. Smith,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2015-30646 Filed 12-3-15; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF VETERANS AFFAIRS

Loan Guaranty: Maximum Allowable Foreclosure Timeframes

AGENCY: Department of Veterans Affairs (VA).

ACTION: Notice.

SUMMARY: This notice provides information to participants in the U.S. Department of Veterans Affairs (VA) home loan guaranty program concerning the state foreclosure timeframes allowable in the calculation of the maximum interest payable on a foreclosure of a VA-guaranteed loan. The table in this notice contains the timeframes the Secretary has determined to be reasonable and customary for all states, following an annual review of amounts allowed by other government-related home loan programs.

DATES: The new foreclosure timeframes will be effective for all loan terminations completed on or after January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Andrew Trevayne, Assistant Director for Loan and Property Management, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420, (202) 632-8795 (not a toll-free number).

SUPPLEMENTARY INFORMATION: In accordance with 38 U.S.C. Chapter 37, the VA home loan guaranty program offers a partial guaranty against loss to lenders who make home loans to Veterans. VA regulations concerning the payment of loan guaranty claims are set forth at 38 CFR 36.4300, *et seq.*

Computation of guaranty claims is addressed in 38 CFR 36.4324, which states that one part of the indebtedness upon which the guaranty percentage is applied is the allowable expenses/advances as described in 38 CFR 36.4314 (re-designated from § 36.4814).

The Secretary annually reviews timeframes in connection with the termination of single-family housing loans including foreclosure, deed-in-lieu of foreclosure, and bankruptcy-related services, issued by the Department of Housing and Urban Development (HUD), Fannie Mae, and Freddie Mac. See 38 CFR 36.4322(a). Based on increases announced over the past year by these entities, the Secretary has deemed it necessary to publish in the **Federal Register** revised timeframes the Secretary now determines reasonable and customary.

The following table represents the Secretary's determination of the reasonable foreclosure timeframes for the preferred method of terminating VA-guaranteed loans and mirrors the timeframes allowed by Fannie Mae. This table will be available throughout the year at: <http://www.benefits.va.gov/homeloans/>. Pursuant to 38 CFR 36.4314(f)(2) and 36.4324(a)(3)(ii), a guaranty claim can include unpaid interest for a period of up to 210 calendar days from the due date of the last paid installment, in addition to the State calendar day timeframe for foreclosure.¹ These timeframes will be allowed for all loan terminations completed on or after January 4, 2016.

Jurisdiction	Timeframe (calendar days)
Alabama	360
Alaska	450
Arizona	330
Arkansas	450
California	510
Colorado	420
Connecticut	750
Delaware	780
District of Columbia	300
Florida	810
Georgia	330
Guam	500
Hawaii	840
Idaho	540
Illinois	630
Indiana	570

¹ VA will extend the timeframes above, and increase the amount of resultant interest payable under a claim, if VA determines that an acceptable cause prevented the holder from foreclosing timely. For an in-depth explanation of the allowable causes and the procedures for requesting increases, see 38 CFR 36.4314(f)(2), 36.4324(a)(3)(ii), VA Loan Electronic Reporting Interface (VALERI) Servicer guide, and VA's Web site at http://www.benefits.va.gov/homeloans/servicers_valeri.asp.

Jurisdiction	Timeframe (calendar days)	Jurisdiction	Timeframe (calendar days)
Iowa	630	Oregon	600
Kansas	420	Pennsylvania	750
Kentucky	540	Puerto Rico	720
Louisiana	510	Rhode Island	660
Maine	690	South Carolina	600
Maryland	660	South Dakota	570
Massachusetts	440	Tennessee	300
Michigan	300	Texas	390
Minnesota	390	Utah	540
Mississippi	360	Vermont	810
Missouri	330	Virgin Islands	510
Montana	450	Virginia	390
Nebraska	420	Washington	660
Nevada	690	West Virginia	300
New Hampshire	420	Wisconsin	510
New Jersey	750	Wyoming	330
New Mexico	720		
New York—Western Coun- ties ²	820		
New York—Eastern Counties	990		
North Carolina	450		
North Dakota	630		
Ohio	570		
Oklahoma	570		

Signing Authority

The Secretary of Veterans Affairs, or
designee, approved this document and

² Western Counties of New York for VA are:
Allegany, Cattaraugus, Chautauqua, Erie, Genesee,

authorized the undersigned to sign and
submit the document to the Office of the
Federal Register for publication
electronically as an official document of
the Department of Veterans Affairs.
Robert L. Nabors II, Chief of Staff,
Department of Veterans Affairs,
approved this document on November
20, 2015, for publication.

Dated: November 30, 2015.

Michael Shores,

*Chief Impact Analyst, Office of Regulation
Policy & Management, Office of the General
Counsel, Department of Veterans Affairs.*

[FR Doc. 2015–30592 Filed 12–3–15; 8:45 am]

BILLING CODE 8320–01–P

Livingston, Monroe, Niagara, Ontario, Orleans,
Steuben, Wayne, Wyoming, and Yates. The
remaining counties are in Eastern New York.



FEDERAL REGISTER

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Part II

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Chapter 1

Federal Acquisition Regulations; Rules

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket No. FAR 2015–0051, Sequence No. 5]

**Federal Acquisition Regulation;
Federal Acquisition Circular 2005–85;
Introduction**

AGENCY: Department of Defense (DoD),
General Services Administration (GSA),

and National Aeronautics and Space
Administration (NASA).

ACTION: Summary presentation of
interim and final rules.

SUMMARY: This document summarizes
the Federal Acquisition Regulation
(FAR) rules agreed to by the Civilian
Agency Acquisition Council and the
Defense Acquisition Regulations
Council (Councils) in this Federal
Acquisition Circular (FAC) 2005–85. A
companion document, the *Small Entity
Compliance Guide* (SECG), follows this
FAC. The FAC, including the SECG, is
available via the Internet at [http://
www.regulations.gov](http://www.regulations.gov).

DATES: For effective dates see the
separate documents, which follow.

FOR FURTHER INFORMATION CONTACT: The
analyst whose name appears in the table
below in relation to the FAR case.
Please cite FAC 2005–85 and the
specific FAR case number. For
information pertaining to status or
publication schedules, contact the
Regulatory Secretariat at 202–501–4755.

RULES LISTED IN FAC 2005–85

Item	Subject	FAR Case	Analyst
I	Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction (Interim).	2015–011	Davis.
II	Further Amendments to Equal Employment Opportunity	2015–013	Loeb.
III	Updating Federal Contractor Reporting of Veterans' Employment (Interim)	2015–036	Loeb.
IV	Pilot Program for Enhancement of Contractor Employee Whistleblower Protections ..	2013–015	Davis.
V	Retention Periods	2015–009	Glover.
VI	Establishing a Minimum Wage for Contractors	2015–003	Loeb.
VII	Technical Amendment.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow.
For the actual revisions and/or
amendments made by these rules, refer
to the specific item numbers and
subjects set forth in the documents
following these item summaries. FAC
2005–85 amends the FAR as follows:

**Item I—Prohibition on Contracting
With Corporations With Delinquent
Taxes or a Felony Conviction (FAR
Case 2015–011) (Interim)**

This interim rule amends the FAR to
implement sections of the Consolidated
and Further Continuing Appropriations
Act, 2015, to prohibit the Federal
Government from entering into a
contract with any corporation having a
delinquent Federal tax liability or a
felony conviction under any Federal
law, unless an agency has considered
suspension or debarment of the
corporation and has made a
determination that this further action is
not necessary to protect the interests of
the Government.

This interim rule has no significant
impact on the Government and
contractors, including small business
entities.

**Item II—Further Amendments to Equal
Employment Opportunity (FAR Case
2015–013)**

DoD, GSA, and NASA are issuing a
final rule adopting an interim rule
published April 10, 2015, without

change. The interim rule amended the
FAR to implement Executive Order
(E.O.) 13672, entitled “Further
Amendments to Executive Order 11478,
Equal Employment Opportunity in the
Federal Government, and Executive
Order 11246, Equal Employment
Opportunity”. E.O. 13672 was signed
July 21, 2014.

E.O. 11246, dated September 24,
1965, established requirements for non-
discriminatory practices in hiring and
employment for Federal contractors and
subcontractors. The bases of
discrimination prohibited by E.O. 11246
are race, color, religion, sex, and
national origin. E.O. 13672 adds sexual
orientation and gender identity to the
prohibited bases of discrimination
established by E.O. 11246. There is no
significant impact on small entities.

**Item III—Updating Federal Contractor
Reporting of Veterans' Employment
(FAR Case 2015–036) (Interim)**

DoD, GSA, and NASA are issuing an
interim rule amending the FAR to
implement a final rule issued by the
Department of Labor's Veterans'
Employment and Training Service
(VETS) that revised the regulations at 41
CFR part 61 implementing the reporting
requirements under the Vietnam Era
Veterans' Readjustment Assistance Act,
as amended (VEVRAA) and the Jobs for
Veterans Act (JVA) (Pub. L. 107–288).
VEVRAA requires Federal contractors
and subcontractors to annually report

on the total number of their employees
who belong to the categories of veterans
protected under VEVRAA, as amended
by the JVA, and the total number of
those protected veterans who were hired
during the period covered by the report.
The VETS rule requires contractors and
subcontractors to comply with its
revised reporting requirements using the
new Form VETS–4212, in lieu of the
VETS–100 and VETS–100A, beginning
with the annual report filed in 2015.

There is no significant impact on
small entities imposed by the FAR rule.

**Item IV—Pilot Program for
Enhancement of Contractor Employee
Whistleblower Protections (FAR Case
2013–015)**

This final rule amends the FAR to
implement a statutory pilot program
enhancing whistleblower protections for
contractor employees at FAR subpart
3.9. An interim rule was published
September 30, 2013. The interim rule
created a new FAR section 3.908 to be
used by title 41 agencies through
January 1, 2017.

The four-year pilot program is
mandated by section 828, entitled “Pilot
Program for Enhancement of Contractor
Employee Whistleblower Protections,”
of the National Defense Authorization
Act (NDAA) for Fiscal Year (FY) 2013
(Pub. L. 112–239, enacted January 2,
2013).

This rule has no significant impact on
small business concerns.

Item V—Retention Periods (FAR Case 2015–009)

This final rule amends the FAR by updating the Government file retention periods to conform with the retention periods in the National Archives and Records Administration (NARA) General Records Schedule (GRS). Language is also added to instruct agencies that require a shorter retention period for certain records to request approval from NARA through the agency's record officer. This rule change does not place any new requirements on small entities; the only change is the timeframe for retention by the Government of Government records.

Item VI—Establishing a Minimum Wage for Contractors (FAR Case 2015–003)

DoD, GSA, and NASA are issuing a final rule adopting the interim rule published December 15, 2014, with change. The interim rule amended the FAR to implement Executive Order 13658 and a Department of Labor final rule issued on October 7, 2014, both entitled “Establishing a Minimum Wage for Contractors,” which established a new minimum wage for covered service and construction contracts of \$10.10 per hour, as of January 1, 2015. The Executive Order minimum wage will be adjusted annually, by the Department of Labor. Contracting officers will include a clause in covered contracts and will adjust contract prices for the annual adjustments in the Executive Order minimum wage. Contractors shall consider any subcontractor request, including requests by small businesses subcontractors, for a subcontract price adjustment due to the annual adjustment in the Executive Order minimum wage.

There is no significant impact on small entities imposed by the FAR rule.

Item VII—Technical Amendment

Editorial change is made at FAR 1.106.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Federal Acquisition Circular (FAC) 2005–85 is issued under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator for the National Aeronautics and Space Administration.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 2005–85 is effective December 4, 2015 except for item I and III which are

effective February 26, 2016, and item V which is effective January 4, 2016.

Dated: November 23, 2015.

Claire M. Grady,

Director, Defense Procurement and Acquisition Policy.

Dated: November 24, 2015.

Jeffrey A. Koses,

Senior Procurement Executive/Deputy CAO, Office of Acquisition Policy, U.S. General Services Administration.

Dated: November 20, 2015.

William P. McNally,

Assistant Administrator, Office of Procurement, National Aeronautics and Space Administration.

[FR Doc. 2015–30455 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 1, 4, 9, 12, and 52**

[FAC 2005–85; FAR Case 2015–011; Item No. I; Docket No. 2015–0011; Sequence No. 1]

RIN 9000–AN05

Federal Acquisition Regulation: Prohibition on Contracting With Corporations With Delinquent Taxes or a Felony Conviction

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement sections of the Consolidated and Further Continuing Appropriations Act, 2015, to prohibit the Federal Government from entering into a contract with any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless the agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

DATES: *Effective date:* February 26, 2016.

Comment date: Interested parties should submit written comments to the Regulatory Secretariat on or before February 2, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FAC 2005–85, FAR Case 2015–011, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2015–011”. Select the link “Comment Now” that corresponds with “FAR Case 2015–011”. Follow the instructions provided on the screen. Please include your name, company name (if any), and “FAR Case 2015–011” on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Instructions: Please submit comments only and cite FAC 2005–85, FAR Case 2015–011, Prohibition on Contracting with Corporation with Delinquent Taxes or a Felony Conviction, in all correspondence related to this case. Comments received generally will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three Days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202–219–0202 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat Division at 202–501–4755. Please cite FAC 2005–85, FAR Case 2015–011.

SUPPLEMENTARY INFORMATION:**I. Background**

This interim rule amends the FAR to implement sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and section 523 of Division B of the same act.

A. Representation

This rule requires that all offerors responding to Federal solicitations make a representation regarding whether the offeror is a corporation with a delinquent tax liability or a felony conviction under Federal law, as required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) (and similar provisions in subsequent appropriations acts).

When an offeror provides an affirmative response in paragraph (b)(1) or (2) to the representation, the contracting officer is required to request additional information from the offeror and notify the agency official responsible for initiating debarment or suspension action. The contracting officer shall not make an award to the corporation unless an agency suspending or debarment official has considered suspension or debarment of the corporation and determined that this further action is not necessary to protect the interests of the Government.

B. Certification

This rule also adds a certification requirement regarding tax matters, in solicitations for which the resultant contract (including options) may have a value greater than \$5,000,000, and that will use funds made available by Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) (and similar provisions in subsequent appropriations acts).

Agencies funded by these acts include the Department of Commerce, the Department of Justice, NASA, as well as some smaller agencies.

If the certification regarding tax matters is applicable, then the contracting officer shall not award any contract in an amount greater than \$5,000,000, unless the offeror affirmatively certified in its offer to all the required certifications regarding tax matters in FAR Clause 52.209–12(b).

This certification will not be included in the annual representations and certifications, because it has very limited application. In accordance with 41 U.S.C. 1304, the certification included in this regulation is specifically required by statute, and therefore its inclusion in the FAR does not require the written approval of the Administrator for Federal Procurement Policy.

C. Applicability to Commercial Items (Including Commercially Available Off-the-Shelf (COTS) Items) and Acquisitions Not Greater Than the Simplified Acquisition Threshold

This interim rule implements sections 744 and 745 of Division E, Title VII, and section 523 of Division B, Title V, of the Consolidated and Further Continuing Appropriations Act, 2015. Sections 744 and 745 of Division E prohibit any Federal agency from using funds appropriated or otherwise made available by the Act or any other act to enter into a contract with a corporation that has delinquent unpaid taxes or has been convicted of a felony criminal

violation under any Federal law within the past 24 months, unless the Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the government. Section 523 of Division B, which affects Commerce, Justice, NASA, and some smaller agencies, requires certification with regard to violations of certain tax matters.

The FAR Council and the Administrator for Federal Procurement Policy have determined that it is not in the best interest of the United States to exempt contracts for the acquisition of commercial items (including commercially available off-the-shelf items) or acquisitions in amounts not greater than the simplified acquisition threshold (other than the certification requirement), because it imposes a minimal burden (just a representation or, in limited instances, a certification), in contrast to the benefit of avoiding awarding contracts to corporations that have delinquent unpaid taxes, or felony convictions for violations of Federal Law, or to prospective contractors with other violations relating to Federal tax matters. Tax liability is a serious matter and Congressional hearings (e.g., the Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate, held a hearing on May 24, 2011, entitled, “Stimulus Contractors Who Cheat On Their Taxes: What Happened?,” and the Subcommittee on Government Management, Organization, and Procurement, Committee on Oversight and Government Reform, House of Representatives held a hearing on April 19, 2007, also concerning Federal contractors who abuse the Federal tax system) have been held to identify ways to ensure that funds are not spent with contractors with tax delinquencies. It is in the interest of the United States to only award contracts to entities that are responsible and law-abiding.

This determination is consistent with the current coverage in paragraph (h)(4) of the FAR clause at 52.212–3, Offeror Representations and Certifications—Commercial Items, which requires offerors to represent whether they have, within a three-year period preceding their offer, been notified of any delinquent Federal taxes in an amount that exceeds \$3,500 for which the liability remains unsatisfied.

II. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory

alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

III. Regulatory Flexibility Act

Although DoD, GSA, and NASA do not expect that this change will have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.*, an Initial Regulatory Flexibility Analysis (IRFA) has been prepared and is summarized as follows:

This action is necessary to implement sections 744 and 745 of Division E of the Consolidated and Continuing Further Appropriations Act, 2015 (Pub. L. 113–235) (and similar provisions in subsequent appropriations acts), to prohibit using any of the funds made available under that or any other act to enter a contract with any corporation with any delinquent Federal tax liability or a felony conviction, unless an agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

The rule also implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) (and similar provisions in subsequent appropriations acts). This section prohibits the award of any contract in an amount greater than \$5,000,000, using funds appropriated under Division B of the Consolidated and Continuing Further Appropriations Act, 2015, unless the offeror affirmatively certifies that it has filed all Federal tax returns required during the three years preceding the certification; has not been convicted of a criminal offense under the Internal Revenue Code of 1986; and has not, more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

The objective of the interim rule is to prohibit award to entities that are delinquent in the payment of Federal taxes or have been convicted of a felony under Federal law. The

legal basis for the rule is the above cited statutes.

Based on current data with regard to active registrants in the System for Award Management (SAM), the rule will apply to approximately 65,000 small business concerns, which are required to complete the annual representations and certifications at least once per year in order to keep their registration in SAM current.

The information collection requirement imposed by this rule is minimal—it is a brief representation, and in some cases also a certification. Each representation is estimated to require an average of six minutes to complete.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD, GSA, and NASA were unable to identify any significant alternatives that would reduce the impact on small businesses and still meet the objectives of the statute. However, other than the potential for not receiving award if the small entity is delinquent in payment of Federal taxes or has been convicted of a felony, there is no significant economic impact on small entities because the information collection burden imposed by the rule is minimal.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015–011), in correspondence.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35) applies. The rule contains information collection requirements. The Office of Management and Budget (OMB) has cleared this information collection requirement under OMB Control Number 9000–0193, titled: Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction.

A. Public Reporting Burden

The public reporting burden for this collection of information is estimated to average .1 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

1. 52.209–11 Representation

The annual reporting burden for 52.209–11 is estimated as follows:

Respondents: 352,000.

Responses per respondent:

Approximately 1.01.

Total annual responses: 355,520.

Preparation hours per response: .1 hours.

Total response Burden Hours: 35,552.

2. 52.209–12 Certification

The annual reporting burden for 52.209–12 is estimated as follows:

Respondents: 440.

Responses per respondent: 3.

Total annual responses: 1,320.

Preparation hours per response: .1 hours.

Total response Burden Hours: 132.

3. Total

The average annual reporting burden is estimated as follows:

Total annual responses: 356,840.

Preparation hours per response: .1 hours.

Total response Burden Hours: 35,684.

B. Request for Comments Regarding Paperwork Burden

Submit comments, including suggestions for reducing this burden, not later than February 2, 2016 to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Requesters may obtain a copy of the supporting statement from the General Services Administration, Regulatory Secretariat Division (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd Floor, Washington, DC 20405–0001. Please cite OMB Control Number 9000–0193, Prohibition on Contracting with Corporations with Delinquent Taxes or a Felony Conviction, in all correspondence.

V. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary because these appropriations act restrictions apply to all funds appropriated under the respective acts, and it is important to provide immediate direction to contracting officers, so that they do not inadvertently violate the conditions placed upon the expenditure of the funds. The effective date is set as February 26, 2016, to allow the Government to conform its procurement databases. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 1, 4, 9, 12, and 52

Government procurement.

Dated: November 20, 2015.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA and NASA amend 48 CFR parts 1, 4, 9, 12, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 4, 9, 12, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text by adding, in sequence, FAR segments “52.209–11” and “52.209–12” and their corresponding OMB Control number “9000–0193”.

PART 4—ADMINISTRATIVE MATTERS

■ 3. Amend section 4.1202 by redesignating paragraphs (a)(8) through (29) as paragraphs (a)(9) through (30), respectively; and adding a new paragraph (a)(8) to read as follows:

4.1202 Solicitation provision and contract clause.

(a) * * *

(8) 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

* * * * *

PART 9—CONTRACTOR QUALIFICATIONS

■ 4. Amend section 9.104–5 by revising the section heading and paragraph (b) and adding paragraphs (c) and (d) to read as follows:

9.104–5 Representation and certifications regarding responsibility matters.

* * * * *

(b) The provision at 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, implements sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) (and similar provisions in subsequent appropriations acts). When an offeror provides an affirmative response in paragraph (b)(1) or (2) of the provision at 52.209–11 or paragraph (q)(2)(i) or (ii) of provision 52.212–3, the contracting officer shall—

(1) Promptly, upon receipt of offers, request such additional information from the offeror as the offeror deems necessary in order to demonstrate the offeror's responsibility to the contracting officer (but see 9.405);

(2) Notify, in accordance with agency procedures (see 9.406–3(a) and 9.407–3(a)), the agency official responsible for initiating debarment or suspension action; and

(3) Not award to the corporation unless an agency suspending or debarring official has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government.

(c) If the provision at 52.209–12, Certification Regarding Tax Matters, is applicable (see 9.104–7(e)), then the contracting officer shall not award any contract in an amount greater than \$5,000,000, unless the offeror affirmatively certified in its offer, as required by paragraph (b)(1), (2), and (3) of the provision.

(d) Offerors who do not furnish the representation or certifications or such information as may be requested by the contracting officer shall be given an opportunity to remedy the deficiency. Failure to furnish the representation or certifications or such information may render the offeror nonresponsible.

■ 5. Amend section 9.104–7 by adding paragraphs (d) and (e) to read as follows:

9.104–7 Solicitation provisions and contract clauses.

* * * * *

(d) The contracting officer shall insert the provision 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law, in all solicitations.

(e) For agencies receiving funds subject to section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235) and similar provisions in subsequent appropriations acts, the contracting officer shall insert the provision 52.209–12, Certification Regarding Tax Matters, in solicitations for which the resultant contract (including options) may have a value greater than \$5,000,000. Division B of the Consolidated and Continuing Further Appropriations Act, 2015 appropriates funds for the following agencies: The Department of Commerce, the Department of Justice, the National Aeronautics and Space Administration, the Office of Science and Technology Policy, the National Science Foundation, the Commission on Civil Rights, the Equal Employment Opportunity Commission, the U.S. International Trade Commission, the Legal Services Corporation, the Marine Mammal Commission, the Office of the United States Trade Representative, and the State Justice Institute.

PART 12—ACQUISITION OF COMMERCIAL ITEMS

■ 6. Amend section 12.301 by redesignating paragraphs (d)(4) through (6) as paragraphs (d)(5) through (7), respectively, and adding a new paragraph (d)(4) to read as follows:

12.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

* * * * *

(d) * * *

(4) Insert the provision at 52.209–12, Certification Regarding Tax Matters, as prescribed at 9.104–7(e).

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 7. Amend section 52.204–8 by—

■ a. Revising the date of the provision;

■ b. Redesignating paragraphs (c)(1)(vii) through (xxi) as (c)(1)(viii) through (xxii), respectively; and

■ c. Adding a new paragraph (c)(1)(vii).

The revision and addition read as follows:

52.204–8 Annual Representations and Certifications.

* * * * *

Annual Representations and Certifications (Feb 2016)

* * * * *

(c)(1) * * *

(vii) 52.209–11, Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law. This provision applies to all solicitations.

* * * * *

■ 8. Add sections 52.209–11 and 52.209–12 to read as follows:

52.209–11 Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.

As prescribed in 9.104–7(d), insert the following provision:

Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law (Feb 2016)

(a) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), and similar provisions, if contained in subsequent appropriations acts, the Government will not enter into a contract with any corporation that—

(1) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(2) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(b) The Offeror represents that—

(1) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(2) It is [] is not [] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(End of provision)

52.209–12 Certification Regarding Tax Matters.

As prescribed in 9.104–7(e), insert the following provision:

Certification Regarding Tax Matters (Feb 2016)

(a) This provision implements section 523 of Division B of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), and similar provisions, if contained in subsequent appropriations acts.

(b) If the Offeror is proposing a total contract price that will exceed \$5,000,000 (including options), the Offeror shall certify that, to the best of its knowledge and belief, it—

(1) Has [] filed all Federal tax returns required during the three years preceding the certification;

(2) Has not [] been convicted of a criminal offense under the Internal Revenue Code of 1986; and

(3) Has not [], more than 90 days prior to certification, been notified of any unpaid Federal tax assessment for which the liability remains unsatisfied, unless the assessment is the subject of an installment agreement or offer in compromise that has been approved by the Internal Revenue Service and is not in default, or the assessment is the subject of a non-frivolous administrative or judicial proceeding.

(End of provision)

- 9. Amend section 52.212–3 by—
- a. Revising the date of the provision;
- b. Removing from the introductory text and the first undesignated paragraph in paragraph (b)(2) “through p” and adding “though q” in their places, respectively; and
- c. Adding paragraph (q).

The revision and addition read as follows:

52.212–3 Offeror Representations and Certifications—Commercial Items.

* * * * *

Offeror Representations and Certifications—Commercial Items (Feb 2016)

* * * * *

(q) *Representation by Corporations Regarding Delinquent Tax Liability or a Felony Conviction under any Federal Law.* (1) As required by sections 744 and 745 of Division E of the Consolidated and Further Continuing Appropriations Act, 2015 (Pub. L. 113–235), and similar provisions, if contained in subsequent appropriations acts, The Government will not enter into a contract with any corporation that—

(i) Has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, where the awarding agency is aware of the unpaid tax liability, unless an agency has considered suspension or debarment of the corporation and made a determination that suspension or debarment is not necessary to protect the interests of the Government; or

(ii) Was convicted of a felony criminal violation under any Federal law within the preceding 24 months, where the awarding agency is aware of the conviction, unless an

agency has considered suspension or debarment of the corporation and made a determination that this action is not necessary to protect the interests of the Government.

(2) The Offeror represents that—

(i) It is [] is not [] a corporation that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(ii) It is [] is not [] a corporation that was convicted of a felony criminal violation under a Federal law within the preceding 24 months.

(End of provision)

[FR Doc. 2015–30456 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Parts 1, 22, and 52**

[FAC 2005–85; FAR Case 2015–013; Item II; Docket No. 2015–0013, Sequence No. 1]

RIN 9000–AN01

Federal Acquisition Regulation; Further Amendments to Equal Employment Opportunity

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, without change, an interim rule amending the Federal Acquisition Regulation (FAR) to implement Executive Order (E.O.) 13672, entitled, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” and a final rule issued by the Department of Labor (DOL).

DATES: *Effective:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–85, FAR Case 2015–013.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 80 FR 19504 on April 10, 2015, to implement E.O. 13672, entitled, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” and a final rule issued by the Department of Labor at 41 CFR part 60. One public comment was submitted on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comment in the development of the final rule. The respondent had pointed to an error in a clause number in the interim rule publication. The error in FAR 52.213–4 was corrected in a Technical Amendment to Federal Acquisition Circular 2005–82 published in the **Federal Register** at 80 FR 26427 on May 7, 2015; therefore no further change to the interim rule is required.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 604, *et seq.* The FRFA is summarized as follows:

This rule is necessary to implement Executive Order (E.O.) 13672, “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity,” and a final rule issued by the DOL at 41 CFR part 60, which published in the **Federal Register** at 79 FR 72985 on December 09, 2014.

The interim rule, published on April 10, 2015, provides for a uniform policy to

prohibit discrimination in Federal Government procurement by adding sexual orientation and gender identity to the prohibited bases of discrimination established by E.O. 11246.

No public comments were submitted in response to the initial regulatory flexibility analysis. Therefore, there were no issues to assess and no changes were made to the interim rule.

The rule will apply to all contracts and subcontracts subject to the Equal Opportunity FAR clause 52.222–26, which is prescribed for all contracts over \$10,000 that are not completely exempted. Using Fiscal Year 2013 Federal Procurement Data System and Federal Subcontract Reporting System data it is estimated that awards were made to 168,758 unique small businesses and that subcontracts were awarded to 61,816 unique small businesses. It is noted that there is likely a good measure of overlap between the unique small businesses that receive Federal awards and those that receive subcontract awards resulting in a likely overestimated total of 230,574.

Recordkeeping and reporting requirements involve regulatory familiarization and administrative costs associated with incorporating revised language into policies, instructions, notices to employees, and subcontracts. Other changes made by the rule, such as the prohibition of segregation of facilities are expected to have only minimal cost impacts as they do not require modification or construction of additional facilities, but rather to provide equal access to existing facilities. An analysis of estimated costs of the regulatory changes was prepared for the DOL final rule, which published in the **Federal Register** at 79 FR 72985 on December 09, 2014.

No significant alternatives to the rule were identified that would accomplish the stated objectives of the E.O. and the DOL implementing regulations. Every effort has been made to minimize the burdens imposed.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, the information collection authorization is under the DOL regulations and is assigned OMB Control Number 1250–0009, entitled, “Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors.” This collection under 1250–0009 will be incorporated into 1250–0001 and 1250–0003.

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final Without Change

Accordingly, the interim rule amending 48 CFR parts 1, 22, and 52, which was published in the **Federal Register** at 80 FR 19504 on April 10, 2015, is adopted as final without change.

[FR Doc. 2015–30457 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1, 22, and 52

[FAC 2005–85; FAR Case 2015–036; Item III; Docket No. 2015–0036, Sequence No. 1]

RIN 9000–AN14

Federal Acquisition Regulation; Updating Federal Contractor Reporting of Veterans’ Employment

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule.

SUMMARY: DoD, GSA, and NASA are issuing an interim rule amending the Federal Acquisition Regulation (FAR) to implement a final rule issued by the Department of Labor’s (DOL) Veterans’ Employment and Training Service (VETS), which replaced the VETS–100 and VETS–100A Federal Contractor Veterans’ Employment Report forms with the new VETS–4212, Federal Contractor Veterans’ Employment Report form.

DATES: *Effective:* February 26, 2016.

Applicability: This rule applies to (1) solicitations and contracts awarded on or after the effective date; and (2) modifications on or after the effective date to existing contracts, if the contracts are otherwise being modified.

Comment date: Interested parties should submit written comments to the Regulatory Secretariat on or before February 2, 2016 to be considered in the formation of the final rule.

ADDRESSES: Submit comments identified by FAC 2005–85, FAR Case

2015–036, by any of the following methods:

- *Regulations.gov:* <http://www.regulations.gov>. Submit comments via the Federal eRulemaking portal by searching for “FAR Case 2015–036”. Select the link “Comment Now” that corresponds with “FAR Case 2015–036”. Follow the instructions provided at the “Comment Now” screen. Please include your name, company name (if any), and “FAR Case 2015–036” on your attached document.

- *Mail:* General Services Administration, Regulatory Secretariat (MVCB), ATTN: Ms. Flowers, 1800 F Street NW., 2nd floor, Washington, DC 20405.

Instructions: Please submit comments only and cite FAC 2005–85, FAR Case 2015–036, in all correspondence related to this case. All comments received will be posted without change to <http://www.regulations.gov>, including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check www.regulations.gov, approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–85, FAR Case 2015–036.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement a final rule issued by VETS of the DOL that was published in the **Federal Register** at 79 FR 57463 on September 25, 2014, which rescinded the regulations at 41 CFR part 61–250 and revised the regulations at 41 CFR part 61–300, which implemented the reporting requirements under the Vietnam Era Veterans’ Readjustment Assistance Act, as amended (VEVRAA) and the Jobs for Veterans Act (JVA) (Pub. L. 107–288). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under VEVRAA, as amended by the JVA, and the total number of those protected veterans who were hired during the period covered by the report. One of the main purposes of the DOL’s rule was to revise the reporting requirement applicable to Government and

subcontracts over the simplified acquisition threshold by changing the manner in which Federal contractors report on their employment of veterans. DOL's final rule changed the name of the annual report required under those regulations to the Federal Contractor Veterans' Employment Report VETS-4212. Additionally, the FAR rule incorporates the revisions to certain definitions, the text of the reporting requirements clause included in Government contracts and subcontracts, and the methods of filing the annual report on veterans' employment covered by the new form. The VETS rule requires contractors and subcontractors to comply with its revised reporting requirements beginning with the annual report filed in 2015.

II. Discussion and Analysis

A. The VETS rule accomplished a number of revisions to the VEVRAA implementing regulations including the following:

1. Rescinded the regulations at 41 CFR part 61-250 that prescribed the reporting requirements applicable to Government contracts and subcontracts entered into before December 1, 2003 because those regulations were obsolete.

2. Changed the manner in which Federal contractors report on their employment of veterans. The previous VETS-100 and VETS-100A Reports did not ask contractors to provide the total number of protected veterans in their workforces nor who were hired during the reporting period. VETS found it would be preferable for contractors to report the total number of protected veterans employed and hired rather than the total number of veterans protected under each job category. Such data better assists contractors in complying with their affirmative action obligations under VEVRAA and in monitoring the success of their recruitment and outreach efforts to attract protected veterans. Accordingly, VETS revised the manner in which employment and hiring of protected veterans is reported.

3. Updated definitions. A previous rulemaking by DOL's Office of Federal Contract Compliance Programs (OFCCP) that was published in the **Federal Register** at 78 FR 58614 on September 24, 2013, updated the requirements pertaining to affirmative action and nondiscrimination obligations of contractors and subcontractors regarding special disabled veterans, veterans of the Vietnam Era, disabled veterans, recently separated veterans, active duty wartime or campaign badge veterans, and armed forces service medal veterans. The OFCCP rule

updated appropriate terms for protected categories of veterans by defining "active duty wartime or campaign badge veteran" and "protected veteran" and rendering obsolete the term "other protected veteran". A prior FAR rule that implemented the OFCCP rule that was published in the **Federal Register** at 79 FR 43575 on July 25, 2014, adopted these updated terms at FAR 22.1301, Definitions, and in the FAR subpart 22.13 prescribed clauses at 52.222-35, Equal Opportunity for Veterans, and 52.222-37, Employment Reports on Veterans. The VETS rule has adopted the updated terms from the OFCCP rule and has made conforming revisions.

4. Renamed the required annual report the "Federal Contractor Veterans' Employment Report VETS-4212" and updated methods of filing the report.

B. Following are the revisions required to the FAR text that implements the VEVRAA reporting requirements, as amended, in FAR subpart 22.13, the clause at 52.222-37, Employment Reports on Veterans, and related clauses:

1. FAR 22.1300, Scope of subpart. Removes the reference to the rescinded regulation at 41 CFR part 61-250.

2. FAR 22.1302, Policy; 22.1303, Applicability; 22.1304, Procedures; and 22.1306, Department of Labor notices and reports. Updates the title of the report from VETS-100 or VETS-100A to VETS-4212 in FAR 22.1302 through FAR 22.1304. Additionally, updates terms, instructional language, and internet links in FAR 22.1304 and 22.1306.

3. FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items. Updates the currency of clause dates.

4. FAR 52.213-4, Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items). Updates the currency of clause dates.

5. FAR 52.222-37, Employment Reports on Veterans. Revises language in the clause to alphabetically order terms and conform to terms defined in FAR 22.1301, and provides updated instructional language and internet links.

6. FAR 52.222-38, Compliance with Veterans' Employment Reporting Requirements. Updates language and the VETS-4212 form number.

7. FAR 52.244-6, Subcontracts for Commercial Items. Updates the currency of clause dates.

C. This interim rule updates the OMB Control Numbers in FAR 1.106, OMB approval under the Paperwork Reduction Act. The information collections imposed by VEVRAA as

amended, and the VEVRAA reporting requirements are managed by Department of Labor's Office of Federal Contract Compliance Programs and VETS and are cited in the FAR.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The change is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act 5 U.S.C. 601, *et seq.* The Initial Regulatory Flexibility Analysis (IRFA) is summarized as follows:

This interim rule is being issued to implement changes to 41 CFR parts 61-250 and 61-300 that were published in the **Federal Register** at 79 FR 57463 on September 25, 2014, by the Veterans' Employment and Training Service (VETS) of the Department of Labor (DOL).

The VETS rule revises the current regulations implementing 38 U.S.C. 4212. The VETS rule rescinded obsolete regulations at 41 CFR part 61-250, changed the manner in which Federal contractors report veterans' employment data, updated terminology, and revised the annual report, the report name, and methods of filing the report.

VETS used data in the VETS-100/100A Reporting System regarding reports on veterans' employment filed in 2012 to estimate the number of small entities that would be subject to its rule. The VETS rule applies to any industry represented by a Federal contractor with a contract of \$100,000 or more. Therefore, VETS used the Small Business Administration's "fewer than 500 employees" limit when making an across-the-board size standard classification for estimating purposes. VETS estimated that 15,000 Federal contractors will be subject to the reporting requirements of the rule and of that, VETS approximated that the number of small entities that would be subject to the rule would be 8,000 (approximately 53 percent of the total Federal contractors impacted by the rule).

This FAR rule does not add any new reporting, recordkeeping, or other

compliance burdens. The FAR rule makes contracting officers and contractors aware of the VETS reporting requirements.

The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD, GSA, and NASA are not aware of any significant alternatives to the rule which would accomplish the stated objectives of implementing the VETS final rule, while minimizing impact on small entities. DoD, GSA, and NASA do not have the flexibility of making any changes to the VETS rule, which has already been published for public comment and has taken effect as a final rule. There is no significant impact on small entities imposed by the FAR rule.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by the rule in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR Case 2015–036), in correspondence.

IV. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) applies. The rule contains information collection requirements that are subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.* However, the applicable information collections are derived from the requirements of the 41 CFR part 61–300 regulations implementing the reporting requirements under VEVRAA; see detailed discussion in DOL's rule under the Paperwork Reduction Act section which was published in the **Federal Register** at 79 FR 57463 on September 25, 2014. OMB assigned OMB Control Numbers 1250–0004, OFCCP Recordkeeping and Reporting Requirements, 38 U.S.C. 4212, Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, and 1293–0005, Federal Contractor Veterans' Employment Report.

V. Determination To Issue an Interim Rule

A determination has been made under the authority of the Secretary of Defense (DoD), the Administrator of General Services (GSA), and the Administrator of the National Aeronautics and Space

Administration (NASA) that urgent and compelling reasons exist to promulgate this interim rule without prior opportunity for public comment. This action is necessary as the effective date of the VETS final rule was October 27, 2014. Contractors and subcontractors are required to comply with the new reporting requirements beginning with their annual report filed in 2015, which for some contractors and subcontractors is after September 30, 2015. Any further delays in implementing this rule may impact contractors' and subcontractors' ability to comply with the new reporting requirements. The effective date is set as February 26, 2016, to allow the Government to conform its procurement database. However, pursuant to 41 U.S.C. 1707 and FAR 1.501–3(b), DoD, GSA, and NASA will consider public comments received in response to this interim rule in the formation of the final rule.

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR parts 1, 22, and 52 as set forth below:

■ 1. The authority citation for 48 CFR parts 1, 22, and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

1.106 [Amended]

■ 2. Amend section 1.106 in the table following the introductory text, by—

■ a. Removing FAR Segment “22.13”

and its corresponding OMB Control Number “1293–0005 and 1250–0004”;

■ b. Removing FAR Segment “52.222–37” and its corresponding OMB Control Number “1293–0005”; and

■ c. Adding, in numerical sequence, FAR segments “52.222–37” and “52.222–38” and their corresponding OMB Control Numbers “1250–0004 and 1293–0005” in their places, respectively.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 3. Amend section 22.1300 by revising paragraph (e) to read as follows:

22.1300 Scope of subpart.

* * * * *

(e) The regulations of the Secretary of Labor (41 CFR parts 60–300 and 61–300).

■ 4. Amend section 22.1302 by revising paragraph (b) to read as follows.

22.1302 Policy.

* * * * *

(b) Except for contracts for commercial items or contracts that do not exceed the simplified acquisition threshold, contracting officers must not obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract for the procurement of personal property and nonpersonal services (including construction) with a contractor that has not submitted the required annual VETS–4212, Federal Contractor Veterans' Employment Report (VETS–4212 Report), with respect to the preceding fiscal year if the contractor was subject to the reporting requirements of 38 U.S.C. 4212(d) for that fiscal year.

22.1303 [Amended]

■ 5. Amend section 22.1303 by removing from paragraph (c) “VETS–100A” and adding “VETS–4212” in its place.

■ 6. Revise section 22.1304 to read as follows.

22.1304 Procedures.

To verify if a proposed contractor is current with its submission of the VETS–4212 Report, the contracting officer may—

(a) Query the Department of Labor's VETS–4212 Database via the Internet at <http://www.dol.gov/vets/vets4212.htm> under “Filing Verification”; and

(b) Contact the VETS–4212 customer support via email at VETS-4212-customersupport@dol.gov for confirmation, if the proposed contractor represents that it has submitted the VETS–4212 Report and is not listed on the verification file.

■ 7. Amend section 22.1306 by revising paragraph (b) to read as follows.

22.1306 Department of Labor notices and reports.

* * * * *

(b) The Act requires contractors and subcontractors to submit a report at least annually to the Secretary of Labor regarding employment of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans, unless all of the terms of the clause at 52.222–35, Equal Opportunity for Veterans, have been waived see

22.1305). The contractor and subcontractor must file VETS-4212, Federal Contractor Veterans' Employment Report (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at <http://www.dol.gov/vets/vets4212.htm>).

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 8. Amend section 52.212-5 by revising the date of the clause and paragraphs (b)(31) and (e)(1)(viii) to read as follows:

52.212-5 Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (FEB 2016)

* * * * *

(b) * * *

(31) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

* * * * *

(e)(1) * * *

(viii) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

* * * * *

■ 9. Amend section 52.213-4 by revising the date of clause and paragraphs (a)(2)(viii) and (b)(1)(vi) to read as follows:

52.213-4 Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (FEB 2016)

(a) * * *

(2) * * *

(viii) 52.244-6, Subcontracts for Commercial Items (FEB 2016).

* * * * *

(b) * * *

(1) * * *

(vi) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212) (Applies to contracts of \$150,000 or more).

* * * * *

■ 10. Amend section 52.222-37 by—

■ a. Revising the date of the clause;

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

■ c. Removing from paragraph (d) "submit VETS-100A" and adding "file VETS-4212" in its place; and

■ d. Removing from paragraph (f) "VETS-100A" and adding "VETS-4212" in its place.

The revisions read as follows.

52.222-37 Employment Reports on Veterans.

* * * * *

Employment Reports on Veterans (FEB 2016)

(a) *Definitions.* As used in this clause, "active duty wartime or campaign badge veteran," "Armed Forces service medal veteran," "disabled veteran," "protected veteran," and "recently separated veteran," have the meanings given in FAR 22.1301.

(b) * * *

(1) The total number of employees in the contractor's workforce, by job category and hiring location, who are protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans);

(2) The total number of new employees hired during the period covered by the report, and of the total, the number of protected veterans (*i.e.*, active duty wartime or campaign badge veterans, Armed Forces service medal veterans, disabled veterans, and recently separated veterans); and

* * * * *

(c) The Contractor shall report the above items by filing the VETS-4212 "Federal Contractor Veterans' Employment Report" (see "VETS-4212 Federal Contractor Reporting" and "Filing Your VETS-4212 Report" at <http://www.dol.gov/vets/vets4212.htm>).

* * * * *

■ 11. Amend section 52.222-38 by revising the date of the provision and removing from the last sentence "submitted the most recent VETS-100A" and adding "filed the most recent VETS-4212" in its place.

The revision reads as follows.

52.222-38 Compliance With Veterans' Employment Reporting Requirements.

* * * * *

Compliance With Veterans' Employment Reporting Requirements (FEB 2016)

* * * * *

■ 12. Amend section 52.244-6 by revising the date of the clause and paragraph (c)(1)(viii) to read as follows.

52.244-6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (FEB 2016)

* * * * *

(c)(1) * * *

(viii) 52.222-37, Employment Reports on Veterans (FEB 2016) (38 U.S.C. 4212).

* * * * *

[FR Doc. 2015-30458 Filed 12-3-15; 8:45 am]

BILLING CODE 6820-EP-P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 3 and 52

[FAC 2005-85; FAR Case 2013-015; Item IV; Docket 2013-0015, Sequence 1]

RIN 9000-AM56

Federal Acquisition Regulation; Pilot Program for Enhancement of Contractor Employee Whistleblower Protections

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement a statutory pilot program enhancing whistleblower protections for contractor employees.

DATES: *Effective:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Ms. Cecelia L. Davis, Procurement Analyst, at 202-219-0202, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-85, FAR Case 2013-015.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA published an interim rule in the *Federal Register* at 78 FR 60169 on September 30, 2013, to implement a four-year pilot program to enhance the existing whistleblower protections for contractor employees at FAR subpart 3.9. The pilot program is mandated by section 828, entitled "Pilot Program for Enhancement of Contractor Employee Whistleblower Protections," of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112-239, enacted January 2, 2013).

Paragraph (a) of section 828 adds to title 41 a new section 4712 that contains the elements of the pilot program, which took effect by operation of law on July 1, 2013, and is effective through January 1, 2017. Paragraph (c) of section 828 suspends the pre-existing whistleblower protections in 41 U.S.C. 4705 "(w)hile section 4712 of this title is in effect . . ." (*i.e.*, from July 1, 2013 through January 1, 2017). Accordingly,

the interim rule created a new FAR section 3.908 to implement section 4712. The rule leaves intact FAR sections 3.901 through 3.906, which implement the pre-existing whistleblower protections in 41 U.S.C. 4705, but suspends their applicability during the period when the pilot is in effect. Absent Congressional action, these authorities will automatically be reinstated when the pilot authority sunsets.

The interim rule also clarified that the pilot authority applies to title 41 agencies and is inapplicable to DoD, NASA, and the Coast Guard. The latter three agencies are covered by 10 U.S.C. 2409, which was amended by section 827 of the NDAA to impose permanent requirements very similar to the temporary requirements of the pilot program established in title 41.

Section 4712 and its implementing regulations (1) protect contractor or subcontractor employees against reprisal for activities protected by FAR 3.908–3(a) and (2) do not change any right or remedy otherwise available to the employee.

FAR 3.907, which addresses whistleblower protections under the American Recovery and Reinvestment Act of 2009, was unaffected by this rule.

One respondent submitted comments on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) reviewed the response received in development of the final rule.

Only one response was received. A discussion of the response is provided as follows:

Comment: The respondent stated that FAR 3.908 “violates a core tenet of any legitimate law by failing to include any due process rights for the accused,” but notes also that the statute contains no due process rights for the accused. The respondent urges revision of the interim rule to reactivate current FAR 3.905 during the pilot program.

Response: The interim rule provides at FAR 3.908–5 that investigation of complaints by the Inspector General will be in accordance with 41 U.S.C. 4712(b).

In general, FAR 3.905 is based on 41 U.S.C. 4705. Paragraph (c) of section 828 of the National Defense Authorization Act for Fiscal Year 2013, upon which this rule is based, suspends the pre-existing whistleblower protections in 41 U.S.C. 4705 “(w)hile section 4712 of this title is in effect . . .” However, the additional due process rights in current FAR 3.905(c), (d) and (e) were not based

on 41 U.S.C. 4705, and have been incorporated in the final rule at 3.908–5(b), (c), and (d).

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is a significant regulatory action and, therefore, was subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

The interim rule, upon which the final rule is issued with change, was initiated to amend the FAR to implement a four-year pilot program to enhance the existing whistleblower protections for contractor employees at FAR subpart 3.9. The pilot program is mandated by section 828, entitled “Pilot Program for Enhancement of Contractor Employee Whistleblower Protections,” of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013). The law establishes a pilot program for the period ending on January 1, 2017. Based on a reading of 41 U.S.C. 3101(c) and sections 827 and 828 of the NDAA for FY 2013, the pilot program will apply to all Federal agencies except DoD, NASA, and the Coast Guard. Except for contracts funded under the American Recovery and Reinvestment Act of 2009 (see 3.907), the current protections for contractor whistleblowers are established in law at 41 U.S.C. 4705; paragraph (c) of section 828 suspends 41 U.S.C. 4705 “(w)hile section 4712 of this title is in effect . . .” Paragraph (a) of section 828 adds the new section 4712 to title 41 that contains the elements of the pilot program and is effective until January 1, 2017.

With the exception of DoD, NASA, and the Coast Guard, as well as any element of the intelligence community, as defined in section 3(4) of the National Security Act of 1947 (50 U.S.C. 401(a)(4)), the pilot program applies to the employees of Government contractors and their subcontractors. DoD, GSA, and NASA do not expect the pilot program, which applies to the majority of entities doing business with the Government

regardless of business size, to have a significant economic impact specific to small entities. The following information is provided as a means of estimating the overall numbers of entities to which the rule will apply. Based on Federal Procurement Data System reporting data, in Fiscal Year 2012, a Government-wide total of 273,970 new awards that exceeded the simplified acquisition threshold were made to small businesses and other than small businesses by agencies other than DoD, NASA, and the Coast Guard. Of that total, 95,436 new award actions were made to small business entities. The remaining 178,534 award actions were made to other than small businesses.

A new contract clause is provided for the pilot program, in accordance with paragraph (d) of section 4712. The clause informs offerors that employees working on any contract awarded are subject to the whistleblower rights and remedies of the pilot program and requires the contractor (and its subcontractors), regardless of business size, to inform their employees in writing of employee whistleblower rights and protections under 41 U.S.C. 4712.

There is no requirement for small entities to submit any information under this clause. The rule does not duplicate, overlap, or conflict with any other Federal rules.

There are no practical alternatives that will accomplish the objectives of the rule.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The final rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subject in 48 CFR Parts 3 and 52

Government procurement.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 3 and 52, which was published in the **Federal Register** at 78 FR 60169 on September 30, 2013, is adopted as final with the following changes:

PART 3—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

■ 1. The authority citation for 48 CFR part 3 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Revise section 3.908–5 to read as follows.

3.908–5 Procedures for investigating complaints.

(a) Investigation of complaints will be in accordance with 41 U.S.C. 4712(b).

(b) Upon completion of the investigation, the head of the agency or designee shall ensure that the Inspector General provides the report of findings to—

(1) The complainant and any person acting on the complainant's behalf;

(2) The contractor alleged to have committed the violation; and

(3) The head of the contracting activity.

(c) The complainant and contractor shall be afforded the opportunity to submit a written response to the report of findings within 30 days to the head of the agency or designee. Extensions of time to file a written response may be granted by the head of the agency or designee.

(d) At any time, the head of the agency or designee may request additional investigative work be done on the complaint.

■ 3. Revise the section heading for section to read as follows:

3.908–6 Remedies.

* * * * *

[FR Doc. 2015–30459 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE

**GENERAL SERVICES
ADMINISTRATION**

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

48 CFR Part 4

[FAC 2005–85; FAR Case 2015–009; Item V; Docket No. 2015–0009, Sequence No. 1]

RIN 9000–AN12

**Federal Acquisition Regulation;
Retention Periods**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to update the Government contract file retention periods to conform with the retention periods in the National

Archives and Records Administration (NARA) General Records Schedule.

DATES: *Effective:* January 4, 2016.

FOR FURTHER INFORMATION CONTACT: Mr. Curtis E. Glover, Sr., Procurement Analyst, at 202–501–1448, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–85, FAR Case 2015–009.

SUPPLEMENTARY INFORMATION:

I. Background

DoD, GSA, and NASA are issuing a final rule to update the Government file retention periods identified at FAR 4.805, Government contract files, to conform with the retention periods in the revised NARA General Records Schedule (GRS) 1.1, Financial Management and Reporting Records notice, which was published in the **Federal Register** at 79 FR 54747 on September 12, 2014. The Financial Management and Reporting Records can be found at <http://www.archives.gov/records-mgmt/grs.html>.

NARA has undertaken a 5-year project to redraft the entire GRS to reflect the realities of current Government business practices and make it more useful in a world where almost all record keeping is electronic. NARA is charged with oversight of how all records of the Federal Government are managed and retained for business use and historical research. Its research on writing a new schedule for Financial Management and Reporting Records (GRS 1.1) was carried out under that authority.

NARA's research has shown that many agencies believe the break between procurements over and under the simplified acquisition threshold (6 years, 3 months versus 3 years retention) is no longer useful to them. NARA polled records management personnel at numerous agencies regarding records created in largely electronic acquisition systems. It also examined and tallied statistics regarding some 675,000 boxes of hard-copy records stored in the Federal Records Center system. As such, NARA eliminated the distinction between over and under the simplified acquisition threshold for purposes of record keeping and unified all retention under a single figure of 6 years under GRS 1.1, item 010.

The retention periods for Government contract records at FAR section 4.805 is changed to conform to the revised NARA GRS 1.1, as follows:

- Language at paragraph (a) regarding agency procedures for contract file disposal is removed.

- Language at paragraph (b) regarding retention periods for acquisitions conducted prior to July 3, 1995 is removed.

- Language is added at a new paragraph (c) to require agencies to request approval from NARA through the agency's records officer if a shorter retention is needed.

- In the Table at 4–1:

- The retention period identified for records related to Contract Disputes statute actions is removed; the requirement is covered by paragraphs numbered (1) and (8).

- The retention period for all contracts and related records is changed to 6 years after final payment.

- The retention period for unsolicited proposals not accepted by the agency is changed to be in accordance with agency procedures.

II. Publication of This Final Rule for Public Comment is Not Required By Statute

“Publication of proposed regulations”, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only changes the retention periods for Government contract files. These requirements affect only the internal operating procedures of the Government.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This

rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1 and 41 U.S.C. 1707 does not require publication for public comment.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

List of Subject in 48 CFR Part 4

Government procurement.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 4 as set forth below:

PART 4—ADMINISTRATIVE MATTERS

■ 1. The authority citation for 48 CFR part 4 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Revise section 4.805 to read as follows.

4.805 Storage, handling, and contract files.

(a) Agencies must prescribe procedures for the handling, storing, and disposing of contract files, in accordance with the National Archives and Records Administration (NARA) General Records Schedule 1.1, Financial Management and Reporting Records. The Financial Management and Reporting Records can be found at <http://www.archives.gov/records-mgmt/grs.html>. These procedures must take into account documents held in all types of media, including microfilm and various electronic media. Agencies may change the original medium to facilitate storage as long as the requirements of Part 4, law, and other regulations are satisfied. The process used to create and store records must record and reproduce the original document, including signatures and other written and graphic

images completely, accurately, and clearly. Data transfer, storage, and retrieval procedures must protect the original data from alteration. Unless law or other regulations require signed originals to be kept, they may be destroyed after the responsible agency official verifies that record copies on alternate media and copies reproduced from the record copy are accurate, complete, and clear representations of the originals. When original documents have been converted to alternate media for storage, the requirements in Table 4–1 of this section also apply to the record copies in the alternate media.

(b) If administrative records are mixed with program records and cannot be economically segregated, the entire file should be kept for the period of time approved for the program records. Similarly, if documents described in the following table are part of a subject or case file that documents activities that are not described in the table, they should be treated in the same manner as the files of which they are a part.

(c) An agency that requires a shorter retention period than those identified in Table 4–1 shall request approval from NARA through the agency's records officer.

TABLE 4–1—RETENTION PERIODS

Record	Retention period
(1) Contracts (and related records or documents, including successful and unsuccessful proposals, except see paragraph (c)(2) of this section regarding contractor payrolls submitted under construction contracts).	6 years after final payment.
(2) Contractor's payrolls submitted under construction contracts in accordance with Department of Labor regulations (29 CFR 5.5(a)(3)), with related certifications, anti-kickback affidavits, and other related records.	3 years after contract completion unless contract performance is the subject of an enforcement action on that date (see paragraph (c)(8) of this section).
(3) Unsolicited proposals not accepted by a department or agency	Retain in accordance with agency procedures.
(4) Files for canceled solicitations	6 years after cancellation.
(5) Other copies of procurement file records used for administrative purposes.	When business use ceases.
(6) Documents pertaining generally to the contractor as described at 4.801(c)(3).	Until superseded or obsolete.
(7) Data submitted to the Federal Procurement Data System (FPDS). Electronic data file maintained by fiscal year, containing unclassified records of all procurements exceeding the micro-purchase threshold, and information required under 4.603.	6 years after submittal to FPDS.
(8) Investigations, cases pending or in litigation (including protests), or similar matters (including enforcement actions).	Until final clearance or settlement, or, if related to a document identified in paragraphs (c)(1) through (7) of this section, for the retention period specified for the related document, whichever is later.

DEPARTMENT OF DEFENSE**GENERAL SERVICES
ADMINISTRATION****NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION****48 CFR Parts 1, 22, and 52**

[FAC 2005–85; FAR Case 2015–003; Item VI; Docket No. 2014–0050; Sequence No. 1]

RIN 9000–AM82

**Federal Acquisition Regulation:
Establishing a Minimum Wage for
Contractors**

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: DoD, GSA, and NASA have adopted as final, with changes, an interim rule amending the Federal Acquisition Regulation (FAR) to implement the Executive Order (E.O.) Establishing a Minimum Wage for Contractors, and a final rule issued by the Department of Labor (DOL).

DATES: *Effective:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Loeb, Procurement Analyst, at 202–501–0650 for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755. Please cite FAC 2005–85, FAR Case 2015–003.

SUPPLEMENTARY INFORMATION:**I. Background**

DoD, GSA, and NASA published an interim rule in the **Federal Register** at 79 FR 74544 on December 15, 2014, to implement Executive Order (E.O.) 13658, Establishing a Minimum Wage for Contractors, and a final rule issued by DOL at 29 CFR part 10. A correction to the interim rule was published at 79 FR 75434 on December 18, 2014 establishing the rule's effective date as December 15, 2014. For a discussion of the FAR implementation of the E.O., see the interim rule. One respondent submitted a public comment on the interim rule.

II. Discussion and Analysis

The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (the Councils) reviewed the public comment submitted in the development of the final rule. A discussion of the comment follows.

A. Changes

The interim rule is converted to a final rule with only minor changes.

B. Analysis of Public Comment

One respondent submitted one comment.

Comment: Although the respondent was generally supportive of the intent of the E.O. raising the minimum wage for workers performing on or in connection with Federal contracts, the respondent expressed deep concern that the E.O. and the implementing FAR rule will have a negative impact on the employment of individuals with significant disabilities, specifically those who earn commensurate wages under special subminimum wage certificates issued by DOL pursuant to Section 14(c) of the Fair Labor Standards Act (FLSA). The respondent suggested a number of actions that the Federal Government could take to mitigate unintended consequences of the rule:

1. Provide adequate funding to ensure no workers with disabilities lose their jobs as a result of wage increases required by the rule.

2. Compile data regarding the number of such individuals displaced from employment or shifted to non-Federal contract work as a result of the rule.

3. Allow contractors to request a price adjustment for these individuals based on the difference between the current wage paid and the higher E.O. minimum wage, and provide an example of such a price adjustment in the rule.

Response: Executive Order 13658 expressly provides that its minimum wage protections extend to workers with disabilities whose wages are governed pursuant to special certificates issued under Section 14(c) of the FLSA. The Councils appreciate the concerns raised by this respondent regarding the potential loss of employment that could result from requiring that the E.O. minimum wage be paid to FLSA Section 14(c) workers, particularly workers with significant disabilities, performing on or in connection with covered contracts who are currently paid a lower commensurate wage rate. The Councils do not have the discretion to adjust the rule, as the rule implements the E.O. and the DOL implementing regulation, which both specifically require application of the rule to workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c).

With regard to the respondent's suggestions for mitigating negative impacts—

1. The E.O. did not provide for appropriation of funds to ensure that no workers with disabilities lose their jobs;

2. The E.O. did not require information or data collection methods in order to evaluate the rule's effects; therefore, this suggestion is beyond the scope of the E.O., and outside the implementation of the FAR rule; and

3. When contracts become subject to the E.O., the minimum wage is considered in the contract price either through the offer/bid process when an offeror is responding to a solicitation or, in the case of a modification, through appropriate consideration, in accordance with FAR conventions (see FAR 1.108(d)(3)), therefore explicit price adjustment language is not necessary. However, the rule does provide that contractors may request price adjustments for any worker based on an increase in labor costs resulting from the annual inflation increases in the E.O. minimum wage beginning January 1, 2016. This is depicted in the table at FAR 22.1904(b)(2). The Councils have revised the language at FAR paragraph 22.1904(b)(2) and in the table to specify that service or construction wage determination rates should only be considered if they are applicable to the worker. The revised language recognizes that workers with disabilities whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c) may not have been paid the full applicable service wage determination rate.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant rule and, therefore, not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

DoD, GSA, and NASA have prepared a Final Regulatory Flexibility Analysis (FRFA) consistent with the Regulatory

Flexibility Act, 5 U.S.C. 601, *et seq.* The FRFA is summarized as follows:

This rule is needed to implement Executive Order (E.O.) 13658, Establishing a Minimum Wage for Contractors, dated February 12, 2014, and associated Department of Labor (DOL) regulatory requirements at 29 CFR part 10.

The interim rule published December 15, 2014 (and correction published December 18, 2014) established requirements for contractors with covered contracts containing the FAR clauses at 52.222–6, Construction Wage Rate Requirements, or 52.222–41, Service Contract Labor Standards, *i.e.*, “covered contracts,” to pay no less than the applicable E.O. minimum wage to workers for all hours worked on or in connection with a covered contract. Contractors must also include a minimum wage contract clause in covered subcontracts and require covered subcontractors to include the substance of the clause in covered lower-tier contracts.

The objective of this rule is to implement the above referenced E.O. and DOL requirements. To accomplish this implementation, the interim rule established a new FAR clause, 52.222–55, Minimum Wages Under Executive Order 13658, and mandated its inclusion in all covered contracts (and in subcontracts as indicated above) performed wholly, or in part, in the United States.

No public comments were submitted in response to the initial regulatory flexibility analysis. Therefore, there were no issues to assess, and no changes to the rule were necessary.

This rule applies to new contracts and subcontracts at all tiers covered by the Service Contract Labor Standards statute, or the Wage Rate Requirements (Construction) statute, which require performance in whole or in part within the United States. When performance is in part within and in part outside the United States, the rule applies to the part of the contract or subcontract performed within the United States.

The rule applies to workers as defined at FAR 22.1901. As provided in that definition—

- Workers are covered regardless of the contractual relationship alleged to exist between the contractor or subcontractor and the individual;
- Workers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(c), are covered; and
- Workers registered in a bona fide apprenticeship program or training program registered with the Department of Labor's Employment and Training Administration, Office of Apprenticeship, or with a State Apprenticeship Agency recognized by the Office of Apprenticeship, are covered.

This rule does not apply to—

- Fair Labor Standards Act (FLSA)-covered workers performing in connection with covered contracts, *i.e.*, those workers who perform duties necessary to the performance of the contract, but who are not directly engaged in performing the specific work called for by the contract, and who spend less than 20 percent of their hours worked in a particular workweek performing in connection with such contracts.

- Individuals exempted from the minimum wage requirements of the FLSA under 29 U.S.C. 213(a) and 214(a) and (b), unless otherwise covered by the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute. These individuals include but are not limited to—

- (i) Learners, apprentices, or messengers whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(a);
- (ii) Students whose wages are calculated pursuant to special certificates issued under 29 U.S.C. 214(b); and
- (iii) Individuals employed in a bona fide executive, administrative, or professional capacity (29 U.S.C. 213(a)(1) and 29 CFR part 541).

Small businesses in the service or construction industry with covered FAR-based contracts or subcontracts for which the solicitation was issued on or after December 15, 2014 are impacted unless an exclusion listed above applies. The rule requires these contractors and subcontractors to raise their workers' minimum hourly rate to \$10.10 per hour, beginning January 1, 2015, then annually adjust it thereafter, if necessary, based on the annual minimum wage rate determined by DOL.

Data available through the Federal Procurement Data System (FPDS) for Fiscal Year 2013, reveals 16,264 contracts were awarded to unique small business vendors for services which contained the FAR clause at 52.222–41, Labor Standards. Additionally, 5,211 contracts were awarded to unique small business vendors for construction which contained the FAR clause at 52.222–6, Construction Wage Rate Requirements, for a total of 21,475 unique small businesses. Subcontract data is available from the USASpending Federal Funding Accountability and Transparency Act Subaward Reporting System (FSRS); however, this system does not distinguish small businesses from other than small businesses. Data for Fiscal Year 2013 shows there were a total of 20,127 subcontracts for services and construction reported, and of those, 5,391 were unique Data Universal Numbering System (DUNS). These 5,391 first tier unique subcontracts are approximately 25 percent of the 21,475 unique contracts. Given that first tier subcontracts account for 25 percent, then for estimating purposes, 20 percent of subcontracts have a second tier, 10 percent of second tier have a third tier, and 5 percent of third tier have a fourth tier. This calculation estimates the total number of subcontracts is 6,631. However, since the FSRS does not distinguish small businesses, this is likely an overestimate.

DOL noted in its final rule (79 FR 60634 at 60691) that the rule did not impose any additional notice or recordkeeping requirements on contractors and therefore, the burden for complying with the recordkeeping requirements was not adjusted. However, DOL submitted a revised information collection request (ICR), to the Office of Management and Budget to revise the existing Information Collection Request for control number 1235–0018 to incorporate the recordkeeping regulatory citations in its final rule.

DOL, in its final rule, estimated the average wage for affected employees is \$8.79; thus, affected firms must raise the hourly wage for affected employees by \$1.31 per hour. Additionally, contractors must adjust related payroll and unemployment taxes and fringe benefits. Under covered contracts, contractors are entitled to recover increases in labor costs resulting from the E.O. minimum wage requirements by including such costs in their offers and when requesting contract price adjustment under existing and future contracts for the additional costs related to the increase in the minimum wage rate for workers performing under the contract. DOL notes increases in economy and efficiency and expects these added costs to be offset by an increase in employee morale and productivity, reduced absenteeism, reduced supervisory costs, and reduced turnover.

To remind contractors of their obligation to ensure that subcontractor workers are paid in compliance with the minimum wage requirement, the following text was included in the FAR clause 52.222–55, Minimum Wages Under Executive Order 13658:

(j) *Subcontractor compliance.* The contractor is responsible for subcontractor compliance with the requirements of this subpart, and may be held liable for unpaid wages due subcontractor's workers.

The rule provides that subcontractors may be entitled to adjustments due to the new minimum wage and that contractors shall consider any subcontractor(s) requests for such price adjustment (52.222–55(b)(3)(ii)).

The rule does not address late payments to small business subcontractors, however pending FAR case 2014–004 implements section 1334 of the Small Business Jobs and Credit Act of 2010 (Public Law 111–240) and the Small Business Administration's final rule at 78 FR 42391. The rule will require a contractor to self-report to the contracting officer when the contractor makes late or reduced payments to small business subcontractors.

Interested parties may obtain a copy of the FRFA from the Regulatory Secretariat. The Regulatory Secretariat has submitted a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration.

V. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply; however, these changes to the FAR do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 1235–0018, Records to be Kept by Employers—Fair Labor Standards Act.

List of Subjects in 48 CFR Parts 1, 22, and 52

Government procurement.

Dated: November 20, 2015.

William F. Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Interim Rule Adopted as Final With Changes

Accordingly, the interim rule amending 48 CFR parts 22 and 52, which was published in the **Federal Register** at 79 FR 74544 on December 15, 2014, is adopted as final with the following changes:

■ 1. The authority citation for 48 CFR parts 22 and 52 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

PART 22—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

■ 2. Amend section 22.1904 by revising the first two sentences in paragraph (b)(1) and paragraph (b)(2) to read as follows:

22.1904 Annual Executive Order minimum wage rate.

* * * * *

(b)(1) The contractor may request a price adjustment only after the effective date of a new annual E.O. minimum wage determination published pursuant

to paragraph (a). Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). * * *

(2) The wage rate price adjustment under this clause is the lowest amount calculated by subtracting from the new E.O. wage rate the following: The current E.O. minimum wage rate; the current service or construction wage determination rate under the contract (if the wage rate is applicable to that worker); or the actual wage currently paid the worker. If the amount is zero or below, there will be no increase paid for this worker.

(i) Example 1—New E.O. wage rate is \$11.10

Previous E.O. wage rate is \$10.70
The current service or construction wage determination rate applicable to this worker under the contract is \$10.75.
The actual wage currently paid to the worker is \$10.80.

Analysis: The calculation is \$11.10 – \$10.80 = \$.30. The price adjustment for this worker is \$.30.

(ii) Example 2—New E.O. wage rate is \$10.50

Previous E.O. wage rate is \$10.10
The current service or construction wage determination rate applicable to this worker under the contract is \$10.75.
The actual wage currently paid to the worker is \$10.80.

Analysis: The calculation is \$10.50 – \$10.80 = –\$.30. There is no price adjustment for this worker.

■ 3. Amend section 22.1905 by revising paragraph (a)(2) and adding paragraph (a)(3) to read as follows:

22.1905 Enforcement of Executive Order minimum wage requirements.

(a) * * *

(2) Contracting officers shall withhold payment at the direction of the Administrator.

(3) The contracting officer shall withhold payment, without a request from the Administrator, if the contractor fails to comply with the requirements in paragraph (e)(2) of 52.222–55, Minimum Wages Under Executive Order 13658 to furnish payroll records, until such time as the noncompliance is corrected.

* * * * *

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 4. Amend 52.212–5 by:

■ a. Revising the date of the clause;

■ b. Revising paragraphs (c)(8) and (e)(1)(xv); and

■ c. In Alternate II, revising paragraph (e)(1)(ii)(N).

The revisions read as follows:

52.212–5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items.

* * * * *

Contract Terms and Conditions Required To Implement Statutes or Executive Orders—Commercial Items (DEC 2015)

* * * * *

(c) * * *

(8) 52.222–55, Minimum Wages Under Executive Order 13658 (DEC 2015) (E.O. 13658).

* * * * *

(e)(1) * * *

(xv) 52.222–55, Minimum Wages Under Executive Order 13658 (DEC 2015) (E.O. 13658).

* * * * *

Alternate II * * *

(e)(1) * * *

(ii) * * *

(N) 52.222–55, Minimum Wages Under Executive Order 13658 (DEC 2015) (E.O. 13658).

* * * * *

■ 5. Amend section 52.213–4 by revising the date of the clause and paragraphs (a)(2)(viii) and (b)(1)(ix) to read as follows:

52.213–4 Terms and Conditions—Simplified Acquisitions (Other than Commercial Items).

* * * * *

Terms and Conditions—Simplified Acquisitions (Other Than Commercial Items) (DEC 2015)

(a) * * *

(2) * * *

(viii) 52.244–6, Subcontracts for Commercial Items (DEC 2015).

* * * * *

(b) * * *

(1) * * *

(ix) 52.222–55, Minimum Wages Under Executive Order 13658 (DEC 2015) (Executive Order 13658) (Applies when 52.222–6 or 52.222–41 are in the contract and performance in whole or in part is in the United States (the 50 States and the District of Columbia)).

* * * * *

■ 6. Amend section 52.222–55—

■ a. By revising the date of the clause;

■ b. In paragraph (a), amending the definition of “worker” by—

■ 1. Adding an em-dash to the end of paragraph (1) introductory text;

■ 2. Removing the comma from the end of paragraph (1)(i) and adding a semicolon in its place; and

■ 3. Removing the comma from the end of paragraph (1)(ii) and adding “; and” in its place;

■ c. Revising the heading of paragraph (b); and

■ d. Revising paragraphs (b)(2) and (b)(3)(i).

The revisions read as follows:

52.222–55 Minimum Wages Under Executive Order 13658.

* * * * *

Minimum Wages Under Executive Order 13658 (DEC 2015)

* * * * *

(b) *Executive Order minimum wage rate.* * * *

(2) The Contractor shall adjust the minimum wage paid, if necessary, beginning January 1, 2016, and annually thereafter, to meet the applicable annual E.O. minimum wage. The Administrator of the Department of Labor's Wage and Hour Division (the Administrator) will publish annual determinations in the **Federal Register** no later than 90 days before the effective date of the new E.O. minimum wage rate. The Administrator will also publish the applicable E.O. minimum wage on *www.wdol.gov* (or any successor Web site), and a general notice on all wage determinations issued under the Service Contract Labor Standards statute or the Wage Rate Requirements (Construction) statute, that will provide information on the E.O. minimum wage and how to obtain annual updates. The applicable published E.O. minimum wage is incorporated by reference into this contract.

(3)(i) The Contractor may request a price adjustment only after the effective date of the new annual E.O. minimum wage determination. Prices will be adjusted only for increased labor costs (including subcontractor labor costs) as a result of an increase in the annual E.O. minimum wage, and for associated labor costs (including those for subcontractors). Associated labor costs shall include increases or decreases that result from changes in social security and unemployment taxes and workers' compensation insurance, but will not otherwise include any amount for general and administrative costs, overhead, or profit.

* * * * *

■ 7. Amend 52.244–6 by revising the date of the clause and paragraph (c)(1)(xi) to read as follows:

52.244–6 Subcontracts for Commercial Items.

* * * * *

Subcontracts for Commercial Items (DEC 2015)

* * * * *

(c)(1) * * *

(xi) 52.222–55, Minimum Wages under Executive Order 13658 (DEC 2015).

* * * * *

[FR Doc. 2015–30461 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Part 1**

[FAC 2005–85; Item VII; Docket No. 2015–0052; Sequence No. 4]

Federal Acquisition Regulation; Technical Amendment

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document makes an amendment to the Federal Acquisition Regulation (FAR) in order to make an editorial change.

DATES: *Effective:* December 4, 2015.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat Division (MVCB), 1800 F Street NW., 2nd Floor, Washington, DC 20405, 202–501–4755, for information pertaining to status or publication schedules. Please cite FAC 2005–85, Technical Amendments.

SUPPLEMENTARY INFORMATION: In order to update a certain element in 48 CFR part 1 this document makes an editorial change to the FAR.

List of Subject in 48 CFR Part 1

Government procurement.

Dated: November 20, 2015.

William Clark,

Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 1 as set forth below:

PART 1—FEDERAL ACQUISITION REGULATIONS SYSTEM

■ 1. The authority citation for 48 CFR part 1 continues to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

RULES LISTED IN FAC 2005–85**1.106 [Amended]**

■ 2. Amend section 1.106 in the table following the introductory text by adding in numerical sequence “52.244–2” and its corresponding OMB Control Number “9000–0149”.

[FR Doc. 2015–30462 Filed 12–3–15; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF DEFENSE**GENERAL SERVICES ADMINISTRATION****NATIONAL AERONAUTICS AND SPACE ADMINISTRATION****48 CFR Chapter 1**

[Docket No. FAR 2015–0051, Sequence No. 5]

Federal Acquisition Regulation; Federal Acquisition Circular 2005–85; Small Entity Compliance Guide

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Small Entity Compliance Guide.

SUMMARY: This document is issued under the joint authority of DOD, GSA, and NASA. This *Small Entity Compliance Guide* has been prepared in accordance with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996. It consists of a summary of the rules appearing in Federal Acquisition Circular (FAC) 2005–85, which amends the Federal Acquisition Regulation (FAR). An asterisk (*) next to a rule indicates that a regulatory flexibility analysis has been prepared. Interested parties may obtain further information regarding these rules by referring to FAC 2005–85, which precedes this document. These documents are also available via the Internet at <http://www.regulations.gov>.

DATES: December 4, 2015.

FOR FURTHER INFORMATION CONTACT: For clarification of content, contact the analyst whose name appears in the table below. Please cite FAC 2005–85 and the FAR case number. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202–501–4755.

Item	Subject	FAR Case	Analyst
* I	Prohibition on Contracting With Corporations With Delinquent Taxes or a Felony Conviction (Interim).	2015–011	Davis.

RULES LISTED IN FAC 2005–85—Continued

Item	Subject	FAR Case	Analyst
* II	Further Amendments to Equal Employment Opportunity	2015–013	Loeb.
* III	Updating Federal Contractor Reporting of Veterans' Employment (Interim)	2015–036	Loeb.
* IV	Pilot Program for Enhancement of Contractor Employee Whistleblower Protections	2013–015	Davis.
V	Retention Periods	2015–009	Glover.
* VI	Establishing a Minimum Wage for Contractors	2015–003	Loeb.
VII	Technical Amendment.		

SUPPLEMENTARY INFORMATION:

Summaries for each FAR rule follow. For the actual revisions and/or amendments made by these rules, refer to the specific item numbers and subjects set forth in the documents following these item summaries. FAC 2005–85 amends the FAR as follows:

Item I—Prohibition on Contracting With Corporations With Delinquent Taxes or a Felony Conviction (FAR Case 2015–011)

This interim rule amends the Federal Acquisition Regulation (FAR) to implement sections of the Consolidated and Further Continuing Appropriations Act, 2015, to prohibit the Federal Government from entering into a contract with any corporation having a delinquent Federal tax liability or a felony conviction under any Federal law, unless an agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government.

This interim rule has no significant impact on the Government and contractors, including small business entities.

Item II—Further Amendments to Equal Employment Opportunity (FAR Case 2015–013)

DoD, GSA, and NASA are issuing a final rule adopting an interim rule published April 10, 2015, without change. The interim rule amended the FAR to implement Executive Order (E.O.) 13672, entitled “Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity”. E.O. 13672 was signed July 21, 2014.

E.O. 11246, dated September 24, 1965, established requirements for non-discriminatory practices in hiring and employment for Federal contractors and subcontractors. The bases of discrimination prohibited by E.O. 11246 are race, color, religion, sex, and national origin. E.O. 13672 adds sexual orientation and gender identity to the prohibited bases of discrimination

established by E.O. 11246. There is no significant impact on small entities.

Item III—Updating Federal Contractor Reporting of Veterans' Employment (FAR Case 2015–036)

DoD, GSA, and NASA are issuing an interim rule amending the FAR to implement a final rule issued by the Department of Labor's Veterans' Employment and Training Service (VETS) that revised the regulations at 41 CFR part 61 implementing the reporting requirements under the Vietnam Era Veterans' Readjustment Assistance Act, as amended (VEVRAA) and the Jobs for Veterans Act (JVA) (Pub. L. 107–288). VEVRAA requires Federal contractors and subcontractors to annually report on the total number of their employees who belong to the categories of veterans protected under VEVRAA, as amended by the JVA, and the total number of those protected veterans who were hired during the period covered by the report. The VETS rule requires contractors and subcontractors to comply with its revised reporting requirements using the new Form VETS–4212, in lieu of the VETS–100 and VETS–100A, beginning with the annual report filed in 2015.

There is no significant impact on small entities imposed by the FAR rule.

Item IV—Pilot Program for Enhancement of Contractor Employee Whistleblower Protections (FAR Case 2013–015)

This final rule amends the Federal Acquisition Regulation (FAR) to implement a statutory pilot program enhancing whistleblower protections for contractor employees at FAR subpart 3.9. An interim rule was published September 30, 2013. The interim rule created a new FAR section 3.908 to be used by title 41 agencies through January 1, 2017.

The four-year pilot program is mandated by section 828, entitled “Pilot Program for Enhancement of Contractor Employee Whistleblower Protections,” of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2013 (Pub. L. 112–239, enacted January 2, 2013).

This rule has no significant impact on small business concerns.

Item V—Retention Periods (FAR Case 2015–009)

This final rule amends the Federal Acquisition Regulation (FAR) by updating the Government file retention periods to conform with the retention periods in the National Archives and Records Administration (NARA) General Records Schedule (GRS). Language is also added to instruct agencies that require a shorter retention period for certain records to request approval from NARA through the agency's record officer. This rule change does not place any new requirements on small entities; the only change is the timeframe for retention by the Government of Government records.

Item VI—Establishing a Minimum Wage for Contractors (FAR Case 2015–003)

DoD, GSA, and NASA are issuing a final rule adopting the interim rule published December 15, 2014, with change. The interim rule amended the FAR to implement Executive Order 13658 and a Department of Labor final rule issued on October 7, 2014, both entitled “Establishing a Minimum Wage for Contractors,” which established a new minimum wage for covered service and construction contracts of \$10.10 per hour, as of January 1, 2015. The Executive Order minimum wage will be adjusted annually, by the Department of Labor. Contracting officers will include a clause in covered contracts and will adjust contract prices for the annual adjustments in the Executive Order minimum wage. Contractors shall consider any subcontractor request, including requests by small businesses subcontractors, for a subcontract price adjustment due to the annual adjustment in the Executive Order minimum wage.

There is no significant impact on small entities imposed by the FAR rule.

Item VII—Technical Amendment

Editorial change is made at FAR 1.106.

Dated: November 20, 2015.

William Clark,

*Director, Office of Government-wide
Acquisition Policy, Office of Acquisition
Policy, Office of Government-wide Policy.*

[FR Doc. 2015-30463 Filed 12-3-15; 8:45 am]

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